

The Mayor + Council

30 June 2021

Today is the last day of newsprint production at the timber mill in Kawerau.

Re: The 3 waters ~ drinking, stormwater + sewage.

- * The history of councils in NZ + all the days the meaning + importance of 3 waters has been adhered too - every day a day to be grateful 4 + THANKS TO COUNCILS!
- * COUNCILS, like Govt r not-for-profit organisations + there are responsible, qualified people, who make the right decisions ensuring the 3 waters is supplied @ reasonable costs. Not-for-profit is the difference between govt depts + the public.
- * Havelock North H₂O supply problem 2017 - all the other days of the years + years no problems. Certainly wasn't done on purpose! All the other Councils doing their job properly shouldn't b punished by having such an important responsibility taken away from them.
- * Boiling H₂O notices means the Council cares + is functioning in the best interest of the public



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- 2 ~

30.6.2021

- * Who would care most about the cost to ratepayers + wot they can afford is councils.
- * Water relates to life + is therefore a serious commitment to be under the authority of a humanitarian organisation such as the Govt Dept of Local Government - Councils!
- * May be the Ministry 4 the Environment would help pay 4 any extra funding needed? No-one can predict how much a private run company would charge 4 a 3 water service.
- * The Resource Management Act had good goals + was/is very fair as to H₂O rights when it comes to applying for consents to H₂O.
- * The Forever Project - Issue 6 June 2021 by Stuff Article on waters mentions decolonisation. Exactly what is meant ~ a shortage of concrete + steel? OR a CIVIL UPRISING? If so, whos going to put things right? The Prime Minister? The Governor General? Civil Defence? Minister 4 the Environment? Army? Minister 4 Internal Affairs? Waters relate to life + the Rain rains 4 everybody.
- * De-salination of H₂O for drinking ought 2 b available
- * The Truth gives a clear conscience + a calmer mind

STARLIGHTS SONG

March 2017

Amended 20 May 2019

a song on 'In Touch' programme on TV in 2017

The LORD God Made Me, me, me, me, me
of all the things. I could be, be, be, be
I'm so happy to be me, me, me, me.

VIRTUES are
IMPORTANT
e.g. RESPECT +
CARE +
INTEGRITY
'CONSIDERATE' +
PATIENCE etc

The LORD God Made Me, me, me, me, me
All the Wonders + Things I can see, see, see, see
I'm so happy to be me, me, me, me

The Lord God made me, me, me, me
of all the things I can hear, hear, hear, hear
I'm so happy to be me, me, me, me.

The Lord God made me, me, me, me
of all the things I can do, do, do, do
I'm so happy to be me, me, me, me etc.

MINDFUL THINKING ~ Right here + Right Now Think of
all the Good you can See, Hear, + Do.

INSTEAD of WORRYING, GIVING UP or Being Scared, think
of Starlight's Song e.g. (Ground self).

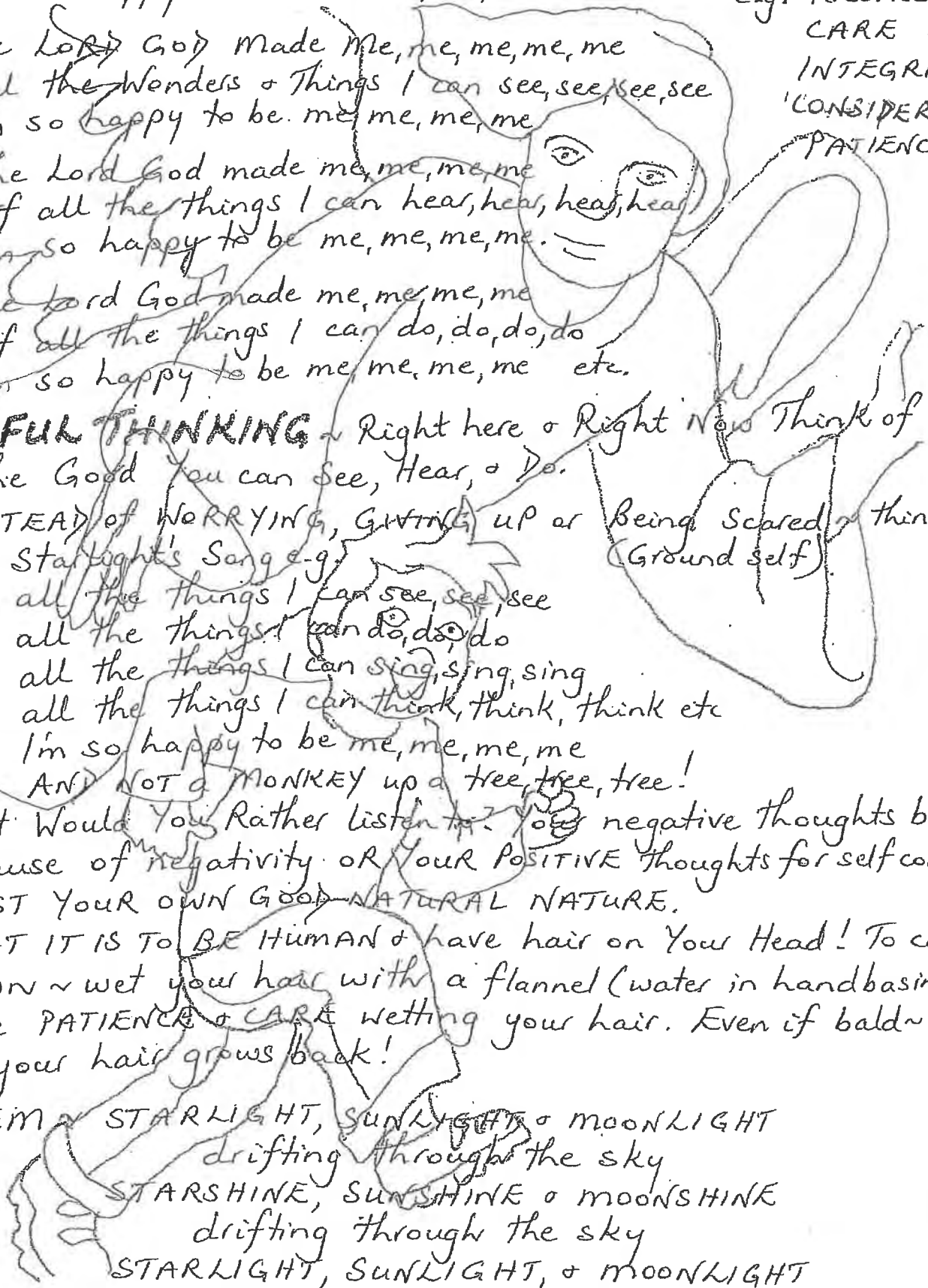
all the things I can see, see, see
all the things I can do, do, do
all the things I can sing, sing, sing
all the things I can think, think, think etc
I'm so happy to be me, me, me, me

AND NOT a MONKEY up a tree, tree, tree!

What Would You Rather Listen to? Your negative thoughts back
because of negativity OR Your POSITIVE thoughts for self control
TRUST YOUR OWN GOOD NATURAL NATURE.

WHAT IT IS TO BE HUMAN + have hair on Your Head! To calm
down ~ wet your hair with a flannel (water in handbasin) +
have PATIENCE + CARE wetting your hair. Even if bald ~ see
if your hair grows back!

POEM ~ STARLIGHT, SUNLIGHT + MOONLIGHT
drifting through the sky
STARSHINE, SUNSHINE + MOONSHINE
drifting through the sky
STARLIGHT, SUNLIGHT, + MOONLIGHT



RESPECT + CARE (2015) Amended 29 December 2020 (About Coping with + Resolving Negativity)

- * **RIGHT** Understanding ~ Reflect back if needed. Be Assertive.
(If you can't understand them, seek their understanding?)
- * Right Intentions e.g. Goodness motives cares abt your mind.
- * Respectful Communication ~ self control (EQ) + calm.
- * Freedom of own **GOOD THINKING** + Behaviour e.g. Patience + Respect.
- RESPECT + SAFETY** (Respect ALL if able too.)
- * Be Happy + Happy + let us NZ'ers retain our buildings, homes + belongings. How much meaning home + family has.
- * How much meaning Good ancestral spirits have.
- * Loyalty to Good + Loyal to NZ'ers Good natural natures imp.
- * Loyal to New Zealanders, Cares about New Zealanders, Respects New Zealanders, is all Good for NZ. Does Good, is Good, Likes Good ~ Every Right to our Homeland + our own honestly acquired homes, belongings + buildings.
- * NZ's buildings, NZ's homes + NZ'ers belongings ~ all the effort by NZ'ers for NZ'ers. The time taken to have learnt + acquired the knowledge needed + to have made/do something of importance. Heirlooms. Interest + wonder etc.
- * It is wrong to make NZ'ers homeless or live in degrading, unsafe situations e.g. cars/garages b cos of overseas problems.
- RESPECT + GOOD** There r Good, good, good people + spirits.
- * Every day a good thought. If troubled remember your good thought/virtue for the day.
- * Choose a virtue for the day e.g. CALM, CARE, Integrity.
- * Give thanks to Spirit and self for your home, lifestyle, family, pets, belongings, garden, spirit family, health.
- * NZ'ers lives r based on MORAL Value. Value is whats imp and MORAL is GOOD WAYS of Thinking. Spirits, like people, have MORAL Value.
- * A Goodness Motto ~ Its Good to be Good, Its Good to remember Good, Its Good to Thank Good, Its Good To THINK Good, Its Good To Inspire Good, Its Good to c Good, Its Good to do Good, etc
- * The word 'GOOD' repeated can sear away bad spirits + the 10cs.

RELIGION + NEW ZEALAND (3)

Amended 18 August 2020
GOODNESS ME PHILOSOPHY re The Bible
(April 2017)

- * ONLY one God + one Jesus who represent MORAL VALUE ~ just like GOOD SPIRITS + their MORALITY about LIFE!
- * VIRTUES are important, + the GOOD of Christianity e.g. The Dove of Peace, God sent to Jesus, all the good that J.C did, ~ Respect + Care.
- * None of us were alive then, so Jesus didn't die for us.
- * CIVILISATION based on the 10 Commandments. especially, has prevented many wrongs, but could b improved even more. Peace in NZ has been based on NZ Govt + churches that abide/d by Life, Respect + GOODNESS e.g. A Respect for Life, Spouse, Property + Belongings AND The TRUTH.
- * In 2015 caritas, the Pope + the Roman Catholic church published a Poverty + Justice bible. Integrity needed? to right the ways some people may think about belongings ~ Distributive justice.
- * WRONG is WRONG. NZ's justice system is based on the 10 Commandments espec Respect for life, Spouse, Property + Belongings.
- * NZ churches + their history as the right place for weddings. Vows made in the presence of God with ^{wedding} rings as a reminder. To Respect that God made Adam, then Eve to be his companion respects Mother Nature ~ only Right + proper + spouses 2 be husband + wife. B loyal 2 your spouse, even when they're not there!
- * The right way of thinking about J.C + death is needed, on the cross.
- * People born as people to live their full lives as people.
- THE LITTLE WORM STORY** ~ Once upon a time, a boy was off to school + heard crying. He looked around + saw a little worm crying. "Cheer up" the boy said "I care about you" + the worm felt much happier. The boy put the worm back down on the garden path. He had picked the worm up. The next day the little boy was on his way to school again when he heard crying again. He picked the little worm up + said "Whats up + whats wrong?" + the little worm said "Well you care about me, but nobody else does." That's not true ~ God loves you too. But the next day the worm was crying again so the boy sent him to c God, b cos that was not the little worm wanted. Squash with his foot. God can have patience.

AND THE ANIMALS

1 March 2020

- ↳ SPIRITS are Amazing life Forms b cos they have thoughts + feelings, memories + a conscience + r invisible.
- People like 2 b Respected + so do spirits ~ PEACE IN Spiritworld is needed as much as possible 4 people + spirits
- = Good Thoughts strengthen good, encourages gd + weakens -vity Be Responsible 4 your own Good Behaviour
- e.g. ~ Good thoughts, good deeds, good energy Good memories ~ stink thoughts ^{stinking} stink energy ~ may b due to bad thinking ~ choose good, ~ so much better + happier e.g. To CARE About ~ NOT to be bullied into wrong behaviour but 2 have FREEDOM OF YOUR OWN GOOD THINKING + GOOD BEHAVIOUR.
- = People's babies r not designed 2 b carnivores e.g. people have flat teeth, not pointed teeth like tigers
- = So few NEEDS would actually make an animal dead + the memories of that live on. Sometimes spirit within So quiet + unhappy about the predicament.
- * People mothered by people v our own mothers.
- * Animals milk for the animals ~ mothered by animals.
- * When you don't know y some bad thoughts ~ ask y. Set a good eg. + choose Respect + Improve your diet.
- * Keep a water bottle by your bed. Any mischief from spirit water may heal softens. Fry hot or cold water for some ailments. + care about your very own self.
- * What is To CARE ABOUT the animals espec Neesets. Sing animal songs. Learn all about different animals. Learn animal stories e.g. Noahs Ark.
- * Supermarket fruit + veges ~ Save A Seed + grow a tree + Save a Seed + grow a vege. What it is to achieve + grow your own. Water needed 4 seedlings + summer veges espec. Make your own compost + weeds, garden clippings fruit + vege scraps, grass clippings + autumn leaves.
- * Weed fertiliser ~ soak weeds in water + apply as a liquid.
- * Learn old McDonalds Song. Good PEOPLE + Good Spis imp

WRITTEN 1 MARCH 2020

When God made the Stars, the Moon + the Sun, 24. 8. 2020

- God also made Animals to live + Mankind too.
- * To be born, a living life form, is a miracle + that includes animals + their spirits.
- * Ever heard lambs + sheep baaa-ing to each other to recognise their own amongst all the other sheep + lambs? * Let the lambs live 2 b sheep. Let the sheep live 4 years + years. Their wool is important 4 themselves to keep warm in winter + CLOTHING + BLANKETS 4 OUR FUTURE.
- * The type of food cattle have been fed on, + the amount of food needed ~ may b sheep would b better. A cow, of us like death. All those involved with animals have memories + a conscience!
- When a person dies ~ time is given 4 their spirit to leave ~ applied to animals too?
- * Animal spirits can b upset with the loss + treatment of their animals bodies.
- * Care about what you put on your plate to eat ~ remember the plight of animals
- Better to eat chicken, eggs, seafood, veges etc
- * Alternative uses of farm land ~ chicken + egg farms, orchards, market gardens, mush ~ room farms, flax 4 sacking, ropes + linen, vege gdns, cereals + grains, herbs 4 herbal medicine based on UK + USA Knowledge, tobacco + hops 4 beer.
- * Alternatives to cows milk includes soy milk, almond milk, fruit juices, coffee, tea, drinking chocolate, fizzy drinks.
- * Lambs (+ calves) can b happy animals frolicking in spring sunshine when the daffodils are flowering. health
- * A REVERENCE FOR LIFE fosters physical health + mental
- * Our people's bodies are not designed 2 b carnivores.
- * Affordable land + homes is needed 4 affordable alternatives. The home gardener, schools, council + their land use?



PEACE TREATY ① (Aug 2016) → 18th Dec
(GOODNESS ME PHILOSOPHY) Amended Dec 2020

* SHARE YOUR OWN GOOD THINKING
* Good Thoughts give Good Energy + helps you to respect yourself + respected.
* We r all LIVING LIFE FORMS and APPRECIATE PEACE, OUR FAMILIES, OUR OWN CULTURE IN NEW ZEALAND.

* What it is to Smile with the Right Intentions - Good.
* Respectful Communication for Right Understanding ^{Be} Assertive. aspiring to Truth + Goodness + peaceful Resolutions.
* EVERYBODY CARES ABOUT THEIR FAMILY, + Everybody has their very own family + likes to think their family is treated well enuf + behaving well enuf.

* Govts that re-acted to try + stop wrongs to people, may have needed reasoning to reach peaceful life.
* Life is for having + Each Understands their OWN CULTURE in their part of the world. OUR RIGHTS TO OUR NATION - NZ.

* Commonwealth espec UK, NZ, USA + Australia most respected
* b.cos of Christianity ~ Care about your neighbour + the 10cs.
* Freedom of your own Good THINKING based on virtues.
e.g. ~ Keeping calm so able to think

~ being considerate helps problem resolving
~ fairness ~ considering both sides
~ being grateful for all that you have, all the

Good you can do, how others r that care about you + for life around you etc.

* The Song ~ Age of Aquarius about ~ Peace, Understanding, Reasoning, love + Harmony ~ all impt.

* The word 'Love' is special to family ~ the love the parents have for each other and their children. A Love which can last 4 a lifetime + beyond.

* CIVILISATION IS BASED ON GOOD WAYS of Thinking + Good behaviour.

ABOUT THE ANZACS ②

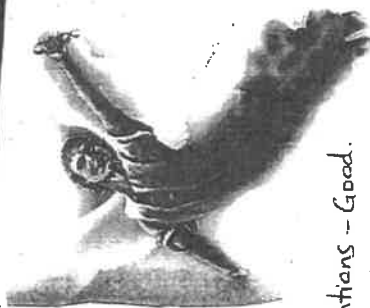
WHY peace is needed in NZ 27.4.2018
* WHAT IS LIKE FOR A CHILD when their DAD has has gone to war ~ How I wish he was home. Whens he coming back? I need my Dad. My brothers/sisters also need my Dad. His chair is empty - how I wish I could talk to my Dad. What it's like to hear my Dad speak, to whistle, to sing and all that my Dad did for me + my family. Whens he coming home? (EMOTIONAL + MENTAL TURMOIL for children + if bullied at school even worse!)
* HOW MUCH MEANING DAD'S + THEIR CHILDREN!
* WHAT IS LIKE FOR YOUR HUSBAND Gone to War

How to cope without someone who has so much meaning? Will they come back? Are they still living? Possibly having to do a man's job because the men had gone to war ~ good for some females
* BUT ever considered how all of NZ, UK, USA + Aust all affected because of overseas problems? (LOYALTY TO OUR OWN much better ~ RESPONSIBLE for our own selves/allies ~ all CIVILISED NATIONS ~ NZ, UK, USA, Aust)
* RETURN OF THE ANZACS ~ What a Celebration and what Happiness!

* ANZAC DAY PARADES after that ~ How would you feel about those that didn't come back? How would they feel about those that came back but what they had done? Ever seen the looks on their faces in Anzac Parades in the 1970s + prior? Such sadness, defeat of character - Granddads ~ loss of words to describe how they felt, all of their family including grandchildren.

* Above thoughts apply to us all in everyday life.

22.10.2020



ABOUT THE ANZACS ①

18 February
2017 ①

- * IT TAKES MORE Courage to Save a Life, than to end a life, ~ HEROES! So why Wars at all?
- * ANZAC Day is a day of sadness, remembering all those who didn't come back. The Tragedy of War.
- * There is more to live for than to go to war.
- * NZERS NATURAL NATURE'S of RESPECT + CARE, based on Christianity + The Ten Commandments.
- * CIVILISATION happened because of Good ways of thinking + Justice for those who wronged.
- * ITS been more than 70 years since WWI + WWII, memories have lived on + there are always two sides ~ LOST OPPORTUNITIES on Both Sides!
- * Is there a Reason why Anzac Day is 'celebrated' other wars since then + the TRAGEDY of war?
- * Some people too young to understand the reality of such a life ~ where's your home, your family, your respect, clean clothing, yummy food etc.
- * The nightmares + horrible memories of having to act in self defence to keep yourself alive, + for others thinking wrongly about humans.
- * GERMANY apologised for what happened during the war ~ it was wrong + said SORRY.
- * WARS + the after effects live on + on ~ all the different emotions + consciences + physical effects.
- * ITS 2017 for civilisation to improve even more, impt!
- * NOT To blame USA, NZ, UK Aust for disliking wrongs!
- * Shoot with a camera instead of with a gun.

PEACE TREATY ② (OCT 2016) + Peace ~ Life ②

BORN TO LIVE, Amended 19 Dec 2020

SO LET LIVE ~ Gods Gift of Life
rather than wrongs.

* The custard pie dog story ~ A dog threw a custard pie at a dog ~ what good did that do? The dog threw a custard pie back ~

What Good did that do? CIVILISATION based on

* Memories live on + on + on + on. ^{Good Ways of Thinking} + ^{Good Behaviour.}

* How do you want to be remembered? AND What do you think of your very own self? Truthful about self?

* ANY RESENTMENTS RELATING TO THE PAST? Where was your/ their reasoning @ that time + ability to put things in their:

What's important is today + the Brotherhood of Mankind/ Sisterhood of 'Womankind' ~ We r all humans! Humankind/

* Responsibility ~ what it is to care for + care about NZERS, rather than cause problems.

* Desmond Tutu ~ There will b peace amongst people when we acknowledge each others spirits.

* Govts that re-acted to try + stop wrongs to people, may have needed reasoning to reach peaceful life.

* LEARN FROM YESTERDAY, LIVE FOR TODAY, HOPE 4 TOMORROW

* If you don't forgive wrongs you may feel sad, feel stink think sad, think stink ~ for how long? What can you do, do?

* Some things r unforgiveable. But you ought to care about

* There's always 2 sides + both sides could have been affected, by LOST OPPORTUNITIES ~ people, spirits. Hopes

shattered b cos of wrongs

* When in Japan, Japan respected as Japan.

When in Holland, Holland respected as Holland. When in USA, USA respected as

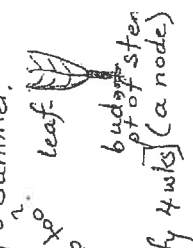
USA. The same 4 New Zealand + NZERS please. We r not pakeha - no such place



NZ'ers + OUR HOMES (2016) Amended 22 August 2020

- * The Meaning + Importance of being a NZ'er includes how you think + feel about all that makes NZ New Zealand e.g.
 - ~ NZ's buildings, NZ's homes + NZ'ers belongings + all the effort by NZ'ers to have built/made for NZ'ers by NZ'ers.
 - The time taken to have learnt the knowledge needed + to have made something of importance espec heir looms
 - ~ Loyalty of NZ'ers ~ life, Safety + Respect is a VALUE (impt)
 - ~ Interest + wonder encourages a pride in being a NZ'er.
 - * IT IS MORALLY wrong to make NZ'ers homeless or to live in degrading situations e.g. in cars + in garages that shouldn't be - NZ Govt + our NZ Culture + Heritage included State Homes that were affordable by the Govt, + for the people.
- * NZ's wooden homes r a sustainable resource vs export of log
 - * Overseas people ~ Be happy + happy + let us NZ'ers retain our buildings, homes, belongings = our CULTURE + heritage!
 - * Expectations of + for refugees + immigrants. You wouldn't like to lose your home, same as everybody else!
 - * It is wrong for overseas people to sell NZ'ers land, build + homes.
 - * All that has been brought for NZ'ers is for NZ'ers + Every Right + NZ'ers rights 26 Respected. NZ is OUR HOME/LAN,
- ## PROBLEM RESOLVING (2017) Amended 22 August 2020
- * WHAT IS RIGHT + WHAT IS WRONG is Important + INTEGRITY
 - * Learn from the past by an Improving Attitude.
 - * The Golden Rule impt ~ how would you feel if ---- (it was you)
 - * The more respected the other person/culture the greater chance of being understood + a peaceful resolution.
 - * Apply all the different ways of thinking of a tree (i.e. context) ~ all the facts, causes of the prob, any efforts to put things right, when the event happened + what's relevant today ~ truth +/or honesty + Right Understanding
 - * E.g. The Housing problem ~ some relevant factors ~ law abid citizens, over-employment, cost of mortgages + rents too mu lateral thinking ~ pay what you can honestly afford, MT hor Empathy + a Caring Attitude Impt to Problem Resolve/try

TREES, TREES, + MORE TREES (Feb 2017) Amended . .

- Ever heard of Johnny Appleseed? Fruit trees? 14.1.2020
 - * Instead of NZ'ers planting trees simply b cos they're natives, think WHY plant trees + WHAT is really needed.
 - * FRUIT TREES most impt + honey bees to fertilise the flowers
 - ~ Apples, pears, feijoas, plums, peaches, apricots, citrus, nectarines, apricots, guavas, figs, avocados, loquats, bananas, nuts, persimmons, cherries, dates? papaya? mangoes? more?
 - ~ Coffee trees, cocoa trees, carob trees?
 - * Knowledge of how to grow all these trees + also research into producing dwarf varieties, espec avocados, dates, nut contact Careers NZ, Massey University, Royal Horticultural Science, Govt + Primary Industries? Knowledge Shared?
 - * Trees for wooden homes ~ NZ's culture + heritage
 - * Trees for paper, cardboard + knowledge shared? of manufacture
 - * Trees for furniture, tree huts + swings from trees for chr.
 - * Trees to cheer up ~ autumn leaves, flowering trees, coloured leafed trees, unusual leaves, smelly conifers etc
 - * Trees for shade + shelter - home gdns, streets + parks, berms
 - * Trees for birds ~ nests + food source ~ all the different birds
 - * Manuka for firewood + honey (honeycomb? a yummy drink)
- ## PLANT PROPAGATION (July 2018) Amended 14.1.2020
- * Apples ~ Remove pips from apple + sow. Soft + hardwood cutting.
 - * Pears ~ Remove pips from pears + sow. Soft + hardwood cutting.
 - * FEIJOS ~ Seed. Softwood cuttings ~ spring. 1/2 ripe cuttings autumn.
 - * Plums ~ Seed ~ stratify for 3 months ~ fridge temperature, softwood, + hardwood cuttings; micropropagation.
 - * Peaches + nectarines ~ softwood cuttings ~ spring + summer.
 - * hardwood cuttings ~ mild winters.
 - * Apricot ~ stratify seed for 3-4 weeks
 - * Lemons ~ leaf-bud cuttings
 - * Oranges ~ don't let the seeds dry out! Stratify + wks (a node)
 - * Mandarins + oranges ~ seed
 - * Guavas ~ seed sown summer, softwood cuttings + mist
 - * NORMAL FRUIT TREE production includes specialist grower.
- 

MORAL LIFE (1) (May 2016) Amended 11 January 2020 (includes Abt Anzacs ①)

- * Code of Conduct e.g.
 - ~ Bible ~ The Ten Commandments ~ The Golden Rule ~ Do unto others as you would have them do unto you.
 - ~ The 8-fold pathway to a Noble mind ~ Buddhism
 - ~ NZ'ers ~ Civil Rights e.g. MORALITY in SOCIETY + home
 - ~ UNITED NATIONS ~ The Rights of children ~ Adults even more rights + how important family together.
- * MORE VALUE means important for Good Ways of Thinking
- ~ ALL THE VIRTUES especially Respect + Care
- ~ Freedom of your own GOOD THINKING + Behaviour
- ~ God represents MORALITY God can't be everywhere for everybody, that's why GOOD SPIRITS are God's messengers of MORALITY
- ~ GOOD WAYS OF THINKING include Goodness mottoes so that your energy + spirits shines like the daylight, moonlight, starlight; shines like the sunshine, moonshine!
- ~ A MORAL EWEHOO including a MORAL INCOME gives a clear conscience a peaceful mind + RESPECT.
- * What it is to CARE ABOUT your mind + have a clear conscience
- * Buddhism + the 8-fold pathway includes ~
 - ~ Right Understanding + 4 Right Action
 - ~ RIGHT EFFORT + achieving + doing things in a way that you honour your own mind + feel good about the way you did things + achieved, respect self + respected.
 - ~ Important not to let stress build up + action +/or thinking
 - ~ A Goodness Motto ~ Speaking good, writing good, thinking good, thanking good, inspiring good, reading good, doing good. It takes more courage to save a life than to end a life!
 - ~ Sometimes in life when grieving, lost OPPORTUNITIES ~ remember there's always 2 sides may be both affected?
 - ~ Meaning + Importance of keeping your own home - family, your respect, cleanliness including clean clothing, yummy food of your own choice, furniture, memories, belongings etc
 - ~ A PERSON IS A PERSON + EVERY RIGHT TO LIVE, especially

OIL CRISIS PROBLEM (2015) Amended 31 August 2020

- ONE DAY the OIL WILL RUN OUT = No petrol/diesel. Electric cars seem too expensive + too much drainage of electricity. NZ's future re imports? + transport of goods within NZ?
- * When the day arrives there may be a problem of initial shock + great sadness because of an uncertain future.
- * Thinking to get out of shock ~ BEING GRATEFUL for all that is good in your life AND Living in the Now - live each day the best that you can.
- * Think of some-one that has a lot of meaning to you.
- * Importance of family bonding ~ have a family song/motto/prayer that strengthens + cheers-up. Even if too sad to sing the words + memories can still have meaning. Loyalty Impt.
- * HOMELANDS ARE SACRED + NZ'ERS have every right to our own homes, our life, Safety + Respect. The meaning of what it is to be + to have been a NZ'er in NZ - OUR NATION!
- * What else to do, do, do? Grow fruit + veges including on council beams.
- ~ LEARN from Yesterday, LIVE FOR TODAY, HOPE 4 the Future.
- MORAL LIFE (2) (May 2016) Amended 1 September 2020
- Years + many years ago, parts of the world were uncivilised. The U.K was responsible for improving the life of some primitives. Missionaries came to NZ + later the settlers with civilisation.
- IT IS ONE THING TO IMPROVE WAYS OF LIFE + wrong to do the opposite. NZ belongs to those who care about NZ'ers + those who are good to NZ'ers + those loyal to NZ'ers, civilised
- * A photo can have a lot of meaning to a person.
- * A picture can have a lot of meaning to a person.
- * A book can have a lot of meaning to a person.
- * Just like all of our belongings, got 4 a reason, honestly.
- * Watching T.V can have meaning to a person.
- * Listening to music can have meaning to a person.
- * Just like all other hobbies that NZ'ers are able to do.
- * Your homes as safe havens is important to every one of us, whether rich or poor. Homes ought 2 b more affordable + if income is lost - every right to keep yours.

From: Steve Chadwick
Sent: Tuesday, 24 August 2021 12:42 pm
To: Geoff Williams
Subject: Fwd: 3 Waters

We need to discuss a generic response.

Steve Chadwick

Begin forwarded message:

From: s7(2)(a) LGOIMA
Date: 23 August 2021 at 8:39:25 PM NZST
To: Steve Chadwick <Steve.Chadwick@rotorualc.nz>, Dave Donaldson <Dave.Donaldson@rotorualc.nz>, Peter Bentley <Peter.Bentley@rotorualc.nz>, Raj Kumar <Raj.Kumar@rotorualc.nz>, Trevor Maxwell <trevor.maxwell@rotorualc.nz>, Merepeka Raukawa-Tait <Merepeka.Raukawa-Tait@rotorualc.nz>, Tania Tapsell <Tania.Tapsell@rotorualc.nz>, Sandra Kai Fong <Sandra.KaiFong@rotorualc.nz>, Reynold Macpherson <Reynold.Macpherson@rotorualc.nz>, Fisher Wang <Fisher.Wang@rotorualc.nz>, Mercia Yates <Mercia.Yates@rotorualc.nz>
Subject: 3 Waters

Dear Councillor.

I am writing with respect to the Government's Three Waters proposal. As I am sure you would agree, it is perhaps the most significant decision affecting ratepayers since the amalgamation of councils in 1989.

The Local Government Act requires councils to consult with their communities over any plans to transfer water services, and a strategic asset like water requires the highest level of consultation.

I therefore respectfully request that a full consultation process be undertaken by the Council to not only ensure ratepayers are properly informed about the consequences of central Government taking essential council-owned water services without compensation, but are also able to have a say on whether to accept or reject the Government's proposal.

While the Government has made the claim that the assets will remain in Council ownership, this is simply not true. Once the assets have been passed to new water entities, control will be passed over to an unelected board, and lost to ratepayers forever.

The proposed Three Waters Authorities will be huge bureaucracies, and while the Government talks about economies of scale, experience shows almost without exception, that the bigger the bureaucracy the greater the inefficiency.

The proposed Governing body is to be a 'partnership' between iwi and councils. Half of the positions on the decision-making board will be appointed by iwi and the other half by all of the

councils in the region. The result is smaller councils will have virtually no say at all.

Since decisions of these governing authorities will require a 75 percent majority, in effect that means the total control of water will be passed to unelected and unaccountable private iwi corporations.

Why are iwi being given the power to control our water? That has not been explained by central Government, yet it is a core part of these reforms.

I would respectfully suggest that you should refuse to join the Three Waters scheme until you have received clarification on the role of iwi.

The infantile advertising campaign being run by central Government, that denigrates the reputation of local council water management, and the instructions by the Government for councils not to consult with their communities over Three Waters, indicates the politicians are walking all over councils and treating them like fools.

Again, with respect, our council needs to stand up for the ratepayers to protect the assets that we ratepayers have paid for over the many years.

At the very least, a referendum should be held so ratepayers are fully involved in the decision about the assets their families have paid for.

Your faithfully,

s7(2)(a) LGOIMA

From: §7(2)(a) LGOIMA
Sent: Wednesday, 25 August 2021 9:59 PM
To: Steve Chadwick
Cc: Dave Donaldson; Peter Bentley; Raj Kumar; Trevor Maxwell; Merpeka.raukawa-tait@rotorualc.nz; Tania Tapsell; Sandra Kai Fong; Fisher Wang; Reynold Macpherson; Mercia Yates
Subject: Three Waters.

Good morning Mayor Chadwick

No doubt your council and yourself are presently carefully considering, the merits of the proposed three waters legislation.

As a business person of forty years I hold grave concerns for our communities and their ability to access water at fair and reasonable cost if this scheme is enacted.

A transfer of council assets of this magnitude demands significant public consultation as per the Local Government Act.

No doubt claimed benefits such as synergies and economies of scale have been much lauded by the proponents of this scheme, but after witnessing many such initiatives in the private sector, Fonterra being one that springs to mind, the promised benefits very rarely materialise.

The proposed governance structure for three waters is not democratic and I see this as creating a major flaw in the fabric of our society. One that my children, nephews and nieces of both Maori and European heritage will come to deeply despise us for should our generation allow this to go ahead.

Water is the essence of all life and to deny one group in society equality in its control and use, is a flagrant breach of human rights.

Local councils are the only representative bodies capable of halting this despicable legislation. A rejection en masse by councils would send a clear message to government not to proceed.

Councils must, if they wish to remain credible, initiate ratepayer referendums and be seen to uphold what is fast becoming our fragile Democracy.

Regards
§7(2)(a) LGOIMA

RFS Number	585992
Date & Time request received	Received 28 Sep 2021 @ 08:06:46
Contact method	EMAIL
Customer Name and Postal Address	s7(2)(a) LGOIMA
Postal address	
Phone Number	CEL 0064 s7(2)(a) LGOIMA
Email Address	s7(2)(a) LGOIMA
Temporary Phone Number	
Temporary Email Address	
Contact Person (If applicable)	
Phone Number	
Parcel	

-----Original Message-----

From: s7(2)(a) LGOIMA

Sent: Sunday, 26 September 2021 9:31:21 AM

To: info@rotorualc.nz

Subject: s7(2)(a) LGOIMA

s7(2)(a) LGOIMA

Reporoa

22 September

Rotorua Lakes Council
Private Bag 3029
Rotorua 3046
Email: info@rotorualc.nz

Dear Mayor and Rotorua Lakes Councillors,

Re: Three Waters Reform process in Rotorua

I am writing today as I have concerns as a local citizen about the Three Waters Reform process. It appears that the Government is proposing to transfer the water assets owned by ratepayers from our local council, to one of four mega water authorities. This belongs to all people from this community and it does not belong to the council.

In my opinion this council has done a pretty good job of looking after our needs and the centralisation of our water needs will only mean poorer service and increase costs. It will also mean loss of control of our communities assets and no way to have input the future service of those assets.

In my view, Rotorua Lakes Council have a chance to take a democratic position on this, and allow all their residents that are

interested to have a say. We need to slow down this rushed process and allow the time to consider all the information in this monumental reform process. The power lies with you, our council, and I am asking that you exercise the powers of democracy and stand by the requirements of the Local Government Act, by calling for a local referendum, in order to gather the community's view on the Three Waters Reform.

I implore you to engage in consultation with the wider community and hold a referendum

Thank you

s7(2)(a) LGOIMA

<questions>

Q> What is your feedback?

A> ABOVE

Q> If your feedback relates to a staff member, can you supply their name or a description of them?

A> ABOVE

Q> What is your preferred method of contact?

A> EMAIL

</questions>

From: s7(2)(a) LGOIMA
Sent: Tuesday, 31 August 2021 4:20 PM
To: info@rotorualc.nz
Subject: 3 Waters Legislation. Attention The Mayor.

Dear Madam,

Regarding 3 Waters.

1. What is the objective?
2. What are the benefits?
3. What are the costs?
4. If proceeded with, what protection from ever being privatised?
5. When will the public/ratepayers be consulted?

Yours faithfully

s7(2)(a) LGOIMA

Hannahs Bay.
Rotorua

From: s7(2)(a) LGOIMA
Sent: Wednesday, 22 September 2021 9:55 PM
To: Steve Chadwick; Dave Donaldson; Peter Bentley; Raj Kumar; Trevor Maxwell; Merepeka Raukawa-Tait; Tania Tapsell; Sandra Kai Fong; Reynold Macpherson; Fisher Wang; Mercia Yates
Subject: Three Waters
Attachments: Three-water-council-letter-.docx

Please find attached a letter re my concerns on central governments three waters proposal.

Regards

s7(2)(a) LGOIMA

s7(2)(a) LGOIMA

RD 1 Reporoa

22 September, 2021

Rotorua Lakes Council
Private Bag 3029
Rotorua 3046
Email: info@rotorualc.nz

Dear Mayor and Rotorua Lakes Councillors,

Re: Three Waters Reform process in Rotorua

I am writing today as I have concerns as a local citizen about the Three Waters Reform process. It appears that the Government is proposing to transfer the water assets owned by ratepayers from our local council, to one of four mega water authorities.

As a Rotorua rate payer for over 32 years, I am somewhat concerned at the Governments proposal of taking control of one of our major assets. We all know the whole country needs huge sums of capital spent on the three waters, this way is just not right. Taxpayers will be paying regardless so why is the government not supporting each local authority? That way the city retains control and revenue from the asset.

With the Mayor and Deputy Mayor not seeking re-election at the next election surely, it's just not right to condone a proposal to sell one of the city's biggest assets for approx. 10% of its true vale without widespread consultation with the Rotorua rate payers. It's a massive decision that affects us all going forward in the future. Likewise, the Rural Community Councillors should be talking to Rural Ratepayers and expressing their (Ratepayers) opinions at Council meetings and voting at these meetings accordingly.

We need to slow down this rushed process and allow the time to consider all the information in this monumental reform process. The power lies with you, our council, and I am asking that you exercise the powers of democracy and stand by the requirements of the Local Government Act, by calling for a local referendum, in order to gather the community's view on the Three Waters Reform.

I implore you to engage in consultation with the wider community and hold a referendum

Yours sincerely,

s7(2)(a) LGOIMA

From: s7(2)(a) LGOIMA
Sent: Thursday, 23 September 2021 12:07 PM
To: info@rotorualc.nz
Subject: Fwd: Three waters

To Whom It May Concern

As a local property owner paying rates on a central city, Rotorua property, I want to lodge my submission and have it recorded in the appropriate place., If that isn't you, kindly send it to the correct department for action.

Basically, the reasons why I object to the Three Waters Proposal are:-

- 1). I think that the total lack of democracy involved in central government trying to grab these assets, owned by the local ratepayers, is unacceptable and was never part of the government's pre-election manifesto.
- 2). I further believe that the current, or any price offered by the government would be a mere fraction of these assets' true worth. Once in the hands of an unelected, elite few, they could well be used as security to leverage a huge amount of credit for whatever purpose the elite, new owners desire. All very frightening!
- 3). If Three Waters goes ahead, future costs for these services would be outside the current, local control of our democratically elected Council. It's highly likely that ratepayers would have little or no say in distribution and pricing policies once local ownership is lost forever.
- 4). The very least I would expect from my council before even thinking about handing over our assets would be to have a referendum to gauge the ratepayers' true opinions.

I also would also note my extreme disappointment to see that my tax dollars are being spent by the current government on a one-sided media campaign that attempts to brainwash the people into believing this proposal would be good for them and their community.

I now look to you to show true leadership and support my objection to this outrageous proposal.

Yours faithfully
s7(2)(a) LGOIMA



From: s7(2)(a) LGOIMA
Sent: Thursday, 23 September 2021 11:31 AM
To: info@rotorualc.nz
Subject: Fwd: Three waters

Hi, as a local rate paying property owner, I would like to put a submission in for the three waters.

I think the total lack of democracy involved in trying to grab these assets owned by the ratepayers is unacceptable and was never part of the government's pre-election manifesto.

The very least I would expect from my council before handing over our assets would be to have a referendum to gage the ratepayers true opinions.

I would also like to note my extreme disappointment to see that my tax dollars are being spent by the current government on a one-sided media campaign which attempts to brainwash the people into believing this proposal would be good for them.

Yours faithfully
s7(2)(a) LGOIMA

From: s7(2)(a) LGOIMA
Sent: Wednesday, 22 September 2021 10:47 AM
To: info@rotorualc.nz
Subject: FW: concerned rates payer

From: s7(2)(a) LGOIMA
Sent: Wednesday, 22 September 2021 10:46 AM
To: 'mailto:info@rotorualc.nz' <mailto:info@rotorualc.nz>
Subject: concerned rates payer

s7(2)(a) LGOIMA

22/09/2021

Rotorua Lakes Council
Private Bag 3029
Rotorua 3046
Email: info@rotorualc.nz

Dear Mayor and Rotorua Lakes Councillors,

Re: Three Waters Reform process in Rotorua

I am writing today as I have concerns as a local citizen about the Three Waters Reform process. It appears that the Government is proposing to transfer the water assets owned by ratepayers from our local council, to one of four mega water authorities.

I think that the Government wants to take the Three Waters assets without paying fair value for them. That includes all water reservoirs, treatment plants, and infrastructure networks. Our ratepayer assets will then be controlled by a 12-member mega water authority board. Half the board will be appointed by iwi. The Government acknowledged this is in honour of the "partnership" they have with Māori. The other six seats will be taken by the local authorities that are transferring their water assets, so bigger councils will have more influence.

These 12 people and they alone will have total control over the water that flows in and out of our properties, and how much we pay for it. At the present time the elected representatives of our local council make decisions about water. If our council joins the Government scheme, the mega water authority will be the only water provider, so we will have no option but to pay whatever they charge – and you can't vote them out of office because they are not elected to represent us.

Cabinet papers reveal that the Government has had 60 consultation meetings with Māori about the Three Waters proposals, and I understand that Rotorua Lakes Council have been in discussion with Te Tatau o Te Arawa in the Co-governance Board room. But there has been no wider community consultation on the proposal, despite the Local Government Act requiring councils to consult when making decisions about strategic assets like water.

Cabinet papers also show the Government is considering changing the law to remove the requirements for councils to consult their community over the Three Waters scheme. In other words, they want you, our council to transfer your assets without the residents and ratepayers having a say.

I my view, Rotorua Lakes Council have a chance to take a democratic position on this, and allow all their residents that are interested to have a say. We need to slow down this rushed process and allow the time to consider all the information in this monumental reform process. The power lies with you, our council, and I am asking that you exercise the powers of democracy and stand by the requirements of the Local Government Act, by calling for a local referendum, in order to gather the community's view on the Three Waters Reform.

I implore you to engage in consultation with the wider community and hold a referendum

Yours sincerely,

s7(2)(a) LGOIMA

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From: s7(2)(a) LGOIMA
Sent: Wednesday, 22 September 2021 5:22 PM
To: Steve Chadwick
Subject: Three Waters / Cabinet papers 1~3 Department of Internal Affairs
Attachments: cabinet-paper-one-and-minute-a-new-system-for-three-waters-service-delivery-resized.pdf; cabinet-paper-three-and-minute-protecting-and-promoting-iwi-maori-rights-and-interests-30-june-2021-resized.pdf; cabinet-paper-two-and-minute-designing-the-new-three-waters-service-delivery-entities-30-june-2021.002-resized.pdf

22 September 2021

Dear Mayor Chadwick

No other documentation will give greater detail providing absolute clarity on Three Waters than the attached 3 Cabinet Papers, Dept of Internal Affairs.

To make Three Waters mandatory risks legal action, allowing time for collective public resistance, therefore potential political demise. Central Government employs media to diminish rate payers confidence in Councils, burdening you, Local Government, with implementation of He Puapua.

No one would argue that water reform is required. However it must be egalitarian. The proposed Three Waters generates race based legislation lacking in democratic processes for the majority of citizens, shaming us globally.

At the core of Three Waters is not management but ownership of New Zealand's fresh water with proposed legislation to statutorily enforce, evident in Paper #3 Protecting and Promoting Maori/Iwi rights and Interests in Three Waters Service Delivery.

NZ risks influence from foreign investment, certainly Iwi Corporation ownership, privatization, increased (indeterminate) public debt, unwieldy bureaucracy and worse, disharmony and increased division within our communities.

Water flows in all our veins. You are at the community helm. Please protect this shared resource for future generations by retaining a democratic, egalitarian water management system with whanaungatanga and manaakitanga at it's core, no one group claiming affinity or financial benefit above others.

Thank you for your generous community service, which is often at great personal cost.

With gratitude for your consideration.

s7(2)(a) LGOIMA

Whanganui

Paper One #1

14 June 2021, CAB-21-MIN-0226 Minute: A New system For Three Waters Service Delivery: Paper One, Cabinet Office; and 14 June 2021, Cabinet Paper: A New System For Three Waters Service Delivery: Paper One, Office of the Minister Local Government.

Paper Two #2

14 June 2021, CAB-21-MIN-0227 Minute: Designing the New Water Service Delivery Entities: Paper Two, Cabinet Office; and 14 June 2021, Cabinet Paper: Designing the New Water Service Entities: Paper Two, Office of the Minister Local Government.

Paper Three #3

14 June 2021, CAB-21-MIN-0228 Minute: Protecting and Promoting Iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model: Paper Three, Cabinet Office; and 14 June 2021, Cabinet Paper: Protecting and Promoting Iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model: Paper Three, Office of the Minister Local Government.

UNCLASSIFIED

Hon Nanaia Mahuta, Minister of Local Government

Proactive release of Cabinet material related to progressing the three waters service delivery reforms, 14 June 2021

These documents have been proactively released:

14 June 2021, CAB-21-MIN-0227 Minute: Designing the New Water Service Delivery Entities: Paper Two, Cabinet Office; and

14 June 2021, Cabinet Paper: Designing the New Water Service Delivery Entities: Paper Two, Office of the Minister Local Government.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Where information has been withheld for other reasons consistent with advice, it has been annotated with an asterisk. This information may in some cases be accessible under the Official Information Act 1982.

Key to Redaction Codes:

- 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials, including the redaction of Budget Sensitive material;

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UNCLASSIFIED



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Designing the New Water Service Delivery Entities: Paper Two

Portfolio **Local Government**

On 14 June 2021, Cabinet:

Context

- 1 **noted** that the paper under CAB-21-SUB-0227 is the second in a suite of papers seeking decisions to transform the three waters service delivery system, which is intended to be considered alongside two other papers:
 - 1.1 A New System for Three Waters Service Delivery (Paper 1); [CAB-21-SUB-0226];
 - 1.2 Protecting and Promoting Iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model (Paper 3); [CAB-21-SUB-0228];

- 2 **noted** that the suite of papers referred to in paragraph 1 above follow on from initial decisions, made during 2020, to reform three waters service delivery arrangements to create large-scale water services entities, including agreement that these entities would:
 - 2.1 be publicly owned, with mechanisms to protect against privatisation;
 - 2.2 be statutory entities, designed and established by legislation; and
 - 2.3 have financial and operational autonomy and be able to borrow in their own right, independent of local government debt restrictions and the legislative decision-making framework Local Government Act 2002;

[DEV-20-MIN-0099]

- 3 **noted** that Paper 1 in this suite of papers seeks agreement to proceed with the reforms to the three waters system, including decisions relating to:
 - 3.1 the establishment of a new service delivery model, with four new water services entities to take over the three waters-related infrastructure and service delivery responsibilities from local authorities;
 - 3.2 the boundaries of the new statutory entities, and which local authority districts would constitute each entity;
 - 3.3 the entities' statutory purpose, objectives, operating principles, and general responsibilities;

- 3.4 the stewardship arrangements for the new system, including through a Government Policy Statement to provide strategic direction to the water services entities;

Proposed ownership, oversight and governance structure of the new water services entities

- 4 **noted** that given the public nature of the assets and service delivery needs, ownership of the water services entities has been framed in the context of collective local authority ownership, on behalf of communities;
- 5 **agreed** that the local authorities that constitute each water services entity (as described in Paper 1) would be the owners of the entity, and that this would be provided in legislation;
- 6 **agreed** that there is no financial recognition of ownership, and no shareholding is provided for;
- 7 **noted** that local authority ownership rights are instead provided for in the oversight and governance arrangements in paragraphs 11-31 below;
- 8 **noted** that having competent and strong governance of water services entities is critical to the success of the three waters service delivery reforms, and that governance mechanisms are to be included in legislation;
- 9 **noted** that the proposed oversight and governance mechanisms aim to strike a balance between providing the necessary independence for the water services entities to achieve the full benefits of reform, enabling communities and iwi/Māori to have an influence over service delivery in their area, and ensuring necessary accountability in the provision of essential public services;
- 10 **agreed** that the new water services entities will:
- 10.1 operate within a joint oversight framework involving representatives of local authorities and mana whenua from within the geographical area covered by the respective entities;
 - 10.2 each be governed by an independently appointed board;
 - 10.3 own assets;
 - 10.4 be prohibited from paying dividends, with flexibility to reinvest any surplus;

Regional Representative Group

- 11 **agreed** that a Regional Representative Group be established for each water services entity, which would:
- 11.1 consist of no more than 12 members; and
 - 11.2 comprise equal numbers of representatives from the local authorities and mana whenua that constitute the geographical area covered by the entity;
- 12 **agreed** that, in relation to the local authority representatives of the Regional Representative Group:
- 12.1 those representatives will be collectively appointed by the elected members of the local authorities that constitute the water services entity; and

- 12.2 representative members will need to be elected members, chief executives, or appropriately qualified senior managers of a local authority;
- 13 **agreed** that, in relation to the mana whenua representatives of the Regional Representative Group, those representatives will be collectively appointed by mana whenua in the geographical area covered by the entity;
- 14 **noted** that Paper 3 provides further information on the selection method for the mana whenua representatives of the Regional Representative Group;
- 15 **agreed** that where there are more local authorities that constitute a water services entity than can be accommodated on the membership of the Regional Representative Group, then members:
- 15.1 must comprise an appropriate distribution of metropolitan, provincial and rural local authorities; and
- 15.2 represent a geographic spread across the area covered by the entity;
- 16 **agreed** that the legislation will include provisions for:
- 16.1 the appointment process for Representatives and related requirements;
- 16.2 the Minister of Local Government to appoint a group to work with local authorities and mana whenua, as a 'back-stop', if needed to facilitate the appointments of Representatives;
- 16.3 the rotation of Representatives;
- 16.4 the length of term for each Regional Representative Group;
- 17 **agreed** that the functions and powers of each Regional Representative Group will include:
- 17.1 appointing, monitoring, and removing members of the Independent Selection Panel that will (in turn) appoint members to the board of the water services entity;
- 17.2 issuing a Statement of Strategic and Performance Expectations to the water services entity, and monitoring the entity against that Statement;
- 17.3 considering the findings of an annual review of board performance undertaken by the Independent Selection Panel;
- 17.4 conducting performance reviews of the Independent Selection Panel;
- 18 **agreed** that the Regional Representative Group for each water services entity will be required to consider the interests of the geographical area covered by that entity when exercising its functions and decision-making powers;
- 19 **agreed** that:
- 19.1 each member of the Regional Representative Group will, in most cases, have an equal share of voting rights for decisions made by that Group; and
- 19.2 decisions of the Regional Representative Group will require a super majority decision of 75 percent;

- 20 **noted** that further policy work is required to determine whether there should be exceptions to the approach proposed in paragraphs 16 and 19 above, and any alternative arrangements that would apply (while meeting the requirements noted in paragraph 2 above), for example, 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 than those identified in paragraph 19.1 above;
- 21 **authorised** the Minister of Local Government to approve further policy proposals in relation to paragraph 20 above, and the name of the Regional Representative Group, during the legislation drafting process;

Board selection and appointment process

Independent selection panel

- 22 **agreed** that the legislation will provide that an Independent Selection Panel must be established by the Regional Representative Group for each water services entity to deal with board appointment and monitoring processes, including:
- 22.1 assessing, evaluating and shortlisting board candidates;
 - 22.2 appointing members to the entity board;
 - 22.3 appointing the chair of the board;
 - 22.4 removing board members;
 - 22.5 undertaking an annual review of the board's performance;
- 23 **agreed** that the legislation will also include details relating to the appointment of the Independent Selection Panel, including the:
- 23.1 appointment process; and
 - 23.2 length of term;
- 24 **agreed** that the Independent Selection Panel relating to each water services entity will include no more than four members, including the chair;
- 25 **agreed** that the membership of the Independent Selection Panel for each entity will, collectively:
- 25.1 be highly respected in the field of governance;
 - 25.2 understand network infrastructure industries;
 - 25.3 be independent of the entity's Representatives;
 - 25.4 have knowledge and experience of the Treaty of Waitangi and te Ao Māori;
 - 25.5 be appropriately qualified to assess and select members of the water services entity board;

- 26 **agreed** that:
- 26.1 a Regional Representative Group may vote to remove a member from the Independent Selection Panel; and
 - 26.2 the threshold for that vote would be a super majority, of 75 percent or above;
- 27 **agreed** that the functions of the Independent Selection Panel will include:
- 27.1 undertaking an annual review of the water services entity board's performance for consideration by the Regional Representative Group;
 - 27.2 developing, for presentation to the Regional Representative Group, a charter for its operations and functions;
 - 27.3 developing, for presentation to the Regional Representative Group, a Board Appointment and Remuneration Policy, including:
 - 27.3.1 a skills matrix outlining the experience, qualifications and skills expected of members of the entity board; and
 - 27.3.2 a board remuneration framework;

Water services entity board

- 28 **agreed** that the legislation will:
- 28.1 require that a board be established for each water services entity;
 - 28.2 provide for the term of appointment of each board member, and any restrictions on reappointment;
 - 28.3 provide for the removal of board members;
 - 28.4 provide for reporting by the board to the Regional Representative Group in relation to the performance of the board and entity;
- 29 **agreed** that the board of each water services entity:
- 29.1 will have no more than 10 members; and
 - 29.2 the chair of the board will hold the casting vote;
- 30 **agreed** that each water services entity board will be accountable for:
- 30.1 the appointment and removal of the chief executive officer;
 - 30.2 preparing a Statement of Intent, which will serve as the primary accountability document for the board and be produced in response to the Regional Representative Group's Statement of Strategic and Performance Expectations and any Government Policy Statement issued;
 - 30.3 preparing an Asset Management Plan, which outlines the investment priorities for the entity and describes how the entity will operate, maintain and renew its existing assets and provide new assets over a 10-year period and is in accordance with the Statement of Intent;

- 30.4 preparing a Funding and Pricing Plan, which describes how the entity intends to fund and finance its business activities (including the Asset Management Plan) over a 10-year period and is in accordance with the Statement of Intent;
- 30.5 preparing an annual report, which complies with generally accepted accounting practice, and is audited;
- 31 **noted** that the legislation will include further details about the documents referred to in paragraphs 30.2 to 30.5 above;

Entity financing arrangements

- 32 **noted** that water services entities will need to have significant financial capability and capacity to independently obtain financing for operations;
- 33 **agreed** that water services entities be enabled to access a variety of source finance, including, but not limited to:
- 33.1 New Zealand domestic retail and wholesale capital markets;
- 33.2 New Zealand Local Government Funding Agency;
- 33.3 offshore capital markets;
- 34 **agreed** that the legislation will enable water services entities to provide security to financiers in respect of their borrowings, with appropriate obligations and accountabilities on the water services entities in respect of that security;
- 35 **agreed** that the legislation will enable water services entities to charge customers directly for water services, and that entities are responsible for the collection of payments for the services they provide with appropriate safeguards including with respect to Māori land;
- 36 **noted** that transitional arrangements may be required for a period, whereby local authorities act as collection agents under fixed-term service level agreements and that the Minister of Local Government will report back on these matters in the fourth in this suite of papers, in July 2021;

Tax status of water services entities

- 37 **agreed** that the new water service entities be exempt from income tax, given the intent is that the entities will be providing a service that is for public benefit rather than commercial benefit;
- 38 **agreed** that charges for water services be subject to Goods and Services Tax at the standard rate of 15 percent;
- 39 **noted** that legislative changes will be required to give effect to paragraphs 37 and 38 above;
- 40 **authorised** the Minister of Revenue, in consultation with the Minister of Finance and the Minister of Local Government, to make decisions on detailed amendments to tax and local government legislation relating to paragraphs 37 and 38 above;

Additional measures to prevent privatisation and protect the public interest**Prohibition on dividends**

- 41 **noted** that, subject to agreement to paragraph 10.4 above, the water services entities:
- 41.1 would not be able to pay dividends; but
 - 41.2 would have the operational and financial flexibility to reinvest any surplus to ensure the efficient delivery of water services;
- 42 **noted** that a prohibition on dividends, combined with the monopolistic characteristics of the water services entities, further necessitates the introductions of an economic regulation regime to help ensure the entities have the appropriate incentives to operate efficiently;

Restrictions on asset sales or transfers

- 43 **agreed** that water services entities need the flexibility to structure commercial arrangements in relation to their assets in a way that provides for efficient and effective operations;
- 44 **noted** that the benefits offered by this flexibility need to be balanced with appropriate protections against the sale or privatisation of assets and infrastructure that are held by the entities in order to provide essential water services to the public;
- 45 **agreed** that the legislation will include appropriate mechanisms to place restrictions on the sale and/or transfer of material, strategic three waters assets by the water services entities, similar to the protections that are currently provided for in the Local Government Act 2002;

Protections against future privatisation

- 46 **noted** that there are a series of legislative provisions and safeguards against future privatisation, but that there may be proposals by future governments or private entities to privatise water service delivery and that it is desirable to provide democratic protections for such circumstances;
- 47 **noted** that a referendum would provide a strong protection against any future privatisation proposal, and that local authorities, as owners of the entities, have a strong interest in this matter, as do iwi/Māori, and the public affected by a proposal;
- 48 **noted** that a privatisation proposal would include, but not be limited to, any proposal that seeks to change the ownership model of a water services entity, or to divest or transfer a material part of the entity's assets or operations (or any action to a similar effect);
- 49 **agreed** that, in relation to a viable privatisation proposal, legislation will include provisions for:
- 49.1 the Regional Representative Group to vote in favour of the proposal, by super majority, before the entity can proceed to a referendum;
 - 49.2 if the requirement above is met, for the water services entity to arrange for a referendum to be conducted, covering eligible electors in the population served by the entity;
 - 49.3 in order for the proposal to be successful, 75 percent or more of the votes cast must be in favour of privatisation;

- 50 **noted** that further policy work is required to develop the mechanisms to give effect to paragraph 49 above, in particular defining privatisation in a manner that ensures water services entities can retain the flexibility to structure commercial arrangements in relation to their assets in a way that provides for efficient and effective operations, and that other arrangements are not precluded unnecessarily;
- 51 **authorised** the Minister of Local Government to approve further policy proposals in relation to paragraph 49 above, during the legislation drafting process;

Protecting the public interest in relation to the water services entities

- 52 **noted** that water services entities will exist to provide essential services to, and be owned on behalf of, communities, and the general public has a significant interest in the operations and performance of these entities;
- 53 **agreed** that water services entities, like Crown owned companies, should be subject to expectations and/or constraints in legislation relating to their purpose and performance as statutory entities, including regarding:
- 53.1 alignment of strategy and investment to an entity's core purpose;
 - 53.2 scope of operations, including constraints on the diversification into products, services, markets, and overseas jurisdictions not directly related to the core purpose of the entity;
 - 53.3 restrictions on the establishment of subsidiaries, mergers and acquisitions, and sale of assets; and
 - 53.4 other matters not yet foreseen but considered material to an entity's performance as a statutory entity operating in the public interest;
- 54 **noted** that in the event of a serious performance issue with a particular water services entity it may be appropriate for the Crown to intervene to ensure this issue is rectified;
- 55 **noted** that several Crown intervention frameworks exist that provide a useful precedent, including within the Crown Entities Act 2004, Infrastructure Funding and Financing Act 2020, and Local Government Act 2002;
- 56 **agreed** that the legislation will provide for a Crown intervention framework that would apply to the water services entities, as a last resort measure to protect the public interest and ensure the objectives of the three waters reform programme are not jeopardised;
- 57 **agreed** that this intervention framework will include a graduated, risk-based approach, which:
- 57.1 is modelled on precedents in other legislation, particularly the Infrastructure Funding and Financing Act; and
 - 57.2 recognises and aligns with other intervention and compliance mechanisms in the three waters service delivery system, such as the drinking water regulatory regime and proposed introduction of economic regulation;

Crown support

- 58 **noted** that providing similar forms of Crown support to water service entities, as are currently available to local authorities (and thus water assets), will strengthen the credit profile of these entities;
- 59 **agreed** that the Civil Defence and Emergency Management Act 2002 arrangements will be extended to apply to water service entities, such that it continues to apply to three water assets once the assets are transferred to the water services entities from local authorities;
- 60 **agreed** that a Crown liquidity facility will be available to water services entities, which can be accessed if certain 'trigger events' occur, on similar terms to those available to the Local Government Funding Agency;

Consumer and community engagement

- 61 **noted** that effective engagement, publishing and reporting requirements will provide an avenue for consumers and communities to give direct feedback to the water services entities, influence the establishment of key business documents, and increase transparency and accountability in decision making;
- 62 **agreed** that the water services entities will be required in legislation to undertake engagement with their consumers and communities on the:
- 62.1 prioritisation methodology that informs the asset management plan;
 - 62.2 Asset Management Plan; and
 - 62.3 Funding and Pricing Plan;
- 63 **agreed** that the water services entities will be required to:
- 63.1 make publicly available the documents referred to in paragraph 62, after they have been finalised;
 - 63.2 report on how any consumer and community feedback was considered and incorporated into final decision making regarding these documents;
- 64 **noted** that to, assist with effective and meaningful consumer and community engagement, many overseas jurisdictions both utilise and recommend having a consumer forum;
- 65 **noted** that having a legislative requirement will ensure consistency between water services entities, and address concerns of consumer and community groups;
- 66 **agreed** that each water services entity will be required to establish a consumer forum, to assist with consumer and community engagement;

Charging and pricing arrangements

- 67 **noted** that the entities must be transparent in both how they calculate and set prices, and that Paper 1 of this suite of papers includes a proposed operating principle to this effect;
- 68 **noted** that the Ministry of Business, Innovation and Employment will also be considering the process for setting pricing and transparency requirements, as part of their work to develop detailed proposals on the consumer protection mechanisms for the new three waters system;

- 69 **noted** that the water services entities will need a variety of pricing and charging instruments to effectively and equitably charge customers, and further advice on this matter will be included in a further paper, anticipated for September 2021;

Legislative implications

- 70 **agreed** that the above decisions be implemented through the Water Services Entities Bill, which has a category 4 priority on the 2021 Legislation programme (to be referred to select committee in 2021);
- 71 **invited** the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 72 **authorised** the Minister of Local Government to approve minor policy and technical matters that may arise during the course of drafting, in alignment with the approach and reform proposals set out in this suite of papers;
- 73 **agreed** that technical experts can be consulted, if needed, during the drafting process;

Communications

- 74 **noted** that the Minister of Local Government will work with the Prime Minister's office to finalise relevant communications.

Michael Webster
Secretary of the Cabinet

Proactively released by the Minister of Local Government

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Office of the Minister of Local Government

Chair

Cabinet Government Administration and Expenditure Review Committee

Designing the new three waters service delivery entities

Proposal

1. This is the second in a suite of papers seeking decisions to transform the three waters service delivery system. This paper provides details on the proposed structure of water services entities, associated oversight, governance and ownership arrangements, and mechanisms that provide for communities and consumers to have a 'voice' within the new structure.
2. This paper is intended to be considered alongside two other papers:
 - 2.1 *A new system for three waters service delivery* (Paper 1).
 - 2.2 *Protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model* (Paper 3).
3. A fourth paper, setting out proposed arrangements for transitioning to and implementing the new system, will follow shortly afterwards – in July 2021.
4. Together, these papers present the initial package of reform proposals. If agreed, most of these proposals will be included in a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).

Relation to government priorities

5. This Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a manner that is efficient and affordable for New Zealanders.
6. In April 2019, it was agreed that the Three Waters Review is a Government priority. The 2020 Labour Party Manifesto committed to reform New Zealand's drinking water and wastewater system, and upgrade water infrastructure to create jobs across the country.

Executive summary

7. As I signalled in the first of this suite of papers, *A new system for three waters service delivery*, New Zealand's three waters system is facing a significant crisis, and will continue to do so without major, transformational reform. In that paper, I describe the nature and extent of this crisis, and the comprehensive package of system-wide reforms I have developed.
8. My proposals follow up on the initial commitments we made last year to reform three waters service delivery arrangements, and create a small number of large-scale water services entities, with enough balance sheet capacity to raise debt to fund water investment requirements [DEV-20-MIN-0099 refers]. To achieve this, water services entities must be separate from local authority balance sheets and have independent, competency-based governance arrangements.

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9. International experience and best practice have shown me that discrete entities in legislation, with the right oversight, governance, management and controls, are best placed to provide the level of focus and independence required to deliver the objectives of our reform programme. However, local authorities and iwi/Māori have substantial interests in the new service delivery model, and need to be provided with appropriate roles and influence.
10. **In Part A of this paper, I set out the core design features of the new water services entities.** I am proposing a new statutory entity structure, which provides for and protects continued public ownership (through local authorities, on behalf of their communities), and includes commensurate oversight, accountabilities and controls. Local authorities and mana whenua representatives would oversee the entities, which will collectively set the key strategic and performance expectations of the entities, within a regulatory framework overseen by Taumata Arowai and an economic regulator. There is an independent appointment process for the entities' boards, but an ability for representatives to hold their boards to account.
11. **As described in Part B, my proposed structure also embeds community and consumer voices into the entity design and strategic decision-making processes.** This is through both direct mechanisms for communities and consumers to engage with and influence the water services entities, as well as indirect mechanisms through local authority members representing community and consumer interests.
12. **All of these structural arrangements and mechanisms sit within the broader package of proposals to transform the three waters system, including:**
 - 12.1 the statutory purpose and objectives for the entities, and system stewardship arrangements (including a Government Policy Statement), proposed in Paper 1;
 - 12.2 mechanisms to provide for iwi/Māori rights and interests, proposed in Paper 3;
 - 12.3 the development of a new economic regulation regime and consumer protections mechanisms relating to the new three waters system, which will be led by the Minister of Commerce and Consumer Affairs;
 - 12.4 the establishment of Taumata Arowai, which will be the new drinking water regulator, with some responsibilities relating to the performance of wastewater and stormwater networks.
13. Charging and pricing arrangements, to improve the transparency and affordability of water services, are also an essential component of the reforms. Charging and pricing are highly complex, and relate closely to transition and implementation arrangements.
14. **Part C of this paper provides some initial information about charging and pricing,** which will be followed with further details in my fourth paper. I also note that issues relating to the process for setting prices, and associated transparency requirements, will be considered as part of the development of the economic regulation and consumer protection regime.

Background

Context for this paper

15. As described further in Paper 1 of this suite of papers, for the past three and a half years we have been exploring the challenges and opportunities facing the three waters system. In 2020, we initiated a service delivery reform programme (reform programme) to address the persistent, systemic issues facing the three waters sector, and realise significant medium and long-term benefits, by reforming delivery arrangements into larger-scale water services entities.
16. The reform programme is aimed at improving health and wellbeing outcomes for all New Zealanders by:
 - 16.1 improving the safety, quality, and environmental performance of water services;
 - 16.2 ensuring equitable access to affordable three waters services;
 - 16.3 moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges;
 - 16.4 improving transparency about, and accountability for, the delivery and costs of three waters services;
 - 16.5 improving the coordination of resources and unlocking strategic opportunities to consider New Zealand's water infrastructure needs at a larger scale and alongside wider infrastructure and development needs including water entity engagement in the development of proposed long-term spatial land strategies;
 - 16.6 increasing the resilience of three waters service provision to both short and long-term risks and events, particularly climate change and natural hazards;
 - 16.7 providing mechanisms for enabling iwi/Māori rights and interests.
17. The structure of new water services entities needs to be able deliver these outcomes, address the investment challenges and requirements described in Paper 1, and provide for affordable water service delivery for current and future generations.
18. There has been an intense phase of policy advice, commercial, legal and analytical work, discussions with Three Waters Ministers, and engagement with local government and iwi/Māori, to identify the appropriate entity design structure. This work was informed by – and the resulting proposals were shaped by – other factors discussed below, including our previous decisions, and considerations relating to the potential credit ratings of the new entities.
19. The proposals in this paper have also been developed alongside the other components of the reform package, and sit within this wider context. In particular, Paper 1 seeks agreement to:
 - 19.1 the establishment of a new service delivery model, with four new water services to take over the three waters-related infrastructure and service delivery responsibilities from local authorities;
 - 19.2 the boundaries of the new entities;
 - 19.3 the entities' statutory purpose, objectives, operating principles, and general responsibilities;

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- 19.4 the stewardship arrangements for the new system, including through a Government Policy Statement to provide strategic direction to the water services entities.
20. Paper 3 includes specific proposals to protect and promote iwi/Māori rights and interests in the new three waters service delivery model – expanding on the proposed oversight and governance arrangements outlined in this paper.

Expectations for key design features of water services entities that were signalled in 2020

21. Our initial decisions in June 2020 set the expectation that new water service delivery arrangements would be achieved through the establishment of a small number of entities, to realise the benefits of scale and reflect catchments and communities of interest [DEV-20-MIN-0099 refers]. Paper 1 includes my proposals on the number and boundaries of the proposed entities.
22. As previously signalled, there are also several key features that must be incorporated into the structure of the proposed water services entities, and accompanying arrangements, to meet our reform objectives. These key features include:
 - 22.1 **balance sheet separation** from local authorities, to provide water services entities with the financial capacity to meet the infrastructure deficit and future investment needs;
 - 22.2 entities should have **financial and operational independence**, including independent and competency-based governance arrangements;
 - 22.3 entities must be able to **borrow in their own right**, independent of local government debt restrictions and the legislative decision-making framework (under the Local Government Act 2002);
 - 22.4 the purpose of the entities is expected to relate to the **provision of water services**, but entities will need to have **an express commercial objective** among other, non-commercial objectives;
 - 22.5 entities must be **publicly owned**, with mechanisms to protect against privatisation; and
 - 22.6 entities will be **statutory entities**, that is, designed and established by legislation.
23. Despite the level of financial and operational independence required, Cabinet also set an expectation in December 2020 that local authorities would continue to have a role in influencing:
 - 23.1 the **strategic direction of water services entities** (for example, through a letter of expectation or a similar mechanism);
 - 23.2 the **board appointments process for the water services entities** (with the ability to influence the appointment and removal of board members); and
 - 23.3 **strategic planning decisions** (particularly as they relate to growth-related infrastructure), most likely through existing and proposed planning and regulatory mechanisms relating to land-use planning [CAB-20-MIN-0521.01 refers].

Related reform components

24. These core features, expectations, and reform objectives have framed my thinking on entity design. However, the level of independent governance proposed requires the addition of appropriate consumer protection and accountability mechanisms. This means that the entities cannot operate in a vacuum, and accountabilities must be built into the water service delivery system.
25. As part of my broader reform package, I am proposing the water services entities will be subject to:
- 25.1 **consultation requirements** when developing their strategic direction, investment plans, and proposed prices or charges;
 - 25.2 mechanisms that enable **communities and consumers to participate** in entities' decision-making processes;
 - 25.3 **economic regulation**, to protect consumer interests and to act as a driver of efficiency gains over time (in addition to the drinking water regulatory quality regime that will be overseen and enforced by Taumata Arowai); and
 - 25.4 **mechanisms to protect consumers**.
26. The first two topics are discussed in Part B of this paper. As indicated in Paper 1, it is anticipated that advice and proposals relating to the new economic regulation regime and consumer protection mechanisms will be developed during late 2021 and 2022. This work will be led by the Minister of Commerce and Consumer Affairs and Ministry of Business, Innovation and Employment.

Entity design scenarios that were explored

27. I have looked at various entity structures in New Zealand, including State Owned Enterprises, council-controlled organisations, and Crown entities. I have found that there is no existing entity structure in New Zealand that would provide water services entities with the key features Cabinet has set out, or the capability and capacity to deliver on the reform objectives, or provide water services in the way contemplated by the reform programme.
28. International experience and best practice have shown that the creation of discrete entities in legislation, with the right oversight, governance, management, expertise, processes and controls, are best placed to provide the level of focus and independence required to deliver on the objectives of the reform programme.
29. I am therefore proposing a new entity structure that achieves balance sheet separation, maintains and protects public ownership, and provides for strong and transparent oversight, governance and accountability through various mechanisms. Importantly, my proposal provides for joint oversight of water services entities between local authorities and iwi/Māori. It also retains community ownership of water services by providing local authorities with collective ownership of the proposed entities.
30. I have arrived at the proposed structure after officials developed six entity design scenarios that could meet our reform objectives, and tested these with Standard and Poor's. The six scenarios are explained in further detail in Appendix A and Chapter 3 of the Regulatory Impact Assessment.

31. The scenarios tested proposed that water services entities would be: structurally separate¹ from local authorities; have financial and operational independence; borrow in their own rights; and have independent governance arrangements. The scenarios varied the level of local authority and Crown influence over the governance arrangements, as well the number of entities and various options for Crown support.

Analysis

Part A: Water services entity design

Overview of the proposed structure of the new water services entities

32. My proposed entity structure (**Figure 1** and **Table 1**) is designed to effectively deliver the reform programme objectives and key entity design features, including:
- 32.1 maintaining public ownership and protecting against privatisation;
 - 32.2 providing for local authorities and mana whenua to have oversight and influence over strategic and performance expectations and board governance;
 - 32.3 providing the necessary balance sheet separations from local authorities; and
 - 32.4 an integrated regulatory system that ensures accountability of the entity and its board (economic regulation and consumer protection, Taumata Arowai and environmental regulation).

Ownership overview

33. Given the public nature of the underlying assets and service delivery needs, ownership of the water services entities has been framed in the context of collective local authority ownership – on behalf of communities.
34. In Paper 1, I am seeking agreement to create four water services entities. That paper also includes proposals relating to how each of these entities would be configured; that is, which local authority districts would constitute each entity, and the overall boundaries.
35. In this paper, I am proposing that the local authorities that constitute each water services entity would be the 'owners' of the entity, on behalf of their communities, and this would be provided for in legislation. Mana whenua would not be owners of the entities, but would have a joint oversight role.
36. Oversight, governance and voting arrangements would provide for an appropriate level of influence and oversight of the entities, but no shareholder interest. This approach has a number of benefits, including supporting the separation from local authority balance sheets while also providing a strong protection against privatisation.

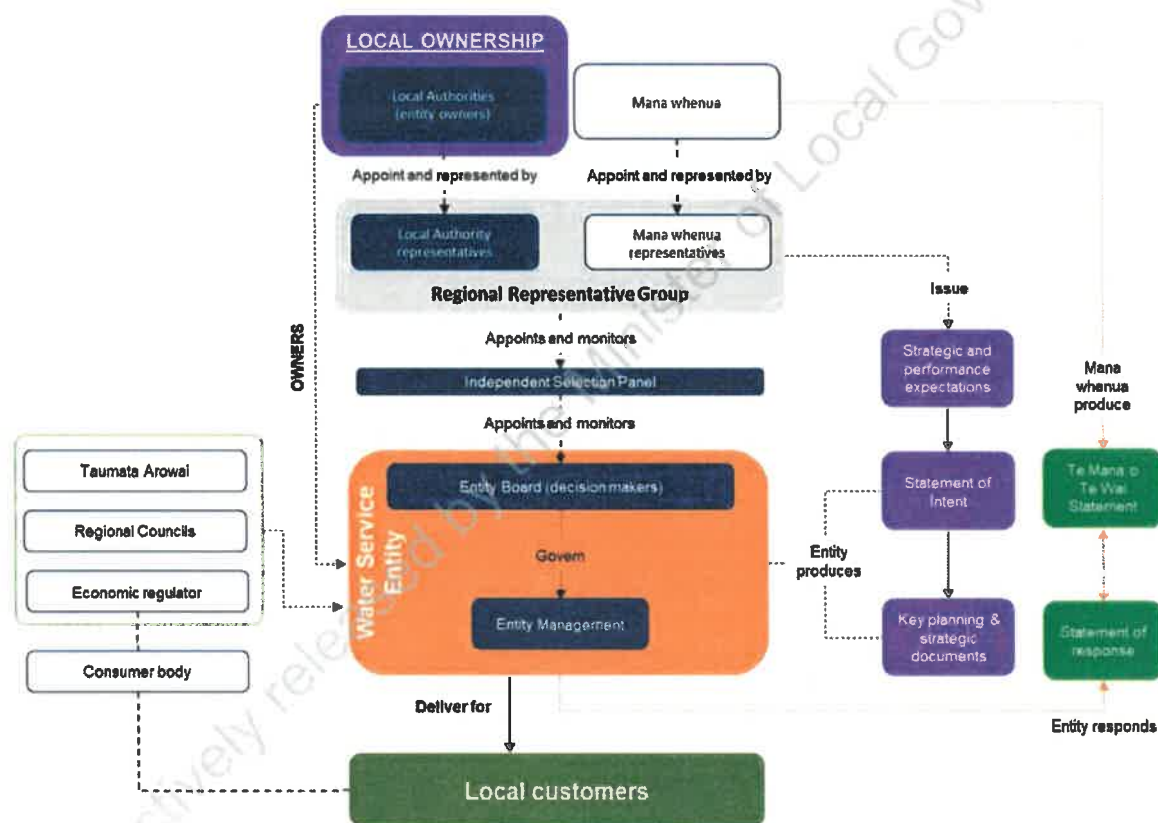
Governance overview

37. As indicated in the Figure 1 and Table 1 below, I am proposing that local authorities and mana whenua would have a joint oversight role.

¹ 'Structurally separate' refers to a water services entity operating, funding, and financing itself independently from its owner councils, so it can be rated by credit rating agencies on a standalone basis and raise debt in its own name.

38. The oversight and governance framework for the water service entities provides influence for local authorities and mana whenua at various levels, including regarding key appointments, and strategic and performance direction and documents.
39. I do not propose that the Crown is involved in the day-to-day governance of the proposed entities. However, a graduated Crown intervention framework is proposed later in this paper. In Paper 1, I also propose that central government will be able to provide strategic policy direction through a Government Policy Statement.
40. I am proposing that the oversight and governance arrangements are prescribed in legislation, which would include the key processes as they relate to accountability, appointment, voting, and strategic direction documents.

Figure 1: Proposed water services entity structure



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Table 1: Components of the proposed water services entity structure

Key features the proposed approach	Summary
Purpose, objectives, operating principles, and responsibilities of each entity	<p>Details would be specified in legislation (as proposed in Paper 1).</p> <p>Supplemented by Government Policy Statement to provide high-level strategic direction to the entities (as proposed in Paper 1).</p>
Ownership structure of water services entities	<p>Each entity is established in legislation, with a no shareholding ownership structure.</p> <p>Local authority owners of each entity will be listed in legislation, with no financial recognition of ownership.</p> <p>The legislation would be clear that local authority ownership is on behalf of their communities.</p>
Ownership of water assets	<p>Assets will be owned by the water services entities (which are owned by local authorities on behalf of communities).</p> <p>Legislation will include similar provisions to the Local Government Act 2002 regarding retaining ownership and control of public assets (such as restrictions on disposal).</p> <p>As noted in Paper 1, further work will be undertaken during the transition process to identify which assets and responsibilities will be transferred from local authorities to the water services entities.</p>
Governance structure and framework	<p>Legislation will provide for the corporate governance structures; governance 'bottom lines'; minimum requirements and restrictions; and powers, processes and procedures (for example, appointment processes, voting processes, meetings, decisions for Regional Representative Group).</p>
Appointment of Regional ² Representative Group	<p>Each entity will have a Regional Representative Group.</p> <p>Local authorities (as owners and with oversight of the entity) will appoint representatives to their Regional Representative Group, subject to legislative requirements.</p> <p>Mana whenua will jointly oversee the entities (but will not be owners), and will appoint representatives to the Regional Representative Group. (Paper 3 provides further information on the proposed approach to these appointments.)</p> <p>Regional Representatives would be elected members (or a relevant and appropriately qualified senior council officer) and iwi/Māori representatives.</p> <p>Legislation will outline processes for establishing this Group, its powers and functions, and processes for appointing representatives.</p>

² Note that in this context, 'regional' does not have the same meaning as the Local Government Act 2002, and is intended to cover the 'multi-regional' jurisdictions of the water services entities.

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Key features the proposed approach	Summary
<p>Role of Regional Representative Group</p>	<p>Provide the entity with a Statement of Strategic and Performance Expectations that will influence the Statement of Intent that an entity produces.</p> <p>Establish and monitor the Independent Selection Panel that appoints and removes members to the entity's board.</p> <p>Monitor performance and delivery on Statement of Intent and Statement of Strategic and Performance Expectations.</p>
<p>Oversight and setting the strategic direction of each entity</p>	<p>Via Regional Representative Group and the Government Policy Statement.</p> <p>Statement of Intent drafted by the entity in response to the Statement of Strategic and Performance Expectations.</p> <p>Requirement to produce Statement of Intent is outlined in legislation, including any content and consultation requirements.</p> <p>Purpose is to publicly state the activities and intentions of the entity, and provide a basis for the accountability of the board.</p>
<p>Independent Selection Panel</p>	<p>Legislation will establish Independent Selection Panels for each entity, and outline their functions, and requirements and restrictions relating to numbers, skills, and experience.</p> <p>The role of the Independent Selection Panel is to ensure that independent, competent and appropriately qualified people are appointed to key governance positions of the board of an entity.</p> <p>Independent Selection Panel members and chair appointed by Regional Representative Group, with a legislative requirement that Independent Selection Panel members must be independent and appropriately qualified.</p> <p>Representatives may remove an Independent Selection Panel member, via a super-majority vote.</p>
<p>Appointment of entity board</p>	<p>Independent Selection Panel appoints board members, utilising a skills matrix.</p>
<p>Board, including appointments and removal</p>	<p>Board members will be appointed by Independent Selection Panel.</p> <p>Representatives can request for a board member to be removed and/or assessed by the Independent Selection Panel as being fit for the position/performance review, with the Independent Selection Panel having the discretion to ultimately remove a member of the board.</p> <p>All decisions relating to the operation of the entity are to be made by or under the authority of the board.</p> <p>The board will establish sub-committees to assist in the governance of the entity (for example, Audit and Risk Committee; Strategic and Major Projects Committee).</p>

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Key features the proposed approach	Summary
Executive	<p>Board appoints (and can remove) the chief executive officer.</p> <p>Chief executive officer and executive management are responsible for day-to-day management of the entity's operation, in accordance with the general policies and specific directions of the board.</p>
Prioritisation methodology for infrastructure investment	<p>Entity produces a prioritisation methodology.</p> <p>No approval of prioritisation methodology by Regional Representative Group needed (but methodology could be influenced by the Strategic and Performance Expectations).</p> <p>Entity responsible for decisions relating to the prioritisation of investment (noting below that entity will need to balance growth requirements with purpose and objectives, Strategic and Performance Expectations, Statement of Intent and the requirements of other stakeholders, and any directions provided in a Government Policy Statement, if issued).</p>

Proposed approach to ownership

Ownership and legal form

41. There is no existing entity in New Zealand with the capability and capacity to deliver water infrastructure in the way contemplated by the reform programme. This is why Paper 1 proposes that the new water services entities will be statutory entities.
42. Statutory entities are established by specific legislation that contains their specific objectives and legal framework. Paper 1 seeks agreement to the water services entities purpose, objectives, and operating principles, and sets out their general responsibilities. In this paper, I propose the ownership, oversight, governance, accountability, and other characteristics of the entities that would be provided for in legislation.
43. 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.
44. The proposed structure for the entity is illustrated in **Figure 1** (above). There is no shareholding, as you would expect to see with a company. Instead, certain governance rights are conferred by legislation and exercised by local authority representatives acting collectively with mana whenua as a Regional Representative Group.
45. This approach has several advantages:
 - 45.1 it removes the expectation that ownership provides some level or form of financial benefit, such as a dividend;
 - 45.2 it helps to achieve balance sheet separation as local authorities do not have a financial (or equity) interest in the entity;

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- 45.3 with owners listed in statute, it is more difficult to divest that ownership right as this would require legislative change – thus offering a protection against future privatisation;
 - 45.4 there is no need to adjust shareholding levels to reflect different levels of investment in local authority areas over time; and
 - 45.5 local authorities still have oversight and some governance rights and other levers of influence to promote and protect community interests. These rights would be evenly spread across owners and representatives to prevent any local authority exerting undue influence.
46. A number of potential entity ownership options, been used both domestically and internationally, were considered in addition to the proposed ownership structure.
47. Corporate models, including different shareholding structures, were also considered but these models did not align as well with key objectives of the reform programme. They also had potential disadvantages when considered against the proposed ownership structure, including the potential tension between large, medium and small local authority owners in relation to control and influence expectations in the governance structure. There was also an inconsistency with the public ownership/protection against privatisation dynamic, and my intended long-term public ownership vision for the entities.
48. My proposed governance structure lends itself towards a bespoke statutory entity, where the functions and powers of the entity are outlined in legislation. This is largely because of the degree of influence contemplated by both local authorities and mana whenua, the intended charging, funding and financing arrangements, and the absence of a dividend paying structure.
49. The introduction of economic regulation to ensure efficient operations also requires a statutory framework.

Proposed approach to oversight and governance

50. Oversight and Governance is one of the frameworks that controls the activities of the entity, and how the entity (and its board) are directed to achieve the desired water service delivery outcomes.
51. The oversight and governance framework proposed for the entities needs to be prescribed in legislation. This would include specific oversight, governance and accountability provisions for the entities, and place obligations and constraints on each entity's operations and on the roles and functions (to ensure the entities remain focused on water service delivery). In addition to oversight and governance, other accountabilities will also be imposed on the water services entities, such as the publication of strategic documents, consultation requirements and reporting requirements.
52. I also consider that legislation needs to mandate other specific features, including the composition of the board, the use of an Independent Selection Panel to appoint members to the board, and the rights and responsibilities of Regional Representatives.

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53. The oversight and governance framework will be supplemented by other relevant documents. Paper 1 proposes a Government Policy Statement, issued to the entities by central government. There would also be a Statement of Strategic Performance Expectations, issued to the entities by the Representatives.

Role and membership of the Regional Representative Group

54. A Regional Representative Group enables efficient oversight, governance and decision making on behalf of a potentially large group of representative local authorities and mana whenua within the jurisdiction of the entity. Importantly, it serves as a representation of the community to the publicly owned water services entity.
55. I am proposing that **local authorities and mana whenua provide joint oversight**. Together they will appoint and remove representatives to the Regional Representative Group. Iwi/Māori (through mana whenua) will appoint representatives to the Regional Representative Group, with legislation setting minimum requirements relevant to appointment of Representatives.
56. The Regional Representative Group provides an opportunity for the local authority and mana whenua representatives to communicate expectations on behalf of their communities directly to the water services entities. This provides a mechanism for the inclusion of more local and regionalised priorities, objectives and expectations to guide entities' behaviours and decisions.

Appointment of Representatives

57. I propose that the number of Representatives for each entity is not more than 12, with a preference for 10 or fewer members. It needs to be a workable number to ensure there is an effective ability to make decisions. Half the members must be mana whenua representatives.
58. If an entity comprises more member local authorities and mana whenua representatives than can be accommodated on the Regional Representative Group, then Representatives:
- 58.1 must comprise a distribution of metropolitan, provincial and rural local authorities (noting 50:50 co-governance with mana whenua); and
 - 58.2 represent a geographical spread across the jurisdiction of the entity.
59. As soon as practicable, following establishment of an entity, local authorities and mana whenua must appoint Representatives to the Regional Representative Group.

Process for appointment

60. The process for appointment of Representatives will be via a nomination and voting process. This will require member local authorities and mana whenua to collectively vote at a meeting for the relevant entity on which local authorities or mana whenua are authorised to appoint Representatives (consistent with the proposed joint approach). I am devising a voting process to reflect this intent, with the ultimate solution being dependent on other key decisions (for example, the number of entities and their boundaries as set out in Paper 1). I am also proposing that I will have the ability to appoint a group to work with local authorities and mana whenua, as a 'back-stop, if needed to facilitate the appointments of Representatives. This is also outlined in Paper 3.

Requirements of Representatives

61. Members of the Regional Representative Group will be subject to minimum requirements in legislation. In respect of local authority representatives, Representatives to be limited to elected members, chief executives or other appropriately qualified senior managers of a local authority. However, only elected members will be able to appoint a representative, which retains a level of democratic accountability.
62. I propose that legislation will provide for the appointment of Regional Representative Group as above, and would also include:
 - 62.1 the term of appointment of Representatives;
 - 62.2 a requirement for Representatives to be notified to the entity;
 - 62.3 a requirement to agree and present to the entity board and other member local authorities and mana whenua (on an information basis only) a charter outlining functions and operations of the Regional Representative Group;
 - 62.4 the process and procedures of meetings of the Regional Representative Group; for example, regularity of meetings, quorum, chairperson, and voting;
 - 62.5 reporting to Representatives; that is, board performance, and how renewal versus continuity of members is being managed.
63. There will also be a requirement for the rotation of Representatives, where a certain number of local authorities and/or mana whenua are required to retire their Representatives. This is needed to avoid lengthy periods where a local authority or mana whenua, or a population or geographic area, does not have representation on the Regional Representative Group.

Functions and powers of Representatives

64. The proposed functions and powers of Representatives in the Regional Representative Group include:
 - 64.1 establishing and monitoring the Independent Selection Panel (described below) that appoints members to the entity board;
 - 64.2 developing and agreeing a Statement of Strategic and Performance Expectations that will guide the entity in its formation of key strategic and planning documents such as Asset Management Plans; and
 - 64.3 monitoring performance against the Statement of Strategic and Performance Expectations and Statement of Intent.
65. The Regional Representative Group will undertake its functions and exercise its powers, including the calling of, and procedure at meetings, in accordance with both legislation and with its charter.
66. I envisage that the Regional Representative Group will need to engage secretariat and executive support to assist it in performing its functions as will be required by its constitution. The costs associated with this support would be covered by the relevant water services entity.

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67. The Regional Representative Group has been designed to facilitate efficient decision making and representation at the governance level for a large group of representative local authorities and iwi/Māori within the jurisdiction of the entity. To support this, the Regional Representative Group will be required to consider the interests of the relevant jurisdictions when exercising their functions and decision-making powers.

Voting by Representatives

68. Representatives will vote on decisions that require a Regional Representative Group decision, as defined in legislation, most notably being those functions and powers identified above at paragraph 64. Decisions of the Regional Representative Group will require a special majority decision.
69. Representatives will typically have a single vote. However, some level of proportional representation of rural, metropolitan, and provincial local authorities will be important, noting that governance is also equally shared with iwi/Māori.
70. I am devising a voting process to reflect this. Further policy work is required to determine whether it may be appropriate for some local authorities to have a larger proportion of the local authority voting rights, and the circumstances under which that situation might apply.
71. For example, a local authority representing a metropolitan or large population base (over a prescribed threshold) could have a larger number of votes. Nevertheless, this local authority could only have voting power up to a level such that it does not have a veto right or ability to exert negative control over decisions for the Regional Representative Group. No single mana whenua representative would have a veto right or exert negative control.
72. The voting principles and process outlined above (and additional detail such as when a decision cannot be ratified) need to be codified in legislation, and supplemented by the charter of the Regional Representative Group.

Board selection and appointment process

Independent Selection Panel

73. The role of the Independent Selection Panel (ISP) is to rigorously assess and evaluate potential board candidates, shortlist candidates, and appoint members.

Establishment of an Independent Selection Panel

74. I am proposing that the legislation will provide that an ISP must be established, and that Representatives would appoint three members and select the Chair of the ISP (that is, a total of four members). The legislation will also include details relating to the appointment of the ISP, including the appointment process and length of term.
75. Legislation will require that each ISP member is independent of Representatives. The ISP will also be required to have members that, collectively (across the ISP), are highly respected in the field of governance, understand network infrastructure industries, have knowledge and experience of the Treaty of Waitangi and te ao Māori, and are appropriately qualified to assess and select members of the entity board.
76. Representatives will be required in legislation to conduct performance reviews of the ISP every three years.

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Functions and powers of the Independent Selection Panel

77. The roles and responsibilities of the ISP will include:
- 77.1 ensuring the composition of the board adds value to the entity;
 - 77.2 providing assurance that the board has the effective composition, skills and commitment to adequately meet the entity's objectives and discharge its responsibilities and duties;
 - 77.3 developing and implementing strategies to search for and appoint suitable candidates as members of the entity board;
 - 77.4 ensuring that board succession plans are in place to balance the periodic refreshment of the board with the need to maintain the skills and competencies necessary for the board to achieve the entity's objectives;
 - 77.5 discussing with the board chair the outcomes of the evaluation process for the board as a whole, its committees, and individual members; and
 - 77.6 maintaining, and implementing the members' remuneration framework.
78. Legislation will also outline other ISP functions, including:
- 78.1 the ISP is to agree, and present to Representatives for comment and approval, a charter for its operations and functions;
 - 78.2 the ISP is to agree, and present to Representatives for comment a board Appointment and Remuneration Policy, including a:
 - 78.2.1 skills matrix outlining the experience, qualifications and skills expected of members of an entity board; and
 - 78.2.2 remuneration framework.

Removal of Independent Selection Panel members

79. I am proposing that Representatives may remove an ISP member via a vote, with the threshold for that vote a special majority (above 75 percent).

Appointment of board members

80. I propose that legislation will require the establishment of a board for each entity, and would also include:
- 80.1 the term of appointment of board members and any restrictions on reappointment;
 - 80.2 how board members may be removed;
 - 80.3 a requirement to agree and present to the ISP and Representatives (on an information basis only) a charter outlining functions and operations of the board; and
 - 80.4 reporting to Representatives in relation to board and entity performance.
81. I propose that the number of members appointed to the board of an entity be no more than 10, with the chairperson holding the casting vote to avoid a deadlock situation.

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82. The role of board members of an entity is an important one. The board will be responsible for holding the entity's chief executive officer to account, and will be required to guide and approve the entity's strategic direction.

Removal of board members

83. Representatives can request a board member be removed and/or assessed by the ISP as being fit for the position/performance review, with the ISP having the discretion to ultimately remove a member.

Accountability of board members

84. I expect entity boards to be clearly accountable to Representatives, local authorities, mana whenua, and the wider public. The board will be subject to:
- 84.1 a requirement to formally report to Representatives annually on the performance of the entity against the Statement of Strategic and Performance Expectations and other strategic documents;
 - 84.2 a process for the ISP to conduct an annual performance review of the board; and
 - 84.3 reporting to Representatives on carrying out the board's functions.
85. 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.

Accountability framework

Strategic direction setting – overview of key documents

86. The entities must have operational and financial independence. However, the importance of water services for public and environmental health, and to enable urban development, means there is strong public interest in how the entities set objectives and priorities.
87. As described further below, a number of documents will direct or guide the strategic direction of the entities (in addition to the legislation). These include:
- 87.1 Government Policy Statement;
 - 87.2 Statement of Strategic and Performance Expectations;
 - 87.3 Statement of Intent;
 - 87.4 Asset Management Plan;
 - 87.5 Funding and Pricing Plan;
 - 87.6 Te Mana o te Wai Statement.
88. **Table 2** (below) outlines the key features of these documents and who is involved. The proposed requirements for consumer and community engagement in relation to these documents are outlined below in **Part B** of this paper. Paper 3 provides further information about the Te Mana o te Wai Statement.

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89. In the event that individualised price-quality regulation is imposed in line with Cabinet’s in-principle decisions in December 2020, these documents will form the basis of each water services entity’s price-quality path proposal that is submitted to the economic regulator for review, and ultimately approval or modification as part of the economic regulator’s determination process.

Table 2: Water services entity key document development and accountabilities

Key document	Role of the Crown	Responsibilities of Regional Representative Group (local authorities and mana whenua)	Responsibilities of entity board and entity	Interface with community
Government Policy Statement (GPS)	Develop and issue	None	A regulatory instrument to which the entity will give effect via the Statement of Intent.	Published
Statement of Strategic and Performance Expectations	None	Develop, issue and monitor performance against.	Respond to via the Statement of Intent and report against expectations annually.	Published
Te Mana o te Wai Statement	None	None	Respond through a Statement of Response.	Published
Statement of Intent	Direct via GPS	Influence via the Statement of Strategic and Performance Expectations. Monitor performance against the Statement of Intent.	Requirement to produce in response to the GPS and Statement of Strategic and Performance Expectations. The entity is required to deliver against this document.	Published
Asset Management Plan	Influence via GPS	Consulted	Requirement to produce in accordance with Statement of Intent and consult appropriately. The entity is required to deliver against this document.	Consulted
Funding and Pricing Plan	Influence via GPS Review	Consulted	Requirement to produce in accordance with Statement of Intent and consult appropriately. The entity is required to deliver against this document.	Consulted

Prioritisation of documents

90. Though legislation will set minimum requirements around the establishment and operation of entities, I anticipate that the Government Policy Statement (GPS) will provide further context for the strategic direction for entities.
91. Any Statement of Strategic Performance Expectations provided by Representatives to the entity will need to be written in the context of both legislative and GPS requirements. Similarly, the Statement of Intent will need to be written in the context of legislation, the GPS and in response to the Statement of Strategic Performance Expectations.

Government Policy Statement

92. As discussed in Paper 1, the Government has an ongoing stewardship role to ensure the new three waters system is fit for purpose, and the reform objectives are realised. There are also a number of challenges that will need to be considered and managed throughout the reform period.
93. Central government has a strong interest in how the entities set objectives. In Paper 1, I am proposing a Government Policy Statement as an enduring and transparent mechanism for:
 - 93.1 providing high-level strategic direction to the new water services entities;
 - 93.2 informing and guiding the decisions and actions of water services entities in fulfilling their statutory purpose and objectives;
 - 93.3 conveying any Government expectations in relation to Māori interests, partnering with Māori, and protections for Māori interests; and
 - 93.4 providing certainty to everyone operating in the three waters system and receiving services from the entities about the outcomes the new entities are expected to deliver. Over time, this could include, for example, Government expectations for addressing inequalities and/or extending supplies to under-served communities.
94. When an entity makes decisions on three waters investment, they will be required to give effect to the strategic priorities set out in the GPS.
95. The intent is the GPS would provide high-level direction and deal with cross-cutting matters, and would not be pitched at an operational level or concern specific projects. It would cover issues that are not already provided for in regulation or addressed through other mechanisms, and would complement the entities' statutory objectives.

Statement of Strategic and Performance Expectations, and Statement of Intent

96. A Statement of Strategic and Performance Expectations would set the specific objectives and priorities that the board of the entity would take into account. This document provides collective governance expectations regarding how the objectives and priorities for the entity are delivered.
97. The board must take the Statement of Strategic and Performance Expectations into account when producing their Statement of Intent. The entity must report against the performance indicators set out in the Statement of Strategic and Performance Expectations.

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98. 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.
99. Indicative contents for both the Statement of Strategic and Performance Expectations and Statement of Intent are outlined in **Appendix B**.

Asset Management Plan

100. Each entity will prepare an Asset Management Plan (**AMP**) (which will be reviewed each year) to show how the entity will operate, maintain and renew existing water assets and provide new assets to meet demand as New Zealand grows over a 30-year horizon. The AMP will need to be prepared in accordance with the Statement of Intent.
101. The AMP 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.
102. Representatives will be consulted on, but will not have an approval right over, the form of the AMP, with the ability for the Regional Representative Group to comment on the AMP. Comments received must be considered by the entity. Importantly, this means that local authorities will not have an approval right or right to direct the entity on any investment or major project.

Funding and Pricing Plan

103. Each entity will prepare a Funding and Pricing Plan (**FPP**) (which will be reviewed each year) to show 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.
104. Representatives will be consulted on, but will not have an approval right over, the form of the FPP, with the ability for the Regional Representative Group to comment on the FPP. Comments received must be considered by the entity. This means that local authorities will not have an approval right, or right to direct the entity on pricing and charging decisions.
105. The indicative contents for both the AMP and the FPP are outlined in **Appendix C**.

Reporting by water services entities

106. To ensure efficiency and transparency, each entity will be required to produce an audited annual report complying with generally accepted accounting practice. This report will need to be published on a website maintained by the entity.

Entity financing arrangements

107. Entities will need to have significant financial capability and capacity to independently obtain financing for their operations.
108. The availability of finance to entities will be a function of the legislative and regulatory environment in which they operate, the governance framework, and the commercial and financial risk profile of entities.

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109. Other key aspects that financiers will focus on are:
- 109.1 security provided by an entity in respect of borrowings;
 - 109.2 funding and financing strategy and approach to risk;
 - 109.3 collection arrangements and ability to enforce non-payment;
 - 109.4 issuer credit rating of the entities; and
 - 109.5 any Crown support provided to entities.
110. I consider that the legislation should equip entities with appropriate tools to efficiently and cost-effectively procure financing to support the delivery of three waters services.
111. Key outcomes for the water reform programme from a financial perspective are:
- 111.1 **financial independence** – water entities will need to be able to raise finance independently, with no legal or moral recourse to local authorities;
 - 111.2 **flexible and cost-effective financing** – financing to water entities will need to be flexible and cost effective, and entities will need to be considered low risk by the finance market; and
 - 111.3 **structural longevity** – water entities and ‘post-separation’ local authorities need to be financially sustainable.
112. To properly source financing for its operations, and to ensure that an appropriate level of funding diversity is obtained (and able to be maintained), it is expected that entities will have access to a wide range of potential debt funding solutions, including:
- 112.1 New Zealand domestic retail and wholesale capital markets;
 - 112.2 New Zealand Local Government Funding Agency (LGFA); and
 - 112.3 offshore capital markets.
113. Given the quantum of the financing requirement, my officials have begun discussions with key capital market participants in order to educate the market about proposed entities and to elicit early-stage feedback around how a financing programme might be structured to support efficient and cost-effective procurement of financing of entities.
114. At this stage, the intention is to pro-actively engage with capital markets and to understand financing programme design choices, with the aim of preserving options and ensuring flexibility for financing of entities that will only be finally arranged in the later stage of any transition phase.
115. Key points from the initial feedback from capital markets participants include:
- 115.1 The credit profile and associated Standard & Poor’s rating (AA+) of the water entities under the scenario where the Crown provides liquidity support (similar to the provided to LGFA) would make them an attractive proposition to capital markets investors. The water entities would join a suite of large, highly rated New Zealand borrowers (NZDMO, Kāinga Ora, LGFA and Auckland Council) who access the capital markets in volume and would increase New Zealand’s presence in international capital markets providing a wider benefit to New Zealand borrowers.

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- 115.2 Given the volume of debt required to be raised particularly upfront to pay for the consideration, that while it will be possible to raise a proportion of the debt domestically it will be critical to access offshore markets.
- 115.3 A co-ordinated approach to raising debt by the water entities may achieve the best outcome, as the aggregation of the borrowing program will facilitate access to the largest investor set. This may involve having all water entities raise debt through one centralised water entity treasury function.
- 115.4 There is likely to be opportunity for the water entities to utilise sustainable financing products that will be well received by markets and could potentially provide a small pricing advantage.
116. My officials from the Department of Internal Affairs (the Department) have also engaged with the LGFA, to signal the intent and direction of the reform programme and to understand its appetite to participate in the financing of entities. I note that financing of entities by the LGFA could be structured in a few different ways, including:
- 116.1 the LGFA financing entities under its current model, which would require shareholder approval to lend to entities and would likely require a calibration of lending covenants for entities that reflect their differences to local authorities; or
- 116.2 the LGFA establishing a new water entity funding vehicle that lends directly to entities.
117. At this stage, I propose that the LGFA continues to be a potential financing option for entities. I will work with the LGFA and the Treasury to provide advice to Ministers in relation to the detailed development of potential funding and financing arrangements between the LGFA and entities to ensure that option remains while the Reform Programme continues, and potential financing options continue to be explored. This can be managed through the transition period between 2021 and 2024.

Security

118. Legislation will enable entities to provide security to financiers in respect of its borrowings. Given that entities will be enabled by legislation to have flexible powers to set, access, and collect water charges to fund their activities, the provision of security over water revenues is the favoured option.
119. If financiers require it, or if the provision of security would assist the efficient and cost-effective procurement of financing to support the delivery of water services, I anticipate a security structure similar to the one that is currently utilised by the Auckland Council. This involves the granting of security by the entity over water charges (or revenue received via any other charging mechanisms from time to time set or assessed by entity) in favour of a security trustee. The security trustee would hold, and potentially enforce, that security on behalf of any financiers to an entity.
120. Security arrangements will include appropriate obligations and accountabilities on the water services entities.

Funding and financing strategy, and approach to risk

121. Entities will be required to maintain appropriate treasury and investment management policies to ensure the efficient and prudent management of financing, liquidity, interest rate, foreign exchange, counterparty, and other financial market risks.

Collection of charges, and ability to enforce non-payment

122. Legislation will enable entities to charge customers directly for water services. Entities will ultimately be responsible for collection of payments for the services they provide. However, I am exploring the potential for a transitional arrangement, whereby local authorities act as collection agents under fixed-term service level agreements for a period. This would help to manage the transition and minimise the disruption to consumers.
123. In setting their water charges, entities will need to consider the likelihood of non-payment by customers. However, the risks to entities of non-payment will be mitigated through rights and remedies set out in service agreements between entities and customers that are guided by legislation and regulation. Rights and remedies will be appropriate for an entity providing an essential service to communities. Any remedies will be supplemented by a proper process for escalation and appropriate protections for vulnerable groups of the community. Consumer protection mechanisms will be explored alongside the work to develop the economic regulation regime.
124. Proper protections, consistent with approaches taken in other legislation, will also be required to ensure any specific protections for Māori land. Here I will draw on our previous work contained within the Urban Development Act 2020 and the Infrastructure Funding and Finance Act 2020.

Crown support arrangements

125. As part of the Reform Programme, officials from the Department of Internal Affairs have been investigating Crown support options for entities.
126. Key considerations for the provisions (and level) of any Crown support include:
- 126.1 ensuring balance sheet separation from local authorities is achieved;
 - 126.2 balancing the risk to the Crown; for example, natural disaster risks;
 - 126.3 recognising likely Crown role and response in the event of distress;
 - 126.4 improving financial outcomes for entities; and
 - 126.5 focussing the risk mitigation approach of entities.
127. Under current local authority service delivery arrangements, water services benefit from Crown support to local government, including through:
- 127.1 the Civil Defence Emergency Management Act 2002 (CDEM Act); and
 - 127.2 a liquidity facility provided to the LGFA.
128. Options for Crown support for the new entities were tested by officials with Standard and Poor's (S&P) from the status quo outlined above through to higher levels of support that included partial or full guarantees of the financial obligations of entities.

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129. I note that a review is being undertaken in relation to the appropriateness of the CDEM Act in the context of the current local authority approach and policies in relation to insurance, risk appetite, risk management and risk mitigation. Any recommendations or change of approach from the status quo arrangements should consider the impact on entities.
130. I consider that extending a policy of coverage similar to the CDEM Act to entities where central government takes responsibility for reinstatement of assets over and above what can be reasonably obtained from commercial insurance markets, and provision of a liquidity facility to entities like that provided to LGFA, will achieve the outcomes for the Reform Programme. This would not represent a material change to the level of support that the Crown currently provides to the local government sector and would not necessitate a level of control from the Crown that would be required if there were higher levels of support.
131. Noting the intent to extend a policy of coverage similar to the CDEM Act to entities, in order to provide certainty in relation to the insurance and insurability arrangements to which entities are subject, if no such acceptable and bankable arrangements are able to be structured in during any transition phase, then the status quo CDEM Act arrangements should apply to entities until any amended or replacement arrangements are put in place.
132. Extending coverage under the CDEM Act, to ensure there was no material uninsured position, to water entities was a critical factor in the S&P credit rating assessment. A key issue for S&P in determining that the revenue and debts of the water entities would not be included within the relevant local councils was confirmation that in a natural disaster scenario, it would not be incumbent on the local council to provide financial support to rebuild the water infrastructure. By providing the water services entities with access to the protections of the CDEM Act, this concern was allayed.
133. In addition, financiers would also be concerned about the ability of the entities to obtain adequate levels of insurance for the consequences of a natural disaster. Without the protection of a regime similar to the status quo CDEM Act arrangements being available to the entities, the coverage required from insurance markets would be significantly increased with a real likelihood that adequate cover would not be available. This would potentially make the entities 'unbankable'.
134. I expect to work with the Treasury to agree the commercial and financial arrangements and structure that should apply to any liquidity facility provided to the entities. The provision of a liquidity facility of this nature delivers a credit rating uplift to AA+ (from BBB-), which will help ensure strong support from the capital markets.
135. In addition to the support outlined above, it is also proposed that legislation to establish the entities will include a clause that enables the Crown to lend money to an entity on commercial terms if it is in the public interest to do so, or to meet a temporary shortfall in a timely manner, in a similar manner to that currently contemplated in the enabling legislation for LGFA and the Local Government Borrowing Act 2011.

Feedback from Standard & Poor's

136. My officials have interacted with S&P to explore several potential structural, system and entity design options to achieve the objectives of the reform programme.

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137. Specifically, S&P was asked to consider:
- 137.1 the credit rating of entities; and
 - 137.2 any impact on the credit rating of the following bodies resulting from the implementation of the reform programme:
 - 137.2.1 large and small metro local authorities;
 - 137.2.2 provincial local authorities;
 - 137.2.3 the Sovereign; and
 - 137.2.4 the Local Government Funding Agency.
138. The assessment by S&P of potential credit ratings associated with the reform programme was made across six different scenarios, to ensure officials were fully informed about the implications of a number of potential structural, system, and entity design choices.
139. S&P have confirmed that my proposed entity structure will achieve balance sheet separation, resulting in S&P removing revenues, expenses and debt associated with three waters assets transferred to entities from local authorities.
140. An investment grade stand-alone credit rating of [BBB-] reflects an excellent business risk profile, but an entity that needs to access sufficient borrowings to meet its infrastructure and service obligations.
141. The final credit rating of entities reflects the link to, and importance of support from, the Crown, resulting in an increase to the final credit rating to A- for my proposed structure. With Crown support in the form of a liquidity facility, as proposed in this paper, there would be a material uplift to AA+. This means entities in that scenario will be able to achieve a very competitive cost of capital at a higher state of leverage.
142. S&P have confirmed that the transfer of three waters assets to entities will not have any negative implications for its assessment of the current sovereign credit rating of New Zealand or that of the LGFA, with both continuing to be affirmed at AAA and AA+ in respect of local and foreign currency respectively.
143. In relation to the potential impacts of the transfer of water assets from local authorities, the impacts will largely be a function of the individual position of each local authority.
144. As a general rule, three waters assets are more highly leveraged than other parts of the council, and a transfer of these assets will improve a local authority's debt to revenue ratio. However, there will be an offsetting decrease in operating revenue. As a result, S&P has noted that the current ratings of local authorities will be largely unchanged, but will depend on the financial position of the relevant local authority and the headroom in their current rating. Further analysis by officials is required to ascertain impacts on the various local authorities currently rated by S&P.

Tax status of water services entities and charges

Income Tax

145. I propose that income of the water services entities should be exempt from income tax. Legislative change is needed for the entities to be income tax exempt.

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146. Under current tax law, it is likely that water services entities would be subject to tax. This is because the entities are unlikely to meet the eligibility criteria to benefit from the tax exemptions, which are currently provided to local authorities; nor is there any other exemption currently available to the entities.
147. The income tax exemption is based on the entities not providing a commercial benefit, and instead being in the nature of a public good or service.³
148. From a tax policy perspective, income tax exemptions are generally not appropriate where they could benefit private investors or where they could distort competition through providing an advantage to one entity within an industry. These concerns are not present here as the three waters assets and infrastructure will be owned by public entities, and will provide water services to the entirety of their geography.
149. An income tax exemption provides greater certainty to lenders by removing a potential expense that would otherwise need to be factored into any debt service or modelling.

Goods and Services Tax

150. I propose that water charges under the new service deliver arrangements should be subject to Goods and Services Tax (GST) at the standard rate of 15 per cent.
151. New Zealand's GST framework applies to the broadest possible range of goods and services supplied in New Zealand. This ensures that the GST is as efficient and fair as possible.
152. GST currently applies to general rates, targeted rates and development contributions charged by local authorities to ratepayers. This is because the services provided by these charges are treated as consideration for a supply of services in New Zealand to ratepayers and the wider local community.
153. Legislative change to the Goods and Services Tax Act 1985 will be necessary to ensure these charges made by the new water services entities are subject to GST.

Additional measures to prevent privatisation and protect the public interest

Prohibition on dividends

154. The absence of a shareholding in the entity design structure means that there will not be the same incentive on entities to pay dividends or distribute surpluses to shareholders. However, given the infrastructure deficit and the tension between the provision of infrastructure and water services with charging for those services, the payment of dividends (especially in the near-term) runs counter to catching up on investment.
155. Water services entities should not be able to pay dividends, but should have the operational and financial flexibility to reinvest any surplus to ensure economic and efficient delivery of water services.

³ A good or service provided for public purposes – facilitating the improvement of drinking water quality, and mitigating environmental impacts of wastewater and stormwater.

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156. A prohibition on dividends further necessitates the need for an economic regulatory regime. Given that the water services entities have monopolistic characteristics and restriction on dividends, it is important that this is balanced with an appropriate regulatory regime. This will help ensure that the entities are appropriately incentivised to operate efficiently.
157. This restriction on dividends also serves to act as a future protection against privatisation, by making it difficult to divest ownership under the proposed structure.

Restriction on asset sales or transfers

158. While I propose that entities have an appropriate degree of autonomy, there are certain 'bottom-line' expectations for them, and accompanying arrangements that must be met. The requirement for mechanisms to protect against privatisation of the entities also needs to be considered in relation to asset ownership.
159. Entities should have the flexibility they need to be able to structure commercial arrangements in relation to the use of their assets. For example, entities should be able to explore a long-term lease or concession of assets that retains an appropriate degree of control and a reversionary ownership interest, if that gives rise to effective and efficient operations.
160. However, these flexibilities need to be balanced with protections against privatisation, and should not enable the entities to sell or transfer important assets and infrastructure, which are owned for the purposes of providing essential water services to the public. As such, I am proposing that the legislation includes appropriate mechanisms for placing commercial restrictions on the sale and/or transfer of material, strategic three waters assets. This would be similar to the approach currently taken in the Local Government Act 2002, which prevents local authorities from selling or disposing of infrastructure necessary for providing water services.

Protections against privatisation

161. Continued public ownership of water services and infrastructure has been a bottom line for us. Throughout this suite of papers there are a series of proposals that together help safeguard against future privatisation, making it more difficult to privatise than under the current arrangements. Key protections include:
 - 161.1 legislative provisions specifying that local authorities that constitute each water services entity would be the owners of the entity;
 - 161.2 no provision for financial recognition of ownership, including no shareholdings and a prohibition on dividends (these features would make divestment difficult without significant reconstitution of the entities);
 - 161.3 mana whenua involvement in oversight and the Regional Representative Group;
 - 161.4 statutory restrictions on sale or transfer of material, strategic water assets, similar to the current approach in the Local Government Act 2002, which prevents local authorities from selling or disposing of strategic assets or the infrastructure necessary for providing water services;

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- 161.5 a robust regulatory environment that includes Taumata Arowai, regional councils, an economic regulator, and likely consumer forum. These regulatory mechanisms would not be appropriate in the private sphere and likely to be unattractive; and
- 161.6 a range of other statutory limitations and restrictions to protect the public interest.
162. However, future governments or third parties may put forward proposals to privatise, wholly or partially, water service delivery arrangements. It is important that we preempt these situations and build in democratic protections for such circumstances. I am proposing, therefore, that legislation includes the requirement for a referendum to be conducted for any privatisation proposal.
163. Building into legislation the requirement that a viable proposal for privatisation be put to a referendum would bolster democratic protections and send a clear signal that it will be the public's decision as to whether any future privatisation should occur.
164. I am already proposing that there are restrictions placed on the entities to prevent the sale and/or transfer of material, strategic three waters, similar to the protections that are currently provided for in the Local Government Act 2002. A referendum would be an override of these provisions.
165. Given the highly contentious nature of privatisation of water service delivery it is important that we ensure that any decision to privatise in the future would be the choice of those who are served by the water entities, and own them, and iwi/Māori who have Treaty rights and interests (as described in Paper 3). As such, I am recommending that a referendum would be of the electors served by the entity, and affected by the proposal, ensuring that all eligible voters may have their say.
166. I am proposing that 75 per cent or more of the votes cast would need to be in favour of the proposal for it to proceed. (This is similar to the approach currently taken in the Local Government Act 2002, relating to local authority referendums on the closure of small drinking water services.) I note that even if a referendum were successful, legislative change would likely be needed to give effect to the privatisation proposal, providing an additional democratic protection via the legislative and select committee processes.
167. In order to protect the interests of iwi/Māori and local authority owners, and prevent referendums on underdeveloped or non-viable proposals, the Regional Representative Group would need to endorse the proposal before a referendum took place. Endorsement would be demonstrated by super majority vote of that Group.
168. Broadly, I am proposing that a privatisation proposal is any proposal that seeks to change the ownership model of an entity, or seeks to divest or transfer a material part of the entity's assets or operations (or any action to a similar effect).
169. Defining a privatisation proposal and referendum procedure is complex and there are choices about how this could be given effect. Further policy work is required to determine how these arrangements should be given effect in order provide the strongest level of protection and assurance to the public, iwi/Māori and local authorities. I am seeking agreement to approve further policy proposals during the legislative drafting process.

Protecting the public interest in relation to the water services entities

170. Water services entities will exist to provide services to, and be owned on behalf of, the general public and communities.
171. Situations could arise where it is in the public interest to place some constraints on an entity's operations, relative to what would be acceptable for a privately held entity. Reasons for this include that they are using publicly-owned assets to provide essential public services.
172. The entities should not be distracted from their core business or be taking unnecessary business or financial risks in their operations. While I have proposed some restrictions and limitations – for example, through a statutory purpose – further protections are warranted.
173. If the proposed water services entities were Crown entities, they would be subject to a range of financial and non-financial expectations administered by the Treasury (or the monitoring agency) and shareholder Ministers (one of who would be the Minister of Finance). While some specific expectations might be prescribed in legislation, some would be conveyed through letters of expectation or other such instruments (for instance, constraints related to scope of operations of investments).
174. Generally, there are expectations and restrictions related to matters and areas of performance such as:
 - 174.1 requirements to operate in a financially responsible manner and to prudently manage assets;
 - 174.2 maintaining an appropriate balance of risk to purpose;
 - 174.3 ensuring alignment of strategy and investment to the agency's core purpose;
 - 174.4 constraints on diversification into products, services or markets not related to purpose;
 - 174.5 constraints on overseas expansion;
 - 174.6 restrictions on establishment of subsidiary companies;
 - 174.7 fitness of skill mix and performance of the board;
 - 174.8 fitness/alignment of organisational culture to core purpose.
175. Many of the above protections are already proposed for the new statutory water services entities, and/or could be incorporated into the legislation. However, given the bespoke governance arrangements of these entities, there is a need to ensure that they too can be directed on specific expectations, commensurate with their purpose and objectives, including in response to unforeseen circumstances or risks.
176. I therefore propose that the Water Services Entities Bill provides for the Minister responsible for the resulting legislation, and the Minister of Finance (as responsible Ministers, rather than 'shareholding Ministers'), to direct water services entities on matters relating to their performance – commensurate with their statutory purpose and objectives, and to protect the public interest. Any such directions should be published and open to scrutiny.

Crown intervention

177. The proposed water services entities will have a level of independence, including from local government. In the event of a performance issue with a particular entity, the Crown may wish to retain the option to intervene to ensure this issue is rectified appropriately. This would be a last resort measure, when other processes and systems have failed. It would not circumvent other processes, including regulation, engagement and consultation.
178. Numerous Crown intervention frameworks exist in New Zealand, including within the Crown Entities Act 2004, Infrastructure Funding and Financing Act 2020 (IFF), and the Local Government Act 2002. These frameworks provide useful precedents, and the general concepts are familiar to local authorities and other stakeholders.
179. I consider the IFF Crown Manager regime, supplemented with a risk-based approach, would provide a graduated risk regime for three waters service delivery. This graduated risk regime recognises that there will be other intervention and compliance mechanisms in the wider three water service delivery system, such as the drinking water regulatory regime and proposed introduction of economic regulation.
180. I am proposing that a graduated risk regime is provided for in the new legislation, modelled on existing regimes and balanced with the proposed regulatory environment.

Part B: Consumer and community voice

181. Appropriate mechanisms for consumer and community voice will be incorporated throughout the entity and system design. This will create a system that is responsive and accountable to consumers and communities.
182. Providing for these mechanisms is of particular interest to councils, who have raised concerns about how their communities' interests will be addressed in the new system. 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.
183. I am proposing mechanisms for community and consumer voice throughout the system, which aim to strike the balance between providing the necessary autonomy for the water services entities to achieve the full benefits of the reform, while enabling councils and communities to have an adequate influence over service delivery for their area.
184. As described below, there are three key proposals for consumer and community 'voice' within the entity design, which are woven into the governance arrangements:
- 184.1 mana whenua and local authority representatives on the Regional Representative Group to act on behalf of their communities;
 - 184.2 each entity will be required to engage with consumers and communities on the key business documents that affect them, to publish those documents, and to report on how consumer and community feedback was incorporated into final decision making; and
 - 184.3 each entity will be required to establish a consumer forum to assist with effective and meaningful engagement.

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185. These mechanisms will work in conjunction with proposals across the wider system design. They include a focus on consumer and community interests in the statutory objectives guiding the water services entities, the interaction with the current and future planning system to consider broader community interests, and consumer protection mechanisms that will be explored further as part of subsequent work, in parallel with the detailed design of the economic regulation regime.

Role of the representatives on the Regional Representative Group

186. The Regional Representative Group provides an opportunity for the local authority and mana whenua representatives to communicate expectations on behalf of their communities directly to the water services entities. This will be done through the Regional Representative Group being able to issue a Statement of Strategic and Performance Expectations to the water services entity.

187. This will provide a mechanism for the inclusion of more local and regionalised priorities and objectives to guide entities' behaviours and decisions, alongside any national direction set. 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.

188. During sector and iwi engagement in March 2021, local authority and mana whenua representation on the Regional Representative Group was consistently ranked as one of the most effective proposals for consumer and community influence. Many council members see this as an opportunity through which local government can retain some of their current role in the new system.

Engagement, publishing and reporting requirements

189. I propose to incorporate requirements into the new service delivery system for the entities to engage in a meaningful and effective manner with their consumers and communities on the preparation of key documents. These documents are the:

189.1 investment prioritisation methodology;

189.2 Asset Management Plan; and

189.3 Funding and Pricing Plan.

190. Consumers and communities will be provided with opportunities to give direct feedback to the entities before any final decisions are made. For example, this would allow for individuals or community groups, serviced by the entity, to comment on how investment should be prioritised over the relevant time periods. The entities will then be required to take this feedback into account before finalising the documents.

191. To ensure transparency and accountability, I propose that the entities are required to publish the final documents and report on how they incorporated the consumer and community feedback into their final decisions. This will be a particularly important mechanism for the smaller consumer groups, and small and rural communities, who are concerned their voice and feedback will be lost.

Requirement to establish consumer forums

192. I propose that each of the new entities will be required to establish a consumer forum, which will serve as a core vehicle for engaging with consumer and community representatives. Consumer forums will be able to assist with the communication and engagement on the technical aspects of the key business documents, and to ensure a wide range of consumer interests are being considered by the entity when finalising important decisions. Requiring this through legislation will also ensure a consistent approach is being undertaken across all entities.
193. I understand consumer forums have been used successfully overseas – in Australia and Scotland, for example. Officials from the Ministry of Business, Innovation and Employment have also advised that this kind of provision would sit alongside, and complement, a provision in the economic regulation regime that would require the economic regulator to appropriately incentivise high quality consumer engagement.

Part C: Charging and pricing

194. As part of new service delivery arrangements, I envisage a new set of charging and pricing arrangements, to improve the transparency and affordability of water services.
195. I am proposing a new set of regulatory arrangements to support stronger price and quality regulation for water service delivery, transparency around calculating and setting prices, and flexibility for individual entities to set prices at levels that best reflect the needs and desires of their individual communities.

The new water service entities will need to be transparent around pricing and charging

196. The current state of pricing arrangements for water service delivery across the country is diffuse. A variety of pricing approaches exist, largely dependent on the individual decisions of the 67 different local authorities that as currently responsible for these services.
197. The current approach also lacks transparency for ratepayers to clearly understand how and what they are paying for water services. In many local authorities, prices for water service delivery are embedded in general rates, meaning that users of water services do not have a clear understanding of what they pay for these services.
198. There is also a lack of consistency in how local authorities make decisions on how prices are set for water services. This results in big differences in pricing between local authorities, with the lack of a consistent approach leading to issues in both price and quality outcomes.
199. To help ensure these issues do not occur with the new system, I am proposing that the legislation governing the water service entities includes clear expectations for transparency. The entities must be transparent in both how they calculate and set prices, as well as regularly report on their performance. Proposals to this effect are included in the operating principles recommended in Paper 1.
200. As noted earlier, it will also be important that a strong consumer voice is provided for in the new system – including in relation to setting prices and charges. It is my expectation that the new entities will consult consumers and communities on these matters, and that these obligations will be set up in legislation.

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201. Economic regulation and consumer protection mechanisms are being explored by the Ministry for Business, Innovation and Employment. As part of the consumer protection limb of this work, they will consider the process for setting prices and transparency requirements. Such mechanisms will aim to provide consumers with protections and transparency in terms of pricing. These will be complemented by the economic regulation regime, where the role of the economic regulator will be to ensure the entities are operating efficiently, and acting in the best interests of their consumers, both in the short and long term.
202. Detailed decisions on consumer protection mechanisms and the economic regulation regime will be made during 2022. A discussion document on these proposals is expected to be released by the Ministry for Business, Innovation and Employment later in 2021, to seek feedback on proposed options, and inform final proposals.

A set of charging instruments will support the new water services entities

203. The new entities will need charging instruments to effectively and equitably charge customers across the network.
204. Many of these charging instruments are already used by local authorities when setting prices for water services across the country. Legislation needs to provide the authority for the new water service entities to charge their customers.
205. I anticipate that a variety of instruments will need to be included in legislation to allow new water services entities to charge for services. Further information will be included in a later paper, anticipated for September 2021.

Financial implications

206. Paper 1 provides information on the financial implications associated with this suite of papers and proposals, and associated recommendations.

Legislative implications

207. I am seeking agreement to implement the decisions in this paper through a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).
208. Further information on the legislative implications associated with the package of reforms is provided in paper 1.

Impact analysis

Regulatory Impact Statement

209. The Regulatory Impact Assessment relating to the package of reform proposals is attached to Paper 1, and the quality assurance statement is provided in that paper.

Climate Implications of Policy Assessment

210. None.

Population Implications

211. None.

Human Rights

212. None.

Consultation

213. The Ministry for the Environment; Ministry of Health; Ministry of Business, Innovation and Employment; The Treasury; Ministry for Primary Industries; National Emergency Management Agency; Ministry of Housing and Urban Development; Department of the Prime Minister and Cabinet; Ministry of Transport; Te Puni Kōkiri; Te Arawhiti; Infrastructure Commission; New Zealand Transport Agency; Inland Revenue Department; Public Services Commission; and Kāinga Ora have been consulted on this paper. The Department of Conservation, Ministry of Education, New Zealand Defence Force, and Department of Corrections have operational responsibility for three waters services and have been consulted in this capacity.
214. I have tested the six entity design scenarios with the Joint Three Waters Central/Local Government Steering Committee, who requested that I test them with targeted members of the Local Government Funding Agency (LGFA) shareholders council. This was undertaken, and feedback incorporated into the scenarios. The LGFA Board Chair and executive team were also consulted.
215. The scenarios were also tested with the Treasury and the Ministry of Business Innovation and Employment, particularly as they relate to Crown support and the anticipated economic regulatory regime.
216. Paper 1 and the accompanying Regulatory Impact Assessment provide further details on the broader engagement that has been undertaken in relation to the reform proposals in this suite of papers, including with local government and iwi/Māori.

Communications

217. Comprehensive and strategic communications and engagement plans, aligned with a national public information and education campaign, are being put in place to support the reform programme, and Government decisions. I propose to work with the Prime Ministers office to finalise key communications including if there is an opportunity to improve the use of language to describe core roles, responsibilities and functions. Further details are provided in Paper 1.

Proactive Release

218. I intend to release this suite of papers (subject to any redactions) to align with announcements about the Government's decisions on these reforms. I note that this may occur outside of the timeframes in Cabinet Office circular CO (18) 4.

Recommendations

219. The Minister of Local Government recommends that the Cabinet Government Administration and Expenditure Review Committee:

Context

1. **note** this is the second in a suite of papers seeking decisions to transform the three waters service delivery system, which is intended to be considered alongside two other papers:

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- 1.1 *A new system for three waters service delivery (Paper 1);*
- 1.2 *Protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model (Paper 3);*
2. **note** that these papers follow on from initial decisions, made during 2020, to reform three waters service delivery arrangements to create large-scale water services entities, including agreement that these entities would:
 - 2.1 be publicly owned, with mechanisms to protect against privatisation;
 - 2.2 be statutory entities, designed and established by legislation; and
 - 2.3 have financial and operational autonomy and be able to borrow in their own right, independent of local government debt restrictions and the legislative decision-making framework Local Government Act 2002 [DEV-20-MIN-0099 refers];
3. **note** that Paper 1 in this latest suite of papers seeks agreement to proceed with the reforms to the three waters system, including decisions relating to:
 - 3.1 the establishment of a new service delivery model; with four new water services entities to take over the three waters-related infrastructure and service delivery responsibilities from local authorities;
 - 3.2 the boundaries of the new statutory entities, and which local authority districts would constitute each entity;
 - 3.3 the entities' statutory purpose, objectives, operating principles, and general responsibilities;
 - 3.4 the stewardship arrangements for the new system, including through a Government Policy Statement to provide strategic direction to the water services entities;

Proposed ownership, oversight and governance structure of the new water services entities

4. **note** that given the public nature of the assets and service delivery needs, ownership of the water services entities has been framed in the context of collective local authority ownership, on behalf of communities;
5. **agree** that the local authorities that constitute each water services entity (as described in Paper 1) would be the owners of the entity, and this would be provided in legislation;
6. **agree** that there is no financial recognition of ownership, and no shareholding is provided for;
7. **note** that local authority ownership rights are instead provided for in the oversight and governance arrangements in recommendations 11-31 below;
8. **note** that having competent and strong governance of water services entities is critical to the success of the three waters service delivery reforms, and that governance mechanisms are to be included in legislation;
9. **note** that the proposed oversight and governance mechanisms aim to strike a balance between providing the necessary independence for the water services entities to achieve the full benefits of reform, enabling communities and iwi/Māori to have an influence over service delivery in their area, and ensuring necessary accountability in the provision of essential public services;

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10. **agree** that the new water services entities will:
 - 10.1 operate within a joint oversight framework involving representatives of local authorities and mana whenua from within the geographical area covered by the respective entities;
 - 10.2 each be governed by an independently appointed board;
 - 10.3 own assets;
 - 10.4 be prohibited from paying dividends, with flexibility to reinvest any surplus;

Regional Representative Group

11. **agree** that a Regional Representative Group be established for each water services entity, which would:
 - 11.1 consist of no more than 12 members; and
 - 11.2 comprise equal numbers of representatives from the local authorities and mana whenua that constitute the geographical area covered by the entity;
12. **agree** that, in relation to the local authority representatives of the Regional Representative Group:
 - 12.1 those representatives will be collectively appointed by the elected members of the local authorities that constitute the water services entity; and
 - 12.2 representative members will need to be elected members, chief executives, or appropriately qualified senior managers of a local authority;
13. **agree** that, in relation to the mana whenua representatives of the Regional Representative Group, those representatives will be collectively appointed by mana whenua in the geographical area covered by the entity;
14. **note** that Paper 3 of this suite of papers provides further information on the selection method for the mana whenua representatives of the Regional Representative Group;
15. **agree** that where there are more local authorities that constitute a water services entity than can be accommodated on the membership of the Regional Representative Group, then members:
 - 15.1 must comprise an appropriate distribution of metropolitan, provincial and rural local authorities; and
 - 15.2 represent a geographic spread across the area covered by the entity;
16. **agree** that the legislation will include provisions for:
 - 16.1 the appointment process for Representatives and related requirements;
 - 16.2 the Minister of Local Government to appoint a group to work with local authorities and mana whenua, as a 'back-stop', if needed to facilitate the appointments of Representatives;
 - 16.3 the rotation of Representatives;
 - 16.4 the length of term for each Regional Representative Group;
17. **agree** that the functions and powers of each Regional Representative Group will include:

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- 17.1 appointing, monitoring, and removing members of the Independent Selection Panel that will (in turn) appoint members to the board of the water services entity;
- 17.2 issuing a Statement of Strategic and Performance Expectations to the water services entity, and monitoring the entity against that Statement;
- 17.3 considering the findings of an annual review of board performance undertaken by the Independent Selection Panel;
- 17.4 conducting performance reviews of the Independent Selection Panel;
18. **agree** that the Regional Representative Group for each water services entity will be required to consider the interests of the geographical area covered by that entity when exercising its functions and decision-making powers;
19. **agree** that:
 - 19.1 each member of the Regional Representative Group will, in most cases, have an equal share of voting rights for decisions made by that Group; and
 - 19.2 decisions of the Regional Representative Group will require a super majority decision of 75 per cent;
20. **note** that further policy work is required to determine whether there should be exceptions to the approach proposed in recommendations 16 and 19, and any alternative arrangements that would apply (while meeting the requirements noted in recommendation 2); for example, 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 than those identified in recommendation 19.1;
21. **authorise** the Minister of Local Government to approve further policy proposals in relation to recommendation 20, and the name of the Regional Representative Group, during the legislation drafting process;

Board selection and appointment process

Independent selection panel

22. **agree** that the legislation is to provide that an Independent Selection Panel must be established by the Regional Representative Group for each water services entity to deal with board appointment and monitoring processes, including:
 - 22.1 assessing, evaluating and shortlisting board candidates;
 - 22.2 appointing members to the entity board;
 - 22.3 appointing the chair of the board;
 - 22.4 removing board members;
 - 22.5 undertaking an annual review of the board's performance;
23. **agree** that the legislation will also include details relating to the appointment of the Independent Selection Panel, including the:
 - 23.1 appointment process; and
 - 23.2 length of term;
24. **agree** that the Independent Selection Panel relating to each water services entity will include no more than four members, including the chair;

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25. **agree** that the membership of the Independent Selection Panel for each entity will, collectively:
- 25.1 be highly respected in the field of governance;
 - 25.2 understand network infrastructure industries;
 - 25.3 be independent of the entity's Representatives;
 - 25.4 have knowledge and experience of the Treaty of Waitangi and te Ao Māori;
 - 25.5 be appropriately qualified to assess and select members of the water services entity board;
26. **agree** that a Regional Representative Group:
- 26.1 may vote to remove a member from the Independent Selection Panel; and
 - 26.2 the threshold for that vote would be a super majority, of 75 per cent or above;
27. **agree** that the functions of the Independent Selection Panel will include:
- 27.1 undertaking an annual review of the water services entity board's performance for consideration by the Regional Representative Group;
 - 27.2 developing, for presentation to the Regional Representative Group, a charter for its operations and functions;
 - 27.3 developing, for presentation to the Regional Representative Group, a Board Appointment and Remuneration Policy, including a:
 - 27.3.1 skills matrix outlining the experience, qualifications and skills expected of members of the entity board; and
 - 27.3.2 board remuneration framework.

Water services entity board

28. **agree** that the legislation will:
- 28.1 require that a board be established for each water services entity;
 - 28.2 provide for the term of appointment of each board members, and any restrictions on reappointment;
 - 28.3 provide for the removal of board members;
 - 28.4 provide for reporting by the board to the Regional Representative Group in relation to the performance of the board and entity;
29. **agree** that the board of each water services entity:
- 29.1 will have no more than 10 members; and
 - 29.2 the chair of the board will hold the casting vote;
30. **agree** that each water services entity board will be accountable for:
- 30.1 the appointment and removal of the chief executive officer;
 - 30.2 preparing a Statement of Intent, which will serve as the primary accountability document for the board and be produced in response to the Regional Representative Group's Statement of Strategic and Performance Expectations and any Government Policy Statement issued;

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- 30.3 preparing an Asset Management Plan, which outlines the investment priorities for the entity and describes how the entity will operate, maintain and renew its existing assets and provide new assets over a 10-year period and is in accordance with the Statement of Intent;
 - 30.4 preparing a Funding and Pricing Plan, which describes how the entity intends to fund and finance its business activities (including the Asset Management Plan) over a 10-year period and is in accordance with the Statement of Intent;
 - 30.5 preparing an annual report, which complies with generally accepted accounting practice, and is audited;
31. **note** that the legislation will include further details about the documents referred to in recommendations 30.2 to 30.5;

Entity financing arrangements

- 32. **note** that water services entities will need to have significant financial capability and capacity to independently obtain financing for operations;
- 33. **agree** that water services entities be enabled to access a variety of source finance, including, but not limited to:
 - 33.1 New Zealand domestic retail and wholesale capital markets;
 - 33.2 New Zealand Local Government Funding Agency;
 - 33.3 offshore capital markets;
- 34. **agree** that the legislation will enable water services entities to provide security to financiers in respect of their borrowings, with appropriate obligations and accountabilities on the water services entities in respect of that security;
- 35. **agree** that the legislation will enable water services entities to charge customers directly for water services, and that entities are responsible for the collection of payments for the services they provide with appropriate safeguards including with respect to Māori land;
- 36. **note** that transitional arrangements may be required for a period, whereby local authorities act as collection agents under fixed-term service level agreements and that I will report back on these matters in the fourth in this suite of papers, in July 2021;

Tax status of water services entities

- 37. **agree** that the new water service entities be exempt from income tax, given the intent is that the entities will be providing a service that is for public benefit rather than commercial benefit;
- 38. **agree** that charges for water services be subject to Goods and Services Tax at the standard rate of 15 per cent;
- 39. **note** that legislative changes will be required to give effect to recommendations 37 and 38;
- 40. **authorise** the Minister of Revenue, in consultation with the Minister of Finance and Minister of Local Government, to make decisions on detailed amendments to tax and local government legislation relating to recommendations 37 and 38;

Additional measures to prevent privatisation and protect the public interest

Prohibition on dividends

41. **note** that, subject to agreement in recommendation 10.4, the water services entities:
 - 41.1 would not be able to pay dividends; but
 - 41.2 would have the operational and financial flexibility to reinvest any surplus to ensure the efficient delivery of water services;
42. **note** that a prohibition on dividends, combined with the monopolistic characteristics of the water services entities, further necessitates the introductions of an economic regulation regime to help ensure the entities have the appropriate incentives to operate efficiently;

Restrictions on asset sales or transfers

43. **agree** that water services entities need the flexibility to structure commercial arrangements in relation to their assets in a way that provides for efficient and effective operations;
44. **note** that the benefits offered by this flexibility need to be balanced with appropriate protections against the sale or privatisation of assets and infrastructure that are held by the entities in order to provide essential water services to the public;
45. **agree** that the legislation will include appropriate mechanisms to place restrictions on the sale and/or transfer of material, strategic three waters assets by the water services entities, similar to the protections that are currently provided for in the Local Government Act 2002;

Protections against future privatisation

46. **note** that there are a series of legislative provisions and safeguards against future privatisation, but that there may be proposals by future governments or private entities to privatise water service delivery and that it is desirable to provide democratic protections for such circumstances;
47. **note** that a referendum would provide a strong protection against any future privatisation proposal, and that local authorities, as owners of the entities, have a strong interest in this matter, as do iwi/Māori, and the public affected by a proposal;
48. **note** that a privatisation proposal would include, but not be limited to, any proposal that seeks to change the ownership model of a water services entity, or to divest or transfer a material part of the entity's assets or operations (or any action to a similar effect);
49. **agree** that, in relation to a viable privatisation proposal, legislation will include provisions for:
 - 49.1 the Regional Representative Group to vote in favour of the proposal, by super majority, before the entity can proceed to a referendum;

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- 49.2 if the requirement above is met, for the water services entity to arrange for a referendum to be conducted, covering eligible electors in the population served by the entity;
- 49.3 in order for the proposal to be successful, 75 per cent or more of the votes cast must be in favour of privatisation;
- 50. **note** that further policy work is required to develop the mechanisms to give effect to approach proposed recommendation 49, in particular defining privatisation in a manner that ensures water services entities can retain the flexibility to structure commercial arrangements in relation to their assets in a way that provides for efficient and effective operations, and that other arrangements are not precluded unnecessarily;
- 51. **authorise** the Minister of Local Government to approve further policy proposals in relation to recommendation 49, during the legislation drafting process;

Protecting the public interest in relation to the water services entities

- 52. **note** that water services entities will exist to provide essential services to, and be owned on behalf of, communities, and the general public has a significant interest in the operations and performance of these entities;
- 53. **agree** that water services entities, like Crown owned companies, should be subject to expectations and/or constraints in legislation relating to their purpose and performance as statutory entities, including regarding:
 - 53.1 alignment of strategy and investment to an entity's core purpose;
 - 53.2 scope of operations, including constraints on the diversification into products, services, markets, and overseas jurisdictions not directly related to the core purpose of the entity;
 - 53.3 restrictions on the establishment of subsidiaries, mergers and acquisitions, and sale of assets; and
 - 53.4 other matters not yet foreseen but considered material to an entity's performance as a statutory entity operating in the public interest;
- 54. **note** that in the event of a serious performance issue with a particular water services entity it may be appropriate for the Crown to intervene to ensure this issue is rectified;
- 55. **note** that several Crown intervention frameworks exist that provide a useful precedent, including within the Crown Entities Act 2004, Infrastructure Funding and Financing Act 2020, and Local Government Act 2002;
- 56. **agree** that the legislation will provide for a Crown intervention framework that would apply to the water services entities, as a last resort measure to protect the public interest and ensure the objectives of the three waters reform programme are not jeopardised;
- 57. **agree** that this intervention framework will include a graduated, risk-based approach, which:
 - 57.1 is modelled on precedents in other legislation, particularly the Infrastructure Funding and Financing Act; and

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- 57.2 recognises and aligns with other intervention and compliance mechanisms in the three waters service delivery system, such as the drinking water regulatory regime and proposed introduction of economic regulation;

Crown support

58. **note** that providing similar forms of Crown support to water service entities, as are currently available to local authorities (and thus water assets), will strengthen the credit profile of these entities;
59. **agree** that the Civil Defence and Emergency Management Act 2002 arrangements will be extended to apply to water service entities, such that it continues to apply to three water assets once the assets are transferred to the water services entities from local authorities;
60. **agree** that a Crown liquidity facility will be available to water services entities, which can be accessed if certain 'trigger events' occur, on similar terms to those available to the Local Government Funding Agency;

Consumer and community engagement

61. **note** that effective engagement, publishing and reporting requirements will provide an avenue for consumers and communities to give direct feedback to the water services entities, influence the establishment of key business documents, and increase transparency and accountability in decision making;
62. **agree** that the water services entities will be required in legislation to undertake engagement with their consumers and communities on the:
- 62.1 prioritisation methodology that informs the asset management plan;
 - 62.2 Asset Management Plan; and
 - 62.3 Funding and Pricing Plan;
63. **agree** that the water services entities will be required to:
- 63.1 make publicly available the documents referred to in recommendation 62, after they have been finalised;
 - 63.2 report on how any consumer and community feedback was considered and incorporated into final decision making regarding these documents;
64. **note** that to, assist with effective and meaningful consumer and community engagement, many overseas jurisdictions both utilise and recommend having a consumer forum;
65. **note** that having a legislative requirement will ensure consistency between water services entities, and address concerns of consumer and community groups;
66. **agree** that each water services entity will be required to establish a consumer forum, to assist with consumer and community engagement;

Charging and pricing arrangements

67. **note** that the entities must be transparent in both how they calculate and set prices, and that Paper 1 of this suite of papers includes a proposed operating principle to this effect;

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68. **note** that the Ministry of Business, Innovation and Employment will also be considering the process for setting pricing and transparency requirements, as part of their work to develop detailed proposals on the consumer protection mechanisms for the new three waters system;
69. **note** that the water services entities will need a variety of pricing and charging instruments to effectively and equitably charge customers, and further advice on this matter will be included in a further paper, anticipated for September 2021;

Legislative implications and issuing of drafting instructions

70. **agree** that decisions in this paper be implemented through the Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year);
71. **invite** the Minister of Local Government to issue drafting instructions to Parliamentary Counsel in accordance with the decisions in this paper;
72. **authorise** the Minister of Local Government to approve minor policy and technical matters that may arise during the course of drafting, in alignment with the approach and reform proposals set out in this suite of papers;
73. **agree** that technical experts can be consulted, if needed, during the drafting process.

Communications

74. **Agree** the Minister of Local Government will work with the Office of the Prime Minister to finalise relevant communications.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Local Government

Appendix A: Entity design scenarios tested with Standard and Poor's

(b)(2)(TK)(V)

- [Redacted]
- [Redacted]
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(b)(2)(f)(iv) [Redacted]

- [Redacted]

Proactively released by the Minister of Local Government

Appendix B: Indicative contents of the Statement of the 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"> • Guidance to entity on general expectations and strategic priorities from Governors for the entity, with examples potentially including: <ul style="list-style-type: none"> ○ Promote and improve iwi/Māori outcomes ○ Collaborate on the optimal delivery solution for a particular sub-regional area • Priority areas can supplement general and strategic priorities, with examples potentially including: <ul style="list-style-type: none"> ○ Deliver core responsibilities ○ Take/maintain a customer centred approach ○ Support local authorities' response to growth ○ Support local authorities' response to environmental challenges • Enhanced planning and financial modelling • 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 	<ul style="list-style-type: none"> • Objectives and strategic priorities • Consistency of SOI with primary and secondary objectives • Nature and scope of the activities to be undertaken • An outline of significant work programmes/key projects • Prioritisation methodology for infrastructure investment • Consumer and community engagement • 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 • Performance and risk management approach • Financial information, including forecast results for the current annual period, actual results from the prior year, and budgets for the following three years

Appendix C: Overview of the Asset Management Plan and Funding and Pricing Plan

<p><i>Purpose: describes how the entity intends to fund and finance its business activities over a 10-year period</i></p>	
<ul style="list-style-type: none"> • Business Overview • Key issues facing the entity and strategic priorities • Consistency of AMP with primary and secondary objectives • Interaction with Statement of Corporate Intent • Significant work programmes and key projects • Expenditure forecasts • Summary of water assets • Asset Management Policy • Asset Management Objectives • Risk and Emergency Management • Water Asset Strategy • Asset Renewal Strategy • Financial Projections • Further description of performance targets, key performance indicators, or other performance measures • Prioritisation methodology 	<ul style="list-style-type: none"> • Key issues facing the entity • Consistency of FPP with primary and secondary objectives • FPP preparation • Financial ratios and measures • Interaction with Statement of Corporate Intent • Application of funding • Sources of funding • Revenue and financing framework • Financial projection

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Appendix A: Summary of iwi/Māori engagement in three waters service delivery reforms

Date	Engagement	Rohe/Takiwā	Hui participants
8-July-20	Introduction letter	Via email	all iwi
15-September-20	Iwi introduction webinar	Via Zoom	all iwi
17-September-20	Water Services Bill webinar	Via Zoom	all iwi
21-September-20	Palmerston North hui	Palmerston North	local iwi/hapū
21-September-20	Kaitaia hui	Kaitaia	local iwi/hapū
22-September-20	Wellington hui	Wellington	local iwi/hapū
22-September-20	Whangarei hui	Whangarei	local iwi/hapū
24-September-20	Nelson hui	Nelson	local iwi/hapū
25-September-20	Hamilton hui	Hamilton	local iwi/hapū
28-September-20	Tauranga hui	Tauranga	local iwi/hapū
29-September-20	Ōpōtiki hui	Ōpōtiki	local iwi/hapū
30-September-20	Gisborne hui	Gisborne	local iwi/hapū
1-October-20	Napier hui	Napier	local iwi/hapū
6-October-20	Whanganui hui	Whanganui	local iwi/hapū
6-October-20	Rotorua hui	Rotorua	local iwi/hapū
7-October-20	New Plymouth hui	New Plymouth	local iwi/hapū
7-October-20	Taupō hui	Taupō	local iwi/hapū
8-October-20	Auckland hui	Auckland	local iwi/hapū
13-October-20	Zui of hui a motu	Via Zoom	all iwi
15-October-20	Palmerston North hui	Palmerston North	Rangitāne
17-October-20	Ngāi Tahu hui	Arowhenua Marae, Temuka	Ngāi Tahu
14-October-20	Te Wai Māori Trust hui	Department of Internal Affairs	Fisheries group
9-October-20	update email	Via email	all iwi
23-October-20	update email	Via email	all iwi
3-November-20	Ngāpuhi meeting	Via Zoom	Ngāpuhi
3-November-20	Zui with Te Tau Ihu iwi	Via Zoom	Te Tau Ihu Iwi
10-November-20	Iwi and Local Government Chief Executives Forum	Te Runanga o Whaingaroa, Kerikeri	Chairs and Chief Executives of Te Tai Tokerau iwi and Council
10-December-20	Technical Working Group	Via Zoom	Technical Working Group Members
16-December-20	Technical Working Group	Via Zoom	Technical Working Group Members

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Date	Engagement	Rohe/Takiwā	Hui participants
17-December-20	Kahui Wai Māori presentation on Three Water reform	Ministry for the Environment	Member of Kahui Wai Māori
23-December-20	Update email with save the date	Via email	all iwi
20-January-20	Technical Working Group	Via Zoom	Technical Working Group Members
29-January-20	Technical Working Group	Via Zoom	Technical Working Group Members
3-February-21	Heretaunga	Informal	Ngāti Kahungunu Iwi Incorporated
9-February-21	Presentation on Three Water reform	Via Zoom	Local Government New Zealand Te Maruata Roopu Whakahaere
12-February-21	Formal invitation to workshops	Via email	all iwi
17-February-21	Kahui Wai Māori update on reform	Ministry for the Environment	Member of Kahui Wai Māori
18-February-21	Presentation on Three Water reform	Ministry for the Environment	Various Māori organisations
23-February-21	Pre March-workshops presentation	Via Zoom	All iwi
24-February-21	Technical Working Group	Wellington	Technical Working Group Members
9-March-21	March workshop	Nelson	local iwi/hapū and Local Authorities
10-March-21	Presentation on Three Water reform	Via Zoom	Local Government New Zealand Te Maruata Whānui
11-March-21	March workshop	Palmerston North	local iwi/hapū and Local Authorities
12-March-21	March workshop	Auckland via Zoom	local iwi/hapū and Local Authorities
15-March-21	Ngāpuhi	Wellington	Ngāpuhi
17-March-21	March workshop	Wanaka	local iwi/hapū and Local Authorities
19-March-21	March workshop	Wellington	local iwi/hapū and Local Authorities
23-March-21	March workshop	Christchurch	local iwi/hapū and Local Authorities
25-March-21	Tauranga Moana	Tauranga	Tauranga Moana iwi
26-March-21	March workshop	Rotorua	local iwi/hapū and Local Authorities

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Date	Engagement	Rohe/Takiwā	Hui participants
29-March-21	Taranaki	Via Zoom	Te Rūnanga o Ngāti Ruanui
30-March-21	March workshop	Whangārei	local iwi/hapū and Local Authorities
7-April-21	Technical Working Group	Via Zoom	Technical Working Group Members
12-April-21	Te Rūnanga o Ngāi Tahu	Christchurch	Te Rūnanga o Ngāi Tahu
14-April-21	Taranaki	New Plymouth	Iwi rūnanga of Taranaki Maunga
15-April-21	Tāmaki Makaurau	Via Zoom	Tāmaki Mana Whenua Kaitiaki Forum
19-April-21	Wairarapa	Masterton	Rangitāne o Wairarapa Iwi Authority
22-April-21	Te Waipounamu	Wellington	Te Rūnanga o Ngāi Tahu
27-April-21	Te Tau Ihu	Via Zoom	Ngāti Rārua Iwi Authority
29-April-21	Te Arawa/Kāingaroa	Reporoa	Whānau, hapū, lands trusts and owners associated with Ngāti Tahu-Ngāti Whāoa Iwi Authority & Kāingaroa Forest Iwi
30-April-21	Te Rūnanga o Ngāi Tahu and South Island Councils	Christchurch	Te Rūnanga o Ngāi Tahu and South Island Councils
18-May-21	Technical Working Group	Wellington and via Zoom	Technical Working Group Members
6-May-21	Te Rūnanga o Ngāi Tahu	Via Zoom	Te Rūnanga o Ngāi Tahu

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Appendix B: Analysis of iwi/Māori rights and interests

Right	Considerations	Interest analysis	Commentary
<p>Article two – Rangatiratanga Māori will have the right to make Decisions over resources and taonga which they wish to retain</p>	<ul style="list-style-type: none"> Are there options for Māori to exercise rangatiratanga while recognising the right of the Crown (including through local government) to govern? What role is there for Māori in design and implementation? Does the Three Waters reform offer an opportunity to enhance Māori wellbeing or build Māori capability and capacity? 	<ul style="list-style-type: none"> Iwi/Māori have expressed dissatisfaction with the Treaty partnership approach and cultural responsiveness of current territorial authority delivery. This includes understanding and application of mātauranga Māori frameworks as they apply in place (hapū/whānau level) Introduction of new legislative, governance and management arrangements will give rise to interests in co-governance opportunities. Iwi/Māori have expressed interest in ownership (including investment), governance, board appointments and board composition 	<ul style="list-style-type: none"> Iwi/Māori interests related to issues related to Article Two sit within the broader context of reform of the resource management system and issues associated with water allocation. Given the nature of the proposed statutory entities, traditional ownership and governance tools are likely to be less influential compared to other reforms. For example – there are unlikely to be shares that can be traded and valued. Opportunities will exist to materially improve the connection between iwi/Māori rights and interests as they relate Mana Whakahaere, Kaitiakitanga, Manaakitanga on the delivery of services. It is likely that a new instrument is required. Water services entities will be operating within a legislative environment containing several Treaty related statutory references. A new statutory Treaty reference will be required and will need to ensure it reflects the appropriate hierarchy particularly in relation to the Water Services Bill and proposed amendments to the Resource Management Act.
<p>Article three – Rights as Citizens Implicit assurance that rights will be enjoyed equally by Māori with all New Zealanders. This may warrant special measures to attain that equal enjoyment of benefits.</p>	<ul style="list-style-type: none"> What are the implications for equitable outcomes? What considerations should support legal values including natural justice, due process, fairness, and equity including through regulatory processes? What does a tikanga lens bring to consideration of the issues? 	<ul style="list-style-type: none"> Iwi/Māori raised the importance of ensuring that water services are affordable for all. Iwi organisations have raised the potential for Māori to benefit from alternative delivery mechanisms more directly (for example. Jobs or social enterprise). Iwi organisations have also expressed a desire to invest in the water infrastructure sector. 	<ul style="list-style-type: none"> Consumer protections will need to ensure issues of equity, particularly as it applies to rural and remote communities (particularly Marae or papakāinga supplies), are adequately addressed. Some Iwi/Māori have raised the opportunity to encourage maximum local job creation and be supported such as social procurement and skills matching services. Issues related to how water services entities are able access funding including equity partners/investment sources.

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Appendix C: Options analysis

ASSESSMENT KEY:

Does not meet objectives

Partially meet objectives

Meets objectives

Design Feature	Option 1	Option 2	Option 3	Option 4	Comments
<p>GOVERNANCE What is the of mana whenua role in Governance?</p>					<p>It is likely that the governance framework for water services entities will include instruments such as a Government Policy Statement (GPS), Letter of Expectation (LOE) and Statement of Intent (SOI). This statutory framework will include prohibitions on share transfer, divesting ownership, sale of assets and dividend payments for a given entity. For that reason, options of direct ownership of the water services entities by iwi/Māori have not been explored.</p> <p>iwi/Māori have raised opportunity for co-governance as a mechanism to achieve strategic influence. However, in the proposed entities traditional governance levers are more limited than other governance structures. I have therefore analysed a broader range of options for iwi/Māori to influence the strategic framework within which the entities operate.</p> <p>Any option also needs to be considered from a regulatory system perspective including connections to Government Decisions on water allocation as well as they review of the Resource Management Act 1991 (RMA).</p>
<p>BOARD ARRANGEMENTS What are the Board competency requirements?</p>	<p>NO SPECIFIC COMPETENCY No specific Treaty or Te Ao Māori competency required of Directors.</p>	<p>GENERAL TREATY OF WAITANGI COMPETENCY A specific requirement for Treaty of Waitangi competency</p>	<p>MĀTAURANGA MĀORI, TIKANGA MĀORI AND TE AO MĀORI COMPETENCY A specific competency requirement related to prescribed areas of Te Ao Māori competency.</p>	<p>COLLECTIVE COMPETENCY A collective Treaty of Waitangi Board competency with a specific competency related to Mātauranga Māori knowledge.</p>	<p>It is proposed that the competency based professional Board for each water services entity be appointed by an Independent Selection Panel.</p> <p>A central way for Te Mana o Te Wai to be embedded as an operating principal of the entity is to ensure that the Board is adequately competent both as a Treaty partner, and with expertise in accessing mātauranga Māori, tikanga Māori and Te Ao Māori knowledge to inform the water entities activities.</p>

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Design Feature	Option 1	Option 2	Option 3	Option 4	Comments
<p>ESTABLISHING MANA WHENUA INTERESTS <i>How would a multi-regional entity identify which mana-whenua have interest within their boundary?</i></p>	<p>MANA WHENUA - SELF DECIPHERED Mana-whenua groups are identified consistent with current RMA processes via mechanisms like Te Kahui Wai Māngai.</p>	<p>MANA WHENUA – WITH SUPPORT FOR A KAUPAPA MĀORI APPROACH Mana whenua groups are identified through kaupapa Māori process once entities are established</p>	<p>POST SETTLEMENT GOVERNANCE ENTITIES Mana whenua Interests are represented by post-settlement iwi authorities or through entities who are mandated for Treaty settlement purposes</p>	<p>TRANSITION: PSGES UNTIL A KAUPAPA MĀORI PROCESS CONFIRMS INTEREST A combined option whereby PSGEs and mandated entities through the Treaty settlement process operate as a mana-whenua forum for a transitional period until a kaupapa Maori process for mana-whenua can occur</p>	<p>The proposed water services entities will need to be significantly larger scale than current service delivery arrangements to provide scale benefits in service provision and infrastructure investment. Within the boundaries of each of these entities there will therefore be multiple rohe/takiwā.</p> <p>Consistent with the conclusions of the Randerson Review, engagement with iwi/Māori has highlighted that kaitiakitanga as it relates to the provision of water services often operates at a hapū or whānau level. It is also important to ensure that the proposed entities are not in a position of determining who represents mana-whenua Interests. Officials from Ministry for the Environment are actively considering options to improve RMA tools related to mana whenua involvement into a single integrated partnership process. The proposed entities will operate within the environmental regulatory system, however it will also be important that they have a direct relationship with mana whenua given the significance of water from a Te Ao Māori perspective.</p>
<p>KAITIAKITANGA MECHANISM <i>How will hapū/whānau level be able to influence the water services entities outcomes?</i></p>	<p>EXISTING MECHANISMS Rely on existing mechanisms such as input into spatial plans and mechanisms the Resource Management Act (and its replacement) to adequately address environmental effects</p>	<p>NEW STATUTORY REQUIRED PLANS Require water services entities to prepare statutory plans that addressed Te Mana o Te Wai.</p>	<p>TE MANA O TE WAI STATEMENTS AND RESPONSE Enable mana whenua to provide a statement of mana whenua (with flexibility to determine form) and require water entities to reasonably respond to that statement</p>		<p>Consistent with feedback, Te Mana o Te Wai is richly experienced in place and kaitiakitanga is more likely to be exercised at a hapū/whānau level. The ability to connect governance with delivery on the ground will require the proposed water services entities to make a difference in place at a hapū/whānau level. This will primarily be achieved through the preparation of asset management plans and investment decision making tools.</p> <p>Rather than statutorily prescribe the requirements of the plan, our preference to enable mana-whenua to prioritise their capacity and capability to this kaupapa through a flexible mechanism where the onus of a reasonable response shifts to the entity.</p>

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Design Feature	Option 1	Option 2	Option 3	Option 4	Comments
COMMUNITY AND CONSUMER INPUT <i>How will Māori input as consumers?</i>	MĀORI AS CONSUMERS Māori consumers have access to the same consumer advocacy and inputs as other consumers	REPRESENTATIVE CONSUMER INTERESTS The needs of Māori are particularly highlighted in the design of consumer advocacy instruments to recognise, and not perpetuate, historic inequities			Iwi/Māori have interests as consumers and community members within the water service system. There is evidence of historical inequities in investment for remote and rural communities. Māori are also more likely to be over-represented in vulnerable community groups. For that reason, the consumer interests of Māori are likely to require specific attention across the regulatory system.

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Hon Nanaia Mahuta, Minister of Local Government

Proactive release of Cabinet material related to progressing the three waters service delivery reforms, 14 June 2021

These documents have been proactively released:

14 June 2021, CAB-21-MIN-0228 Minute: Protecting and Promoting Iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model: Paper Three, Cabinet Office; and

14 June 2021, Cabinet Paper: Protecting and Promoting Iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model: Paper Three, Office of the Minister Local Government.

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Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Protecting and Promoting iwi/Māori Rights and Interests in the New Three Waters Service Delivery Model: Paper Three

Portfolio Local Government

On 14 June 2021, Cabinet:

Context

- 1 **noted** that the government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a manner that is efficient and affordable for New Zealanders, and which protects and promotes the rights and interests of iwi/Māori in the proposed new three waters service delivery system;
- 2 **noted** that the paper under CAB-21-SUB-0228 is the third in a suite of papers seeking decisions on a comprehensive, integrated package of proposals to transform the three waters service delivery system, which is intended to be considered together with two other papers:
 - 2.1 A New System for Three Waters Service Delivery (Paper 1); [CAB-21-SUB-226]
 - 2.2 Designing the New Three Waters Service Delivery Entities (Paper 2); [CAB-21-SUB-227]
- 3 **noted** that Paper 3 focuses on how iwi/Māori rights and interests feature in the proposed reforms, including by:
 - 3.1 considering and addressing the requirements of the Cabinet Office Circular, *Te Tiriti o Waitangi / Treaty of Waitangi Guidance* [CO (19) 5];
 - 3.2 explaining how iwi/Māori rights and interests have been considered in the development of the overall reform package; and
 - 3.3 proposing specific mechanisms for addressing iwi/Māori rights and interests in the new service delivery model, as set out in Paper 1 and Paper 2;
- 4 **noted** that there has been, and will continue to be, extensive engagement with iwi/Māori in relation to the three waters reforms, the feedback from which has informed the proposals in the paper under CAB-21-SUB-0228;
- 5 **noted** that the proposals have also been guided by a set of 'Crown/Māori relationship objectives', which include a focus on:
 - 5.1 enabling greater strategic influence;

- 5.2 integration within a wider system;
- 5.3 reflecting of a Te Ao Māori perspective;
- 5.4 supporting clear accountabilities;
- 5.5 improving outcomes at a local level;

Mechanisms for addressing iwi/Māori rights and interests within the new three waters service delivery model

- 6 **noted** that a consistent guiding principle throughout the three waters regulatory and service delivery reforms has been ensuring the Treaty of Waitangi and Te Mana o te Wai are referenced appropriately within the legislative framework;
- 7 **agreed** to provide for the following references in the legislation that establishes the proposed new three waters service delivery system:
 - 7.1 a reference to the principles of the Treaty of Waitangi, where the water service entities maintain systems and processes to ensure that, for the purposes of carrying out its functions, they have the capability and capacity to:
 - 7.1.1 give effect to the principles of the Treaty of Waitangi/Te Tiriti o Waitangi;
 - 7.1.2 engage with Māori and to understand perspectives of Māori;
 - 7.2 a reference to Te Mana o te Wai, which can be exercised at an iwi/hapū and whanau level, primarily through the Te Mana o te Wai statement referred to in paragraph 16 below;
- 8 **noted** that Te Arawhiti's view is that the proposed approach is consistent with the broader policy work on Treaty references in legislation currently underway;
- 9 **noted** that Paper 2 provides for local government interests in the new water services entities to be expressed through a Regional Representative Group, which would influence the strategic framework in which the entities will operate;
- 10 **agreed** to provide for a similar approach for iwi/Māori, through the creation of a 'mana whenua representative group', which would have the same rights and mechanisms as territorial authorities to influence the boards of the new water services entities;
- 11 **noted** that iwi/Māori should be able to decide the most effective representative interest for mana whenua on the mana whenua group, and that this is best provided for, and guided by, a kaupapa Māori process;
- 12 **noted** that 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 set out in Paper 2;
- 13 **invited** the Minister of Local Government to report back in July 2021 with further information on the approach to supporting a kaupapa Māori process for the mana whenua group, including the role of independent chairs;

- 14 **noted** that Paper 1 proposes a statutory objective for the water services entities relating to ‘giving effect to Te Mana o te Wai’, and that a key way for the entities to do this is to ensure the boards have appropriate competencies;
- 15 **agreed** that the board of each water services entity be required to have:
- 15.1 general collective competence in understanding the principles of the Treaty of Waitangi and mātauranga Māori, tikanga Māori, and te ao Māori; and
- 15.2 members with specific expertise in supporting and enabling the exercise of mātauranga Māori, tikanga Māori, kaitiakitanga, and te ao Māori with the respect to the delivery of water services;
- 16 **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;
- 17 **agreed** to a mechanism that enables the expression of kaitiakitanga, through the preparation of ‘Te Mana o te Wai statements’ by mana whenua;
- 18 **agreed** that Te Mana o te Wai statements would be provided to relevant water services entity, and that relevant entity would be required to prepare and publish a formal reasonable response to the statements within a prescribed timeframe;
- 19 **agreed** that the Te Mana o te Wai statements would be an enabling mechanism, which provide iwi/hapū/whānau with the ability to communicate their expression of Te Mana o te Wai, including through other documents, which may include (but is not limited to) Iwi Management Plans, Cultural Impact Statements, and/or Statements of Mana Whenua;
- 20 **agreed** that the relevant water services entity fund and support capability and capacity of mana whenua within their boundary to participate in relation to three waters service delivery;

Implementation

- 21 **noted** that Cabinet has previously agreed to a high-level principle of partnership with iwi/Māori, which will be followed throughout the reform programme, and reflected in the new service delivery system [CAB-20-MIN-0521.01];
- 22 **agreed** that officials continue a high-level principle of partnership with iwi/Māori on the transition and implementation of water services entity;
- 23 **noted** that decisions sought through Paper 1 are to approve the Ngāi Tahu takiwā as the boundary for the South Island water services entity;
- 24 **agreed** that officials work with Ngāi Tahu on features of a South Island water services entity whose boundaries will align with the takiwā, including during the legislative drafting process referred to below;

Legislative implications

- 25 **agreed** that decisions in the paper under CAB-21-SUB-0228 be implemented through the Water Services Entities Bill, which has a category 4 priority on the 2021 Legislation Programme (to be referred to select committee in 2021), specifically the proposals relating to:
- 25.1 references to the Treaty of Waitangi and Te Mana o te Wai;
 - 25.2 the creation of a mana whenua representative group, at the strategic influence and oversight level of the new water services entities;
 - 25.3 the Te Mana o te Wai statements;
- 26 **invited** the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 27 **agreed** that Parliamentary Council Office be instructed to provide particular assurance on the appropriate treatment of the statutory references and definitions related to mana whenua contained within the proposed legislation;
- 28 **noted** that the Minister for Māori Crown Relations: Te Arawhiti, the Attorney-General and the Minister of Local Government will consider further the wording of the statutory references to the Treaty of Waitangi (paragraph 7.1.1 above) during the course of drafting the Bill and will report back to Cabinet if necessary;
- 29 **authorised** the Minister of Local Government to approve all other minor policy and technical matters that may arise during the course of drafting;
- 30 **agreed** that technical experts and iwi/Māori representatives can be consulted, if needed, during the drafting process.

Michael Webster
Secretary of the Cabinet

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Office of the Minister of Local Government

Chair

Cabinet Government Administration and Expenditure Review Committee

Protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model

Proposal

1. This is the third of a suite of papers seeking decisions on a package of proposals to transform the three waters service delivery system.
2. This paper summarises iwi/Māori rights and interests in the three waters service delivery reforms, and proposes a number of specific mechanisms for protecting and promoting rights and interests in the new service delivery model. Key proposals relate to:
 - 2.1 statutory recognition of the Treaty of Waitangi and Te Mana o te Wai in legislation;
 - 2.2 a mana whenua representative group at the oversight and strategic influence level of the new water services entities, which has equal rights to territorial authorities, and a kaupapa Māori selection method for this group;
 - 2.3 Te Mana o te Wai statements, which would be issued to the entity by mana whenua, and to which the entity board would be required to respond;
 - 2.4 requirements that the board of each entity, collectively, has competence relating to the Treaty of Waitangi, mātauranga Māori, tikanga Māori, and Te Ao Māori;
 - 2.5 requirements that the board of each entity includes members with specific expertise in supporting and enabling the exercise of kaitiakitanga, mātauranga and tikanga Māori with respect to the delivery of water services;
 - 2.6 requirements that the entities fund and support capability and capacity of mana whenua to participate in relation to three waters service delivery.
3. This paper is intended to be considered with two other papers, which set the scene for the reforms and seek decisions on core components of the new service delivery model:
 - 3.1 Paper 1: *A new system for three waters service delivery.*
 - 3.2 Paper 2: *Designing the new three waters service delivery entities.*
4. A fourth paper, setting out proposed arrangements for transitioning to and implementing the new system, will follow shortly afterwards, in July 2021. Together, these papers present the initial package of reform proposals. If agreed, most of these proposals will be included in a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).

Relation to government priorities

5. This Government has ambitions to significantly improve the safety, quality, natural hazards and climate resilience, accessibility, and performance of three waters services, in a manner that is efficient and affordable for New Zealanders.
6. In April 2019, it was agreed that the Three Waters Review is a Government priority. The 2020 Labour Party Manifesto committed to reform New Zealand's drinking water and wastewater system, and upgrade water infrastructure to create jobs across the country.

Executive summary

7. For the past three and a half years, we have been exploring the challenges and opportunities facing the three waters system. Through this work, we are seeking to address a complex set of systemic issues relating to the regulation, funding, financing, and provision of drinking water, wastewater, and stormwater services (the three waters). This is critical for public health and wellbeing, environmental outcomes, economic growth and job creation, housing and urban development, adapting to the impacts of climate change, emissions reduction, and building resilience to natural hazards.
8. An important part of this work has been to ensure recognition of the rights and interests of iwi/Māori in the three waters. Water can be a taonga of particular significance and importance to Māori, and the Crown has a duty to protect iwi/Māori rights and interests under the Treaty of Waitangi / Te Tiriti o Waitangi (the Treaty / Te Tiriti), and existing and subsequent Treaty settlements. The Crown has responsibilities under the principles of Te Tiriti to protect such a relationship and allow for an appropriate exercise of tino rangatiratanga alongside kāwanatanga. The Crown also has broad responsibilities to protect taonga, the exercise of tino rangatiratanga and kāwanatanga, and the principles of Te Tiriti.
9. This is the third of a suite of papers seeking substantive decisions on a package of proposals to transform the three waters service delivery system. The first paper, *A new system for three waters service delivery* (Paper 1), provides an overview of the overall reform package, and proposes to establish a new service delivery model, with four new water services entities. The second paper, *Designing the new three waters service delivery entities* (Paper 2), seeks agreement to detailed proposals relating to the core design features of the new entities, and explains the interactions between the new entities, consumers and communities, and iwi/Māori.
10. This paper focuses on how iwi/Māori rights and interests feature in the proposed reforms. It considers and addresses the requirements of the Cabinet Office Circular, *Te Tiriti o Waitangi / Treaty of Waitangi Guidance* (CO (19) 5), explains how iwi/Māori rights and interests have been considered in the development of the overall reform package, and seeks agreement to specific mechanisms for addressing rights and interests in the new service delivery model.

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11. **Part A of the paper identifies and seeks to understand iwi/Māori rights and interests in the three waters reforms.** It explains some of the considerations relating to Te Tiriti, and the approach that has been taken in the three waters reforms to date – including in relation to the creation of Taumata Arowai and the development of the Water Services Bill. It also outlines the engagement processes that have been undertaken with iwi/Māori, and the main points of feedback so far.
12. **Part B outlines how I have considered iwi/Māori rights and interests as they apply to the service delivery reform proposals,** with particular reference to the requirements of the Cabinet Office Circular, and Articles One, Two, and Three of Te Tiriti.
13. **Part C proposes a number of specific mechanisms for protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model.** Key proposals include:
 - 13.1 statutory recognition of the Treaty of Waitangi and Te Mana o te Wai in legislation;
 - 13.2 a mana whenua representative group at the strategic level of the new water services entities exercising greater tino rangatiratanga than the current system allows, which has equal rights to territorial authorities, and a kaupapa Māori selection method for this group;
 - 13.3 Te Mana o te Wai statements, which would be issued to the entity by mana whenua, and to which the entity board would be required to respond;
 - 13.4 requirements that the board of each entity, collectively, has competence relating to the Treaty of Waitangi, mātauranga Māori, tikanga Māori, and te ao Māori;
 - 13.5 requirements that the board of each entity includes members with specific expertise in supporting and enabling the exercise of mātauranga Māori and tikanga Māori and kaitiakitanga with respect to the delivery of water services;
 - 13.6 requirements that the entities fund and support capability and capacity of mana whenua to participate in relation to three waters service delivery.

Background and context

14. For the past three and a half years, we have been exploring the challenges and opportunities facing the three waters system. This work has resulted in a programme of reforms to the regulatory and service delivery arrangements relating to the three waters, including:
 - 14.1 decisions during 2019 to significantly strengthen the regulatory system, through the creation of Taumata Arowai, and the introduction of legislation to enhance the regulation of drinking water and performance of wastewater and stormwater networks;
 - 14.2 in principle decisions, during 2020, to reform current local government water service delivery arrangements into larger-scale entities – to realise significant economic, public health, environmental, and other benefits over the medium to long term.

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15. Paper 1 of my latest suite of papers provides additional background information, and summarises the case for change. Further details can also be found in the accompanying regulatory impact assessment.
16. The analysis and proposals in this paper sit within the overall reform package, as described in the preceding two papers, and need to be considered in this context.
17. Paper 1 summarises the case for change and overall reform package, and proposes:
 - 17.1 to establish a new service delivery model, with four new water services entities;
 - 17.2 the purpose, objectives, operating principles, and responsibilities of the new water services entities;
 - 17.3 to strengthen stewardship of the three waters service delivery system, including through a Government Policy Statement to provide strategic direction to the new water services entities.
18. Paper 2 provides detailed proposals relating to the core design features of the entities – including the proposed governance structure, and ownership, accountability, and financial arrangements. It also explains the interactions between the new entities, consumers and communities, and proposals for providing for the rights and interests of iwi/Māori within the entity design model – which are expanded on in this paper.
19. The reforms also need to be considered within a broader context. Māori express a relationship with water as kaitiaki. Māori do not distinguish their rights and interests in freshwater from the three waters; they are viewed as a connection to the water environs and its systems. This holistic approach highlights the important connection between my review of three waters service delivery arrangements and other work programmes underway across government, particularly those that relate to resource management and freshwater allocation.
20. A clear concern from iwi/Māori is that all proposals need to uphold, align and integrate with Te Tiriti and Te Mana o te Wai. In addition, iwi/Māori have roles within the current three waters service delivery system that will need to be acknowledged. They are suppliers and/or recipients of water services (particularly to rural marae, papakāinga, and rural communities), and are often members of communities that are underserved by the existing three waters service delivery system, and who receive poor quality or no three waters services.

Analysis

Part A: Identifying and understanding iwi/Māori rights and interests in the three waters reforms

General considerations relating to Te Tiriti o Waitangi

21. How the Crown engages with iwi/Māori on the three waters reforms, and how the interests of iwi/Māori are recognised through the reforms, is not only important to ensure effective public policy decision making, but also from a Māori/Crown relationship perspective. This also ensures the Crown meets its obligations under te Tiriti.

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22. Crown Law advice is that there are two significant Treaty principles applicable to the Three Waters Review: partnership and active protection. The principle of partnership requires the Treaty partners to act reasonably and with good faith to each other. The duty of good faith includes a requirement that the Crown take reasonable steps to make informed decisions on matters that affect Māori interests.
23. Failure to meet those obligations would undermine the Māori/Crown relationship and could create a litigation risk for the Crown. The risk is greater in the Waitangi Tribunal given its jurisdiction is broader than the Courts. The Waitangi Tribunal would likely deal with a claim about the three waters in its National Freshwater and Geothermal Resources Inquiry (Wai 2358).
24. A further consideration is that iwi/Māori rights and interests in anything water-related are broad and integral. Water holds an important place for Maori, and the holistic Māori world view resists separating out parts of water or the environment (or compartmentalising through portfolio-related reviews or work programmes). It is therefore beholden on the Crown to acknowledge this wider context, and understand how three waters reform and development of a new system of service delivery sits within this Te Ao Māori context.
25. This tension has been difficult to navigate. While I have examined iwi/Māori rights and interests within the narrower scope of three waters infrastructure provision and service delivery, I have also sought to ensure that the mechanisms for expressing rights and interests through the service delivery reform proposals do not pre-empt or limit what might be provided for through other water or resource management related reforms.
26. I envision that a more comprehensive recognition of iwi/Māori rights and interests will be done through resource management reform, and reforms related to the allocation of freshwater. Notwithstanding this complexity, I consider that my reforms of the three waters system provide the opportunity for a step change in the way iwi/Māori rights and interests are recognised throughout this system. This includes proposed new mechanisms to influence strategic decision making and investment prioritisation with regards to service delivery, and changes to the regulatory environment, as provided for by Taumata Arowai and the Water Services Bill.

How iwi/Māori rights and interests have been recognised in the three waters reform work to date

Early engagement on the three waters reforms

27. Engagement with iwi/Māori on the three waters service delivery reforms is a continuation and extension of a multi-year programme of engagement undertaken through the Three Waters Review, which included the establishment of Taumata Arowai and a suite of regulatory reforms. This multi-year engagement programme is summarised in Appendix A.
28. I have worked to ensure that the groups targeted for engagement included a range of perspectives, to help understand Māori interests in the three waters. Groups included Kāhui Wai Māori, the Māori freshwater forum, and a group of iwi representatives from key regions. Case studies of rural communities with a high Māori population that face three waters issues have also contributed to this understanding.

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29. Te Mana o te Wai has been an important vehicle for the Government to engage with Māori during the creation of Taumata Arowai and development of the Water Services Bill. Māori have consistently identified improving water quality and ecosystem health as a priority, and their feedback on the three waters regulatory reform proposals reflected these concerns. Key concerns included:
- 29.1 that the proposals need to uphold Te Mana o te Wai, and promote a holistic approach to water (including having one regulator for all three waters);
 - 29.2 that mātauranga Māori (Māori knowledge and expertise about water management) should be given equal weight to scientific knowledge (recognising that these are not mutually exclusive) throughout the system;
 - 29.3 to enable kaitiakitanga aspirations at a catchment-by-catchment level;
 - 29.4 protecting existing Treaty settlement arrangements.
30. These concerns were viewed alongside other impressions, including:
- 30.1 recognition of the case for change the decline of water quality and poor environmental outcomes;
 - 30.2 general openness to change from current service delivery arrangements (although differences of opinion in the nature of that change).
31. As the three waters service delivery reforms are part of broader reforms relating to the entire three waters system, it is important to understand how rights and interests have been recognised in other parts of the system. In the establishment of Taumata Arowai, iwi/Māori rights and interests have been recognised via:
- 31.1 a statutory objective to give effect to Te Mana o te Wai;
 - 31.2 statutory operating principles, which relate to partnering and engaging early and meaningfully with Māori, including to inform how Taumata Arowai can:
 - 31.2.1 give effect to Te Mana o te Wai; and
 - 31.2.2 understand, support, and enable the exercise of mātauranga Māori and tikanga Māori and kaitiakitanga;
 - 31.3 collective board knowledge and experience relating to the Treaty of Waitangi and its principles, and perspectives of Māori and tikanga Māori;
 - 31.4 collective duties on the board to maintain systems and processes to ensure Taumata Arowai has the capability and capacity to:
 - 31.4.1 uphold the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles;
 - 31.4.2 engage with Māori and to understand perspectives of Māori;
 - 31.5 a Māori Advisory Group.
32. The Māori Advisory Group is charged with advising Taumata Arowai and the board on Māori interests and knowledge as they relate to the objectives, functions, and principles of Taumata Arowai. This includes:
- 32.1 developing and maintaining a framework that provides advice and guidance on how to interpret and give effect to Te Mana o te Wai;
 - 32.2 providing advice on how to enable mātauranga Māori, tikanga Māori, and kaitiakitanga to be exercised.

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Hui-ā-motu September to October 2020

33. The approach to the recognition of rights and interests in the service delivery reforms followed a similar pathway to that of the earlier regulatory reforms, and involved iterative engagement with iwi/Māori.
34. In September and October 2020, officials from the Department of Internal Affairs and Taumata Arowai Establishment Unit held successive hui-ā-motu and virtual hui with iwi/Māori across the country, alongside informal, face-to-face meetings.
35. General feedback from these engagements was that, from a te Ao Māori perspective of water issues, the proposed reform of three waters service delivery arrangements is narrowly focused – given it is targeted to address immediate concerns about drinking water safety, and the performance of wastewater and stormwater systems.
36. Several other clear themes also emerged, under the following broad headings:
 - 36.1 Partnership – Iwi and Māori shared resounding support for a stronger partnership between tangata whenua and the Crown, with the need to have the Treaty of Waitangi embedded more explicitly throughout the reform process and beyond.
 - 36.2 Participation – Iwi and Māori shared concerns regarding their ability to participate and engage in this kaupapa. Currently, there is insufficient capacity and capability for many iwi, hapū and Māori to engage. Support needs to be given to develop Māori capacity and capability to participate.
 - 36.3 Protection – Iwi and Māori called for protection of their rights, roles and responsibilities as tangata whenua particularly for protection around their cultural assets. Iwi and Māori also want to see protections against privatisation of water services.
 - 36.4 Recognition of cultural values – Iwi want to see their mātauranga-ā-iwi incorporated within the three waters reform process and Taumata Arowai's regulatory regime. In relation to entity design, iwi and Māori do not want to see catchments broken and have a strong preference for the entity boundaries to adhere to the 'ki uta ki tai' concept. Additionally, iwi, hapū and Māori do not want their whakapapa/iwi/hapū boundaries to be separated by the new entities.
 - 36.5 Use mana enhancing processes – Iwi see the reform as an opportunity to work together to design something that works better than the status quo for iwi, hapū, whānau and small rural communities.
37. Iwi/Māori also told officials they wanted to be involved at all levels of the reform programme and with the new water services entities, once established. In particular, they wanted to be involved in the 'nitty gritty' aspects where they can provide the greatest change on issues that relate to their communities – such as decisions relating to the operate of a wastewater treatment plant.
38. During this engagement, officials focused on equitable outcomes in the proposed new water services entities as a mechanism for recognising rights and interests. Ensuring that policy options for the new entities provide for equitable services to iwi/hapū/Māori is paramount.

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Further engagement – including March 2021 workshops

39. Through the early engagement on the service delivery reforms in mid-2020, iwi representatives were invited to targeted stakeholder workshops, which included break-out sessions to discuss iwi/Māori perspectives on the reforms. These discussions were informative and insightful, but attendance of iwi representatives was low – half (or fewer, in some places) of those invited have attended. For this reason, additional, dedicated resources were brought in to the reform programme, and a range of engagement techniques have been used – including formal meetings and informal conversations.
40. To support and guide this work, officials have created a Te Ao Māori Technical Working Group (Technical Working Group), comprising of members from across a wide-range of technical, industry, governance and iwi/Māori work experience and backgrounds. These experts have been engaged for their technical knowledge and do not participate as decision-makers for their respective iwi.
41. As the service delivery reform proposals started to take shape, I sought a further round of engagement in partnership with iwi/Māori. Alongside the Joint Central/Local Government Three Waters Reform Steering Committee, officials undertook a series of workshops with local government and iwi/Māori throughout March 2021.
42. These workshops were an opportunity to discuss and test initial thinking about possible mechanisms for recognising iwi/Māori rights and interests in the service delivery reforms. The options discussed included mechanisms relating to:
 - 42.1 Statutory recognition of both the Treaty of Waitangi and Te Mana o te Wai in legislation.
 - 42.2 Recognition that water services sit with a wider Te Ao Māori framework, including support for capacity and capability, and application of mātauranga Māori.
 - 42.3 Creation of new mechanisms to enable iwi/Māori to directly influence outcomes for Māori. This includes proposals around water service entity oversight, governance, board competencies, and a direct mechanism for mana whenua in the form of Te Mana o Te Wai statements and protections for Māori consumers.
 - 42.4 Opportunities to improve wider outcomes for Māori, including recognition of the need for improved service for marae and papakāinga, and opportunities for partnership in delivery of services.
43. Feedback from the workshops confirmed the themes from earlier engagement, but with a greater degree of specificity. Key themes included:
 - 43.1 Resourcing, capacity and capability – The reform offers a step change in the relationship between iwi/Māori and the three waters service delivery system. As a result, iwi/Māori have expressed concerns about their capacity and capability to prioritise and contribute to these reforms and the new system once it is in operation.

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- 43.2 Inclusion of mātauranga – Mātauranga Māori will play an important role in the future success of the broader system. This is already evidenced in our approach to improving fresh water outcomes. Iwi/Māori have raised the importance of providing for mātauranga Māori knowledge, cultural indicator frameworks and appropriate measurement approaches to sit alongside proposed new performance measurement approaches.
 - 43.3 Protection of existing arrangements – Iwi/Māori have noted that Mana Whakahono-ā-Rohe agreements should transfer to the new service delivery system and that existing settlements are protected and provided.
 - 43.4 Mana whenua representation – the opportunity to increase oversight and strategic influence for iwi/Māori gives rise to issues of representation, including through the transition. This is particularly important given that iwi/Māori experience of water service delivery is likely to be at a whānau/hapū level. Achieving this within larger water entities will be critical.
 - 43.5 Rohe/takiwā boundaries – the importance of taking a ki-uta-ki-tai, source to sea, approach to the determination of entity boundaries, linking rohe/takiwā by whakapapa where possible.
 - 43.6 Te Mana o te Wai – enabling the individual expression of Te Mana o te Wai to sit within a broader national framework.
 - 43.7 Entity ownership – dissatisfaction with the current ownership arrangements and the degree to which reform perpetuates local government ownership of the entity. This reflects a common iwi/Māori perspective on the primacy of the Treaty partnership being directly with the Crown.
 - 43.8 Prioritisation – concerns around the prioritisation of investment works and how community needs will be addressed.
 - 43.9 Economic opportunity – recognition that significant investment requirements will be rich with economic opportunity, both in terms of direct investment, and Māori enterprise being involved more directly in water service delivery.
44. Across the workshops the reforms were seen by Māori participants as an opportunity for stronger mana whenua voice in the provision of water services. It was also seen as an avenue for establishing a system that embodies a true partnership with mana whenua and meets local expectations for upholding Te Mana o Te Wai. Officials were cautioned to be mindful of the additional complexities facing Māori attendees through these reforms.
 45. Māori attendees noted that they see no role for themselves in this reform, particularly with the lack of inclusion of mātauranga Māori. By excluding their mātauranga, Māori attendees felt that it had not been considered in the proposed entities.
 46. However, there were mixed directives from Māori attendees around the inclusion of their mātauranga within the reforms and how prescriptive the language should be in this regard. Many Māori attendees wanted assurance within the legislation that the proposed entities will uphold true partnership with them and demonstrate an understanding of Te Ao Māori. In contrast, many Māori attendees did not want their terminologies and concepts defined in legislation as it is their mātauranga to define for themselves. Others commented that Crown application of mātauranga is completely inappropriate.

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47. A common concern expressed by iwi and hapū throughout the workshops was the intergenerational effects of the reforms. Many iwi and hapū do not currently receive council water services and manage their own private systems. There was a desire from some iwi and hapū to maintain the status quo in this regard because they do not want to leave their mokopuna with the bill.
48. In relation to this, Māori attendees urged officials to make resourcing available to better enable their participation throughout the reform. It was highlighted that iwi, hapū and Māori will be further disadvantaged in the delivery of water services if they do not receive support to build their own capacity and capability before the proposed date entities would 'go live' of July 2024.
49. Iwi/hapū attendees expressed that there is a potential risk to the reform, and the Māori/Crown relationship, in the alignment between government agencies regarding the delivery of water services and issues around water allocation. In Te Ao Māori, wai is wai, so to separate water allocation and ownership from the water reform discussion raised suspicions of Māori attendees in the intentions of each reform.
50. This suspicion led to assumptions that the Crown is attempting to take ownership of water by stealth. Māori attendees suggested that if the three waters reform is to succeed, there needs to be greater alignment between the Department of Internal Affairs (Department) and Ministry for the Environment (MfE). Representatives from the Department acknowledged the context behind these statements and informed Māori attendees that public ownership of three waters entities is a bottom line of the reforms and discussions around water allocation remain with MfE.
51. Many Māori attendees expressed that having their people involved across all levels of the proposed entities is critical for the success of the reforms. While welcoming the proposal for the entities, once established, to resource Māori, attendees also stressed the need for resourcing to build their capability and capacity now to better engage with the entities. Across the workshop discussions, Māori attendees questioned how their existing arrangements, such as their Mana Whakahono-ā-Rohe, would be considered by the new water entities. Iwi and hapū wanted to ensure these will be considered and want to know what a transfer, if any, would look like.
52. Additionally, mechanisms to enhance iwi, hapū and Māori participation and mana in the proposed entities will not take anything away from existing arrangement between iwi, hapū and Māori and their local authorities. The inclusion of these mechanisms throughout the reforms seeks to provide iwi, hapū and Māori communities with additional opportunities to those currently in place.
53. Across the workshop discussions, Māori attendees raised questions around the role of local government in the new water entities. There was a strong expression many did not want to see local government owning them in the future, raising concerns around the current management of water services by councils.
54. Regarding the oversight and governance of the proposed entities, iwi and hapū strongly expressed a desire for a 50/50 split as it is seen to reflect a true Treaty partnership. This point was also raised in the hui-ā-motu in September and October 2020.

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55. My officials are continuing to engage with iwi/Māori on the issues raised above. This will continue over the course of the reform period and well into the transition. I view this as a positive sign, as iwi/Māori groups specifically request officials return for further engagement. Recent examples of this include hui with Ngāi Tahu, and hui in the Taranaki region and with Waikato River iwi. Treating these discussions as an ongoing partnership approach, rather than discrete engagement, is consistent with the shift I would like to see continue through to the transition approach, and to help shape the future culture of service delivery in terms of a Treaty partnership approach.

Part B: Consideration of Treaty rights and interests as they apply to the proposed reforms

Objectives for the Crown/Māori relationship within the three waters service delivery reforms

56. The Government's ambition for progressing service delivery reform sits within a broader Treaty partnership context. In formulating my proposals to respond to the issues, rights and interests raised by iwi/Māori, I have closely examined the guidance agreed as part of a broader framework for improving Crown/Māori relationships [CO (19) 5 refers]. In addition, the process by which I have arrived at these conclusions has been well-informed by the views of iwi/Māori as characterised above, and consistent with the principles of Te Tiriti.
57. Within our three waters service delivery reform objectives, I have also developed a set of 'Crown/Māori relationship objectives' to guide the consideration of issues relating to iwi/Māori rights and interests, and the development of mechanisms to address them that are set out later in this paper. These objectives were informed by engagement with iwi/Māori and a consideration of the reform outcomes. The objectives represent a step change in the relationship iwi/Māori would have with three waters service provision in the future and include:
- 57.1 Enabling greater strategic influence: Enable iwi/Māori to have greater strategic influence to exercise their rangatiratanga over water services delivery, including through enhanced capacity and capability.
 - 57.2 Integration within a wider system: Ensure that the rights and interests of iwi/Māori are analysed within a wider system, including issues related to allocation and the future of the Resource Management Act 1991, but specifically focussing on issues that relate to the establishment of water services entities and delivery of water services.
 - 57.3 Reflection of a Te Ao Māori perspective: Recognise the holistic manner (environmental, cultural, spiritual, economic) in which water is viewed using te ao Māori perspectives and Te Mana o te Wai including ki uta ki tai or a catchment-based approach, consistent with rohe/takiwā or whakapapa links.
 - 57.4 Supporting clear accountabilities: Ensure roles, responsibilities, and accountability for the relationship with the Treaty partner is clear throughout the wider system, and that capacity and capability is available to honour the Crown's Treaty obligations.

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- 57.5 Improving outcomes at a local level: Provide a step change improvement in delivery of water services for iwi/Māori at a local level, including through enhanced capacity and capability and improved wellbeing.

Article one – A right to govern

58. As indicated in Paper 1, this Government has a desire to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a way that is efficient and affordable for all New Zealanders. This is critical for:
- 58.1 public health and wellbeing;
 - 58.2 environmental outcomes;
 - 58.3 economic growth and job creation;
 - 58.4 housing and support for population growth;
 - 58.5 adapting to the impacts of climate change and reducing greenhouse gas emissions;
 - 58.6 mitigating the effects of natural hazards.
59. The reforms I am proposing to achieve these improved outcomes are based around several core components, and informed by a strong case for change. These components are outlined earlier in this paper and explained in further detail in Papers 1 and 2. It is important to note that my proposals form an integrated package, and will need to be implemented together in order to achieve the maximum impact and desired outcomes.
60. The intent is that all communities and New Zealanders will benefit from the reforms in the long term. However, in the short-to-medium term, the reforms may affect communities differently, including iwi/Māori.
61. The initial focus of the reforms is on three waters services that are currently owned and operated by, or on behalf of, local authorities – and the proposed new water services entities would become responsible for these services and infrastructure. This means households and communities that receive local government water services will be affected by the reforms as soon as they are implemented (anticipated to be 1 July 2024).
62. Communities that do not receive local government water services may not see immediate benefits from the new system. This is likely to include and affect many iwi/Māori, who have historically been members of communities that are underserved by, or receive no water services from, local government.
63. As I explain in Paper 1, we need to consider communities served by private and community supplies, and marae and papakāinga, as part of the reform proposals, and during the transition and implementation phases. This includes considering the potential roles that the new entities might play in building the capacity of these supplies to achieve compliance with regulatory requirements, and the potential to transfer responsibility for these supplies to the new entities.

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64. I am proposing that obligations in the Water Services Bill, which currently apply to territorial authorities, would apply to the new water services entities. These obligations include a duty to ensure communities have access to drinking water if existing, non-council suppliers face significant problems with their services; and a requirement to undertake a 'proactive' assessment of the drinking water services available to communities in each district, at least once every three years.
65. Over time, I would expect the new service delivery system to offer significant benefits for iwi/Māori, particularly to those people living in underserved communities, when compared with status quo arrangements. This will be achieved through the increased capacity and capability of water services entities, and the duties and obligations they will have to ensure safe drinking water, protect the environment, respond to climate risks, and support private and community supplies.
66. A key part of developing the new service delivery system is ensuring that it does not prejudice settlement legislation that has been developed. Obligations in relation to settlement legislation that exist in relation to three waters services that are currently held by local authorities will be transferred to the water services entities. A similar approach would be taken in regard to the consent conditions placed on local authorities as they relate to three waters service delivery.
67. Through the course of engagement, I have heard arguments that these proposals should not progress until the question of ownership of water has been resolved, and that decisions relating to the role of iwi/Māori in the management of freshwater need to be clarified before developing a new system for three water service delivery. I have also heard iwi/Māori frustration and dissatisfaction with the Treaty partnership approach, and cultural responsiveness from territorial authority water service delivery arrangements, and the impact that has on water quality, service quality and environmental outcomes.
68. I have taken the stance that the new arrangements for three waters service delivery, and the new water services entities, will need to operate irrespective of the ownership of water and the resource management system. The proposals outlined in my accompanying papers discuss the interaction with the broader regulatory system. I do not anticipate that possible changes to the resource management system will materially alter the ability of the new three waters system and entities to operate. Any changes are likely to complement and bring further clarity to the operation of the three waters service delivery system.

Article two – consideration of tino rangatiratanga

69. The proposals I am putting forward provide for increased ability for iwi/Māori to exercise rangatiratanga in relation to the regulation, funding, financing, and provision of three waters services. In the current system, iwi/Māori do not have a clearly defined or consistent role, either as a decision maker or by providing direction on the provision of three waters services. It is important to distinguish this te ao Māori expression from that of Katiakitanga.
70. I have considered several mechanisms to provide for rangatiratanga in the new system for three waters services delivery. These are discussed further in Part C below, and include a mana whenua representative group to have joint oversight and strategic influence the water services entities, with equal rights to territorial authorities, and with the ability to issue 'Te Mana o te Wai statements' to the entities.

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71. The objectives for the Crown/Māori relationship within the three waters service delivery reforms, described above, has guided the development and analysis of these mechanisms. Recent engagement with iwi/Māori has also informed refinement of their design.

Article three – the rights of Māori as citizens

72. Finally, the rights and interests of Māori as consumers of water services need to be considered, predominantly under Article Three of the Treaty. There are good reasons for general mechanisms of consumer protection and advocacy to specifically address the interests of Māori, particularly as they relate to historic inequity and the specific interests of Māori who are not mana-whenua within the boundary of a specific entity, including urban Māori.
73. Key issues that have been examined in the context of our Treaty partnership approach include:
- 73.1 the need to consider whether the specific interests of Māori as consumers need to be provided for in the design of consumer protection mechanisms;
 - 73.2 that Māori have the ability to access the economic benefit that will arise from the significant investment activity and jobs growth, including by the need to consider the opportunity for Māori in any workforce transition plan.
74. Appendix B provides a summary of the analysis of iwi/Māori rights and interests relating to Article Two and Article Three of Te Tiriti.

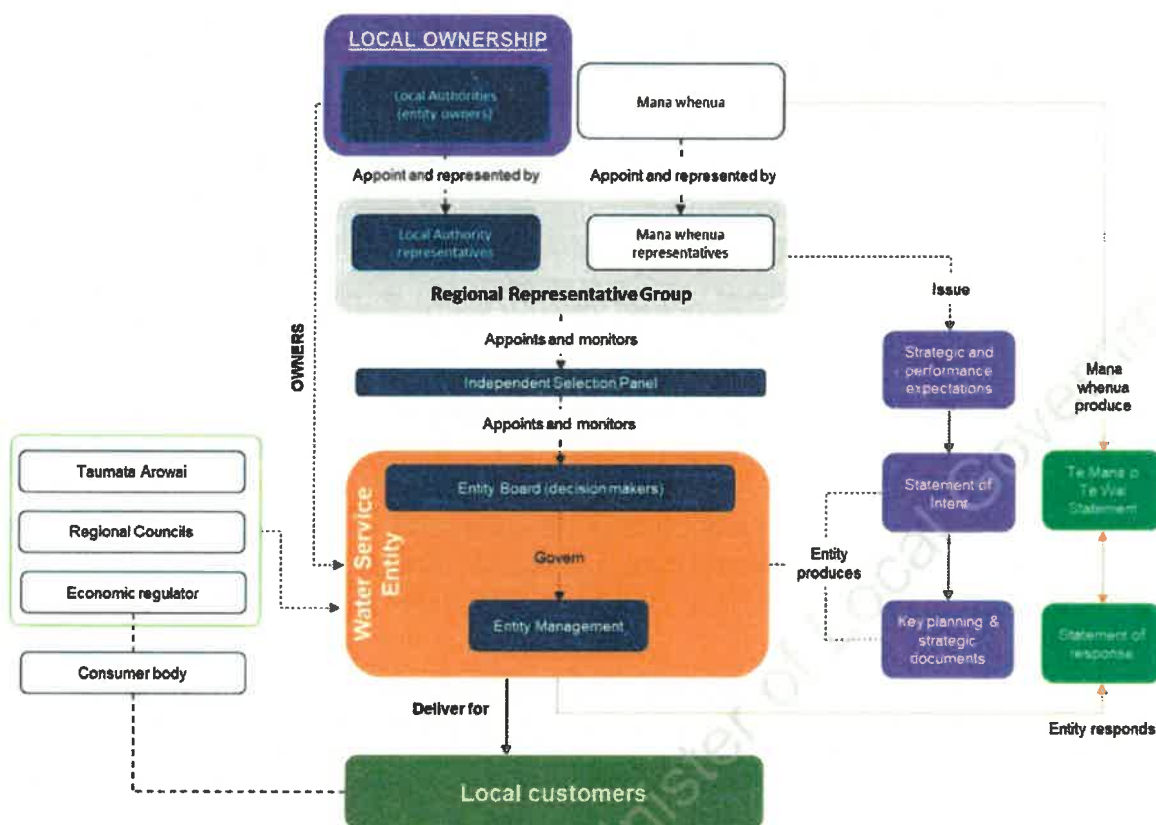
Part C: Mechanisms for addressing iwi/Māori rights and interests

75. My proposed reforms, and the introduction of new legislative, governance and management arrangements to deliver water services, provide an opportunity to include mechanisms for the recognition of iwi/Māori rights and interests in the new three waters system.
76. The mechanisms I am proposing are set out below. These mechanisms have been designed to achieve the Crown/Māori relationship objectives I described earlier, and the broader three waters reform objectives and outcomes. Significantly, the mechanisms also fit with the other key design features and components of the new service delivery entities. The options analysis that led to the identification of these mechanisms is provided in Appendix C.
77. The proposed mechanisms relate mainly to the design of the new entities – as described in detail in Paper 2 – and to the role of iwi/Māori in influencing the direction of these entities. As indicated in the diagram (Figure 1) and sections below, key mechanisms within the structure of the new water services entities include:
- 77.1 a mana whenua group at the joint oversight and strategic influence, with equal rights to territorial local authorities (with a kaupapa Māori selection method for this group with transitional provisions to enable this to occur);
 - 77.2 requirements that the board of the entity, collectively, has competencies relating to the Treaty of Waitangi, mātauranga Māori, tikanga Māori and Te Ao Māori;

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- 77.3 requirements that the board of the entity has specific expertise in supporting and enabling the exercise of mātauranga Māori and tikanga Māori and kaitiakitanga with respect to the delivery of water services (recognising that given the size of the proposed entity boundaries, these competencies will be universally the same, and this will have to be taken into account on an entity by entity basis);
- 77.4 Te Mana o te Wai statements, which would be issued to the entity by the mana whenua group, and would require a statement of response from the entity board (noting officials will work with Parliamentary Council Office to ensure there is clarity around the membership of the group);
- 77.5 requiring the water services entities to fund and support capability and capacity of mana whenua to participate in relation to three waters service delivery.
78. There is also a need to align with the broader regulatory framework within which the new water services entities will operate. This includes statutory recognition of both the Treaty of Waitangi and Te Mana o te Wai in legislation.
79. Te Arawhiti have been consulted on the proposed mechanisms and it is their view that the proposed approach is consistent with the broader policy work on Treaty references in legislation.
80. Finally, I note that there are also relevant proposals in Paper 1, which are part of the overall reform package. For example:
- 80.1 one of the proposed statutory objectives of the water services entities would relate to “giving effect to Te Mana o te Wai (to the extent Te Mana o te Wai applies to the duties and functions of the entities)”;
- 80.2 the proposed operating principles for the entities include “partnering and engaging early and meaningfully with Māori”; and “understanding, supporting and enabling mātauranga Māori and tikanga Māori and kaitiakitanga to be exercised – both within the entities and when engaging with iwi/Māori”.

Figure 1: Proposed water services entity structure



The broader statutory framework

81. The regulatory system within which three waters services are provided is in varying stages of reform. A consistent guiding principle we have brought to our work together is that Government will want to ensure Te Tiriti and Te Mana o te Wai are appropriately referenced within the broader legislative framework. This is reflected in the establishment of Taumata Arowai and the Water Services Bill.
82. For the proposed water services entity legislation, I am seeking agreement to provide for two distinct Treaty references:
 - 82.1 A statutory reference to the principles of the Treaty of Waitangi, which should focus on the conduct of the entities and other system participants, including their capacity to be a good Treaty partner. I propose that this approach be broadly consistent with the approach we have taken with the Kāinga Ora – Homes and Communities Act 2019 and the Taumata Arowai – the Water Services Regulator Act 2020.
 - 82.2 A statutory reference to Te Mana o te Wai that should be sufficiently and practically applied to ensure mana is able to be exercised at an iwi/hapū and even whānau level, primarily through the creation of the mechanism outlined below – the ‘Te Mana o te Wai statement’. This will provide alignment and continuity with the broader regulatory system.

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83. This second statutory reference needs to sit within a moving system, which recognises that giving effect to Te Mana o te Wai is a requirement in the Water Services Bill and the National Policy Statement for Freshwater Management. This will likely be reinforced through Te Mana o Te Taiao statutory obligations under the proposed reform to the Resource Management Act 1991. It will be important to ensure that the hierarchy of statutory obligations to Te Mana o te Wai does not provide confused accountabilities in an already complex system. My officials will work closely with officials from the Ministry for the Environment, Te Arawhiti and Parliamentary Counsel Office to ensure this is addressed. If any conflict is envisaged, I proposed the Minister for the Environment, Minister for Māori Crown Relations and myself be delegated the ability to resolve any outstanding policy issues.
84. Furthermore, we need to ensure that the entities themselves are able to prioritise and invest at a scale and pace we have not seen in this sector to date. Officials engaged in issues related to statutory reference, and iwi/Māori, recognise the importance of this recognition. On balance, I propose that the water services entities be required to give effect to Te Mana o te Wai in statute, in a manner that will also satisfy obligations that will be required under the Taumata Arowai – the Water Services Regulator Act 2020, through:
- 84.1 involving mana whenua including through support (funding, capacity, time) for the establishment of a mana whenua group within their entity boundary;
 - 84.2 ensuring board competencies reflect general competence in the principles of the Treaty of Waitangi and specific expertise in supporting and enabling the exercise of mātauranga Māori and tikanga Māori and kaitiakitanga with respect to the delivery of water services (this is a similar to the approach taken in the Taumata Arowai – the Water Services Regulator Act 2020 with respect to board competencies);
 - 84.3 maintaining systems, processes and support to enable the aspirations of mana whenua, including through receiving and providing a response to mana whenua Te Mana o te Wai statements. The first part of this approach borrows from the Kāinga Ora – Homes and Communities Act 2019. The second half reflects a new mechanism that is described below.

The opportunity for greater oversight and strategic influence – through a mana whenua representative group

85. The proposed water services entities will not have standard commercial ownership arrangements. For example, as set out in Paper 2, the entities would not have shares or shareholders, so shares will not be able to be traded and will therefore have no value. With a small number of entities across the country, multiple local authorities will have represented interests on a Regional Representative Group.
86. Cabinet has already made it clear it wants to put in place a range of statutory protections against privatisation. While many iwi/Māori do not consider iwi ownership as 'private ownership', I have not considered policy options that would enable transfer of ownership of the proposed water services entities to iwi. Rather the intention is that these entities be deemed to remain in local ownership, and iwi/Māori be provided with a role in strategic influence oversight of these arrangements.

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87. Iwi/Māori have raised a desire for the new water services entities to be co-governed. This has also been raised by some local government sector representatives.
88. In paper 2, I propose that local government interests will be expressed through a representative 'Regional Representative Group' that will have limited decision-making powers, with the majority of decision-making rights being exercised by an independently-appointed, competency-based, professional board. This structure is considered to better enable the structural separation required to create independent balance sheet capacity in the water services entities and is currently being tested through credit rating agency engagement. It is therefore not an orthodox governance arrangement.
89. I have considered the potential mechanisms for iwi/Māori to influence the strategic framework within which the water services entities operate. I am proposing the creation of a 'mana whenua representative group' (or similar name) for each entity. These groups would fulfil the roles outlined in Paper 2 around joint oversight and strategic influence oversight and limited governance functions and the Regional Representative Group – where I am proposing that local authorities and mana whenua will undertake these tasks on a joint basis.
90. I note that some iwi/Māori have raised the question of whether there is an opportunity to invest in water services entities. As a general proposition, the entities will have flexibility in relation to how and where they source debt finance.
91. Iwi/Māori are a potential source of finance. It is recognised that iwi/Māori bring a different perspective, including considerations of intergenerational benefits and outcomes that may be aligned to wider reform objectives. Separate to issues of ownership, there is no reason why iwi/Māori should not be a source of debt finance to the proposed entities or in relation to specific projects that the entities will deliver. Ultimately, this will be a decision for each entity's board.

Strategic influence, oversight and establishing representative rights

92. The proposed water services entities will be of a significantly larger scale than current service delivery arrangements, to provide scale benefits in service provision and infrastructure investment. Within the boundaries of each of these entities there will be multiple rohe/takiwā.
93. Consistent with the conclusions of the *New directions for resource management in New Zealand* (Randerson Review), engagement with iwi/Māori has highlighted the reality of kaitiakitanga, as it relates to the provision of water services, often operates at a hapū or whānau level. It is also important to ensure the proposed water services entities are not in a position to determine who represents mana whenua interests.
94. Officials from the Ministry for the Environment are actively considering options to improve resource management tools related to mana whenua involvement into a single, integrated, partnership process at a regional level. The Resource Management Review Panel recommended that the current Mana Whakahono ā Rohe provisions should be enhanced to provide for an integrated partnership process between mana whenua and local government to address resource management issues.

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95. If this recommendation is provided for in a new resource management system, it will assist in improving issues as they relate to the role of mana whenua. The proposed water services entities will operate within the environmental regulatory system; however, it will also be important they have a direct relationship with mana whenua given the significance of water from a Te Ao Māori perspective.
96. I see the need for iwi/Māori to be able to decide the most effective representative interest for mana whenua. This representative interest is best provided for and guided by a kaupapa Māori process that may, appropriately, take time.
97. I see two important considerations with respect to supporting an effective transition toward a greater role for iwi/Māori in three waters service provision:
- 97.1 ensuring iwi/Māori are well supported to contribute to the new roles created through the reform process, including through the proposed oversight and strategic influence representative role, and exercising kaitiakitanga under the Te Mana o te Wai mechanisms;
- 97.2 ensuring the new water services entities are set up to be effective Treaty partners, which are well-informed and influenced by iwi/Māori – insofar as the entities and their boards will be required to give effect to Te Mana o te Wai, and understand, support and enable mātauranga Māori and tikanga Māori and kaitiakitanga to be exercised throughout their organisations, and when engaging with iwi/Māori.
98. I am expecting there will need to be a process to prepare iwi/Māori and mana whenua for the significant new opportunities that the reforms enable and I intend to take a leadership role to support this process. The following functions are particularly critical to the establishment period:
- 98.1 establishing the composition of a transitional Mana Whenua Representative Forum, comprising post-settlement governance entities, and those entities recognised as having a mandate through the Treaty settlement process where settlement has not occurred;
- 98.2 undertaking a kaupapa Māori approach to establishing mana whenua within each entity boundary, to ensure the proposed oversight and strategic influence arrangements can be given effect as soon as practicable after establishment;
- 98.3 support for mana whenua within an entity boundary to prepare Te Mana o te Wai Statements to inform the development of the entities' transitional strategic documents, including preliminary asset management plans.
99. I am seeking agreement to support a kaupapa Māori process, and to how the Crown will be organised to provide that support. I am proposing this occurs in two key ways:
- 99.1 that a Crown/Māori Relationship Lead be appointed to support the Crown's interest in the kaupapa Māori process within each entity boundary; and
- 99.2 that the Crown provides reasonable financial support to iwi/Māori to participate in that process – along similar lines to the approach to supporting local government.

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100. Providing reasonable financial support will be important if we are to enable iwi/Māori to participate fully and meaningfully in the transition. There is currently insufficient capacity for many iwi, hapū and Māori to engage in this kind of process, or to undertake the roles envisaged.
101. I will report back with further information on supporting a kaupapa Māori process for the mana whenua group, including the role of independent chairs, in my transition and implementation paper in July 2021.
102. Furthermore, I propose to appoint an expert group to oversee the process for establishing representation for both mana whenua and local authority, to provide advice to me on progress, provide clarification on issues of process, and to adjudicate on any disputes that arise in determining representative interest by either local authorities or mana whenua. This would be a 'back-stop' mechanism to make sure representation arrangements are workable. I am seeking agreement to this in Paper 2.
103. This approach has been tested through engagement. Some iwi/Māori were keen to ensure that Post Settlement Governance entities be time limited providing this function. More detail on this will be included in the transition paper.
104. The Technical Working Group agree this is a complex area though have urged my officials not to be prescriptive to ensure a process of self-determination occurs and providing sufficient time and resource be set aside to enable this to occur. They were particularly interested in an option, or transition to an option, that enables early influence of iwi/Māori on the board through the formative establishment period. This is important to ensure that the culture and capacity of the water services entities is prioritised early in the process.

Board competencies

105. A central way for Te Mana o te Wai to be embedded as an objective of the entity is to ensure the board is adequately competent to give effect to this objective, with expertise in accessing mātauranga Māori, tikanga Māori and Te Ao Māori to inform the entity's activities.
106. I am therefore proposing that the board of each entity is required to have:
 - 106.1 general collective competence in understanding the principles of the Treaty of Waitangi and mātauranga Māori, tikanga Māori and te ao Māori; and
 - 106.2 members with specific expertise in supporting and enabling the exercise of mātauranga Māori, tikanga Māori, kaitiakitanga and te ao Māori with respect to the delivery of water services.
107. These matters would be considered during board appointment processes. A similar approach has been taken in relation to Taumata Arowai and is reflected in that legislation.

Kaitiakitanga and Te Mana o te Wai statements

108. Consistent with feedback I have received from the engagement to date, Te Mana o te Wai is exercised in place, and that kaitiakitanga is more likely to be exercised at a hapū/whānau level with respect to the provision of water services. The ability to connect strategy setting with delivery on the ground will require the proposed water services entities to make a difference in place at a hapū/whānau level. This will primarily be achieved through the preparation of asset management plans and the process that guides investment decision making.
109. I see the need for a new mechanism for expression of kaitiakitanga, that will enable mana whenua to prioritise their capacity and capability through a flexible mechanism where the onus of response shifts to the water services entity. I am proposing a new statutory mechanism that enables mana whenua to prepare 'Te Mana o te Wai statements', and requires each water services entity to provide a formal published response to these statements within a prescribed timeframe.
110. Rather than statutorily prescribe the requirements of an expression of kaitiakitanga, my preference is to enable mana whenua to express this in a manner that aligns with their mātauranga-a-iwi. I propose that the legislation broadly describe the mechanism and identify existing statutory documents that may serve as Te Mana o Te Wai statements where mana whenua decide they adequately reflect. For example, the legislation could identify that Iwi Management Plans, Cultural Impact Statements, Statements of Mana Whenua or any other statement agreed as representing Te Mana o Te Wai as guided by the Mana Whenua Forum. This would include a mechanism by which mana whenua may influence outcomes relating to service level and coverage. It will also enable flexibility for the approach to resource management and freshwater management to evolve and for the proposed Te Mana o Te Wai mechanism to accommodate any new instruments. As stated earlier, I proposed to seek delegation to clarify any policy tensions and related drafting instructions that may be required to be considered by the Minister for the Environment and Minister for Crown Māori relations and myself.
111. Once received, a water service entity must provide a reasonable response to the statement within a specified timeframe, most likely two years. This response would be published and demonstrate how the entity is meeting or planning to meet the expression of Te Mana o Te Wai. Design of mechanisms to give effect to Te Mana o Te Wai need to carefully balance iwi/hapū/whānau input with the need for the water services entity to undertake investment activities to address the significant infrastructure deficit and consistent with the new economic regulatory regime. Designed well, I think these objectives need not be mutually exclusive.

Broader wellbeing outcomes

112. The proposed Te Mana o te Wai statements could also be used by mana whenua to express their interest in participating within the broader water services delivery system. I see the statements as being holistic, enabling Māori to express a broad wellbeing approach, consistent with a Te Ao Māori approach to such matters, including economic, cultural, social and environmental expectations.

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113. Such statements could contain economic aspirations with respect to Māori enterprise and job creation, particularly – but not exclusively – in areas related to mātauranga Māori expertise. This would require response from the water services entity as set out above, that does not prescribe solutions, but would present the shift in integrated partnered delivery that in combination with the other legislative settings above, that would be a material step change to current arrangements.

Implementation

114. The changes set out within this paper require significant implementation effort, but within the broader regulatory and delivery system and in partnership with iwi/Māori. Issues and proposals related to transitional support for iwi/Māori will be set out in a further paper in July 2021. This paper will include recommendations on funding mechanisms to support capability and capacity through the transition and on an ongoing basis.

Partnership approach

115. In December 2020 Cabinet agreed to a high-level principle of partnership with iwi/Māori, which will be followed throughout the reform programme, and reflected in the new service delivery system (CAB-20-MIN-0521.01 refers). There is a need to ensure that this high-level principle is again utilised in the implementation and transition to new water service entities.

Ngāi Tahu Partnership

116. An example of this approach has been undertaken with Ngāi Tahu and there is an emerging similar model in the central north island. In the Ngāi Tahu case, my officials have been engaging with Ngāi Tahu as Treaty partner to understand Ngāi Tahu's rights and interests in the takiwā. Ngāi Tahu is well progressed in its thinking and is seeking a cooperative working relationship with the Crown and the councils across the takiwā to progress the reforms.
117. Ngāi Tahu has communicated its view that the Ngāi Tahu Claims Settlement Act 1998 confirms the takiwā boundary and that Ngāi Tahu has rangatiratanga within this area. The Ngāi Tahu position is that the relevant water services entity boundary should align with the Ngāi Tahu takiwā, within which Ngāi Tahu has established relationships with councils. Ngāi Tahu wishes to engage and co-design the water services entity that could align with the takiwā to ensure it gives effect to rangatiratanga.
118. I am advised by my officials that the economic case for a water services entity's boundary aligning with the Ngāi Tahu takiwā is strong. Discussions with the councils within this region have also indicated a preference for this alignment.
119. It is my view that there is benefit in continuing to engage with Ngāi Tahu to shape a solution that works for Ngāi Tahu and the councils in the Takiwā. In paper 1, I am proposing that the entity boundary for the South Island water services entity is informed by the Ngāi Tahu takiwā but may require further engagements with other interested parties. I see the need for my officials to continue to work in partnership with Ngāi Tahu through the next phases of the reform.

Financial implications

120. This information is provided in Paper 1.

Legislative implications

121. I am seeking agreement to implement the decisions in this paper through a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year). In particular, the Bill would give effect to the proposals relating to:
- 121.1 references to the Treaty of Waitangi and Te Mana o te Wai;
 - 121.2 the creation of a mana whenua group, at the oversight and strategic influence level of the new water services entities;
 - 121.3 Te Mana o te Wai statements.
122. Subject to Cabinet approval, I may wish to consult with technical experts and iwi/Māori representatives during the drafting process.

Impact analysis

Regulatory Impact Statement

123. The Regulatory Impact Assessment relating to the package of reform proposals is attached to Paper 1, and the quality assurance statement is provided in that paper.

Climate Implications of Policy Assessment

124. None

Population Implications

125. None

Human Rights

126. None

Consultation

127. The Ministry for the Environment; Ministry of Health; Ministry of Business, Innovation and Employment; The Treasury; Ministry for Primary Industries; National Emergency Management Agency; Ministry of Housing and Urban Development; Department of the Prime Minister and Cabinet; Ministry of Transport; Te Puni Kōkiri; Te Arawhiti; Infrastructure Commission; New Zealand Transport Agency; Inland Revenue Department; Public Services Commission; and Kāinga Ora have been consulted on this paper. The Department of Conservation, Ministry of Education, New Zealand Defence Force, and Department of Corrections have operational responsibility for three waters services and have been consulted in this capacity.
128. As explained earlier in this paper, there is also ongoing engagement with iwi/Māori about the three waters reforms. Appendix A provides a summary of the engagement carried out to date.

Communications

129. Comprehensive and strategic communications and engagement plans, aligned with a national public information and education campaign, are being put in place to support the reform programme, and Government decisions.

Proactive Release

130. I intend to release this suite of papers (subject to any redactions) to align with announcements about the Government's decisions on these reforms. I note that this may occur outside of the timeframes in Cabinet Office circular CO (18) 4.

Recommendations

131. The Minister of Local Government recommends that the Cabinet Government Administration and Expenditure Review Committee:

Context

1. **note** that this Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a manner that is efficient and affordable for New Zealanders, and which protects and promotes the rights and interests of iwi/Māori in the proposed new three waters service delivery system;
2. **note** that this is the third in a suite of papers seeking decisions on a comprehensive, integrated package of proposals to transform the three waters service delivery system, which is intended to be considered together with two other papers:
 - 2.1 A new system for three waters service delivery (Paper 1);
 - 2.2 Designing the new three waters service delivery entities (Paper 2);
3. **note** that this paper focuses on how iwi/Māori rights and interests feature in the proposed reforms, including by:
 - 3.1 considering and addressing the requirements of the Cabinet Office Circular, *Te Tiriti o Waitangi / Treaty of Waitangi Guidance* (CO (19) 5 refers);
 - 3.2 explaining how iwi/Māori rights and interests have been considered in the development of the overall reform package; and
 - 3.3 proposing specific mechanisms for addressing iwi/Māori rights and interests in the new service delivery model – as set out in Paper 1 and Paper 2;
4. **note** that there has been, and will continue to be, extensive engagement with iwi/Māori in relation to the three waters reforms, the feedback from which has informed the proposals in this paper;
5. **note** that the proposals have also been guided by a set of 'Crown/Māori relationship objectives', which include a focus on:
 - 5.1 enabling greater strategic influence;
 - 5.2 integration within a wider system;
 - 5.3 reflecting of a Te Ao Māori perspective;
 - 5.4 supporting clear accountabilities;
 - 5.5 improving outcomes at a local level;

Mechanisms for addressing iwi/Māori rights and interests within the new three waters service delivery model

6. **note** that a consistent guiding principle throughout the three waters regulatory and service delivery reforms has been ensuring the Treaty of Waitangi and Te Mana o te Wai are referenced appropriately within the legislative framework;
7. **agree** to provide for the following references in the legislation that establishes the proposed new three waters service delivery system:
 - 7.1 a reference to the principles of the Treaty of Waitangi, where the water service entities maintains systems and processes to ensure that, for the purposes of carrying out its functions, has the capability and capacity—
 - 7.1.1 to uphold the Te Tiriti and its principles; and
 - 7.1.2 to engage with Māori and to understand perspectives of Māori;
 - 7.2 a reference to Te Mana o te Wai, which can be exercised at an iwi/hapū and whanau level, primarily through the Te Mana o te Wai statement referred to in paragraph 16 below;
8. **note** that Te Arawhiti's view is that the proposed approach is consistent with the broader policy work on Treaty reference in legislation currently underway
9. **note** that Paper 2 provides for local government interests in the new water services entities to be expressed through a Regional Representative Group, which would influence the strategic framework in which the entities will operate;
10. **agree** to provide for a similar approach for iwi/Māori, through the creation of a 'mana whenua representative group', which would have the same rights and mechanisms as territorial authorities to influence the boards of the new water services entities;
11. **note** that iwi/Māori should be able to decide the most effective representative interest for mana whenua on the mana whenua group, and that this is best provided for, and guided by, a kaupapa Māori process;
12. **note** that 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 set out in Paper 2.;
13. **invite** the Minister of Local Government to report back in July 2021 with further information on the approach to supporting a kaupapa Māori process for the mana whenua group, including the role of independent chairs;
14. **note** that Paper 1 proposes a statutory objective for the water services entities relating to 'giving effect to Te Mana o te Wai', and that a key way for the entities to do this is to ensure the boards have appropriate competencies;
15. **agree** that the board of each water services entity be required to have:
 - 15.1 general collective competence in understanding the principles of the Treaty of Waitangi and mātauranga Māori, tikanga Māori, and te ao Māori; and

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- 15.2 members with specific expertise in supporting and enabling the exercise of mātauranga Māori, tikanga Māori, kaitiakitanga, and te ao Māori with the respect to the delivery of water services;
16. **note** 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;
17. **agree** to a mechanism that enables the expression of kaitiakitanga, through the preparation of 'Te Mana o te Wai statements' by mana whenua;
18. **agree** that Te Mana o te Wai statements would be provided to relevant water services entity, and that relevant entity would be required to prepare and publish a formal reasonable response to the statements within a prescribed timeframe;
19. **agree** that the Te Mana o te Wai statements would be an enabling mechanism, which provide iwi/hapū/whānau with the ability to communicate their expression of Te Mana o te Wai, including through other documents, which may include (but is not limited to) Iwi Management Plans, Cultural Impact Statements, and/or Statements of Mana Whenua;
20. **agree** that the relevant water services entity fund and support capability and capacity of mana whenua within their boundary to participate in relation to three waters service delivery;

Implementation

21. **note** Cabinet agreed to a high-level principle of partnership with iwi/Māori, which will be followed throughout the reform programme, and reflected in the new service delivery system (CAB-20-MIN-0521.01 refers);
22. **agree** for officials to continue a high-level principle of partnership with iwi/Māori on the transition and implementation of water services entity;
23. **note** decisions sought through paper 1 approve the Ngāi Tahu takiwā as the boundary for the South Island water services entity;
24. **agree** for officials to work with Ngāi Tahu on features of a South Island water services entity whose boundaries will align with the takiwā, including during the legislative drafting process referred to below;

Legislative implications and issuing of drafting instructions

25. **agree** that decisions in this paper be implemented through the Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year), specifically the proposals relating to:
 - 25.1 references to the Treaty of Waitangi and Te Mana o te Wai;
 - 25.2 the creation of a mana whenua representative group, at the strategic influence and oversight level of the new water services entities;
 - 25.3 the Te Mana o te Wai statements;

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26. **invite** the Minister of Local Government to issue drafting instructions to Parliamentary Counsel in accordance with the decisions in this paper;
27. **agree** that Parliamentary Council Office be instructed to provide particular assurance on the appropriate treatment of the statutory references and definitions related to mana whenua contained within the proposed legislation;
28. **authorise** the Minister for the Environment, Minister for Māori Crown Relations and the Minister of Local Government to resolve any outstanding policy issues to guide legislative drafting related to the treatment of Treaty of Waitangi statutory references;
29. **authorise** the Minister of Local Government to approve all other minor policy and technical matters that may arise during the course of drafting;
30. **agree** that technical experts and iwi/Māori representatives can be consulted, if needed, during the drafting process.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Local Government

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Hon Nanaia Mahuta, Minister of Local Government

Proactive release of Cabinet material related to progressing the three waters service delivery reforms, 14 June 2021

These documents have been proactively released:

14 June 2021, CAB-21-MIN-0226 Minute: A New System For Three Waters Service Delivery: Paper One, Cabinet Office; and

14 June 2021, Cabinet Paper: A New System For Three Waters Service Delivery: Paper One, Office of the Minister Local Government.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Where information has been withheld for other reasons consistent with advice, it has been annotated with an asterisk. This information may in some cases be accessible under the Official Information Act 1982.

Key to Redaction Codes:

- 9(2)(f)(iv) – to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials, including the redaction of Budget Sensitive material;

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Cabinet

Minute of Decision

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A New System For Three Waters Service Delivery: Paper One

Portfolio **Local Government**

On 14 June 2021, Cabinet:

Background and overview

- 1 **noted** that the government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a way that is efficient and affordable for New Zealanders, and that this is critical for:
 - 1.1 public health and wellbeing;
 - 1.2 environmental outcomes;
 - 1.3 economic growth and job creation;
 - 1.4 housing and support for population growth;
 - 1.5 adapting to the impacts of climate change and reducing greenhouse gas emissions;
 - 1.6 mitigating the effects of natural hazards;
 - 1.7 improving outcomes relating to water services for iwi/Māori;
- 2 **noted** that New Zealand's three waters system is not set up in a manner that will enable the achievement of these ambitions, and is facing a series of issues and challenges that, together, mean service delivery arrangements are ineffective, inefficient, and no longer fit for purpose;
- 3 **noted** that key issues and challenges relate to:
 - 3.1 the highly fragmented and dispersed system, in which services and infrastructure are delivered by a large number of providers, the majority of which have a relatively small customer base;
 - 3.2 economic inefficiencies and capacity challenges;
 - 3.3 affordability issues facing many councils and communities, and a constrained financial environment;
 - 3.4 capability at governance and operational levels;

- 3.5 inadequate oversight and stewardship arrangements, and weaknesses in the regulatory environment, including a lack of transparency and weaknesses in accountability for performance;
- 3.6 extensive and widespread under-investment in three waters infrastructure;
- 3.7 how the existing three waters infrastructure is often ill-equipped to cope with the impacts of climate change;
- 4 **noted** that recent analysis of local authority data, gathered through an extensive 'Request for Information' process, shows that significant levels of investment will be required across the country and over a sustained period – in the order of \$120 billion to \$185 billion over 30 to 40 years;
- 5 **noted** that, in June and December 2020, Cabinet made initial decisions to address this situation, by reforming three waters service delivery arrangements to create large-scale water services entities, to achieve scale-related efficiencies and other benefits, and with sufficient balance sheet capacity to raise debt to fund these investment requirements [DEV-20-MIN-0099, CAB-20-MIN-0521.01];
- 6 **noted** that the full benefits of reform cannot be achieved by scale alone, and the ability of new water services entities to realise any efficiencies will depend on several other factors, including:
- 6.1 clear, ongoing national policy direction for the three waters sector;
- 6.2 the entities have effective, professional, independent governance arrangements, and are able to attract and retain appropriately skilled management;
- 6.3 the new regulatory arrangements for drinking water quality and oversight of improved environmental outcomes are effective;
- 6.4 the establishment of an economic regulation regime and mechanisms for protecting consumers;
- 6.5 the water services entities have access to the necessary resources to fund the change processes, and to make the required investments over time;
- 6.6 there is an industry transformation strategy, to support and enable the wider three waters industry to participate in the reformed service delivery system;
- 7 **noted** that the paper under CAB-21-SUB-0226 is the first of a suite of papers seeking substantive policy decisions on a comprehensive, integrated package of proposals to transform the three waters service delivery system and associated regulation, and is intended to be considered together with two other papers:
- 7.1 designing the new three waters service delivery entities (Paper 2) [CAB-21-SUB-0227];
- 7.2 protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model (Paper 3) [CAB-21-SUB-0228];
- 8 **noted** that a fourth paper will follow in July 2021, which will set out proposed arrangements for transitioning to, and implementing, the new service delivery system, (b)(2)(i)(iv)

- 9 **noted** that agreement is being sought to implement the decisions in this suite of papers through a Water Services Entities Bill, as described in paragraph 79 below;
- 10 **noted** that it is intended that the Water Services Bill would be followed by further pieces of legislation to deliver all of the components of these reforms, which would include:
- 10.1 detailed transitional arrangements to the new entities and service delivery system, including provisions relating to the transfer of assets, liabilities and employees; and the specific powers, functions and responsibilities the new entities will require to operate;
 - 10.2 an economic regulation regime and consumer protection mechanisms relating to the new three waters system;

Establishing new water services entities

- 11 **noted** that extensive policy, financial and legal analysis supports the in-principle decisions Cabinet made in 2020, and demonstrates the benefits offered by a reformed three waters system and new service delivery arrangements;
- 12 **agreed** to proceed with the reforms to the three waters system, with the creation of large-scale, publicly-owned, water services entities;
- 13 **agreed** that the new water services entities would be statutory entities, created in legislation;
- 14 **agreed** that the purpose of the water services entities would be to provide safe, reliable and efficient water services;
- 15 **agreed** that the water services entities would have objectives that flow from this purpose, relating to:
- 15.1 delivering water services, and related infrastructure, in an efficient and financially sustainable manner;
 - 15.2 operating in accordance with best commercial and business practices;
 - 15.3 acting in the best interests of consumers and communities, in the present and for the future;
 - 15.4 giving effect to Te Mana o te Wai (to the extent that Te Mana o te Wai applies to the duties and functions of the entities);
 - 15.5 delivering and managing water services in a sustainable and resilient manner, which seeks to address climate risks and mitigate the negative effects of natural hazards;
 - 15.6 protecting and promoting public health and the environment;
 - 15.7 supporting and enabling housing and urban development;
- 16 **agreed** that the water services entities will be responsible for:
- 16.1 all service delivery arrangements and infrastructure relating to drinking water and wastewater, including taking over the related services and assets currently held by (or managed on behalf of) local authorities;

- 16.2 services and infrastructure relating to stormwater quality and quantity, including taking over the related services and assets currently held by territorial authorities (though not including stormwater services and infrastructure related to their role as road-controlling authorities);
- 17 **agreed** that the water services entities will have the statutory powers, functions, and responsibilities required to fulfil their purpose and objectives, and undertake the roles envisaged, including the powers and responsibilities relating to water service delivery that are currently held by local authorities under various pieces of legislation;
- 18 **noted** that further work will be required to identify precisely which powers, functions, responsibilities, and assets would be transferred to, and held and exercised by, the new entities, and that:
- 18.1 this will be a technically and legally complex process;
- 18.2 detailed legislative provisions may be included in one or more pieces of legislation used to implement these reforms;
- 19 **noted** that a number of consequential amendments to other legislation will be required to ensure there is clarity about the roles and responsibilities of the water services entities across the wider regulatory framework, and this would be dealt with during the legislative drafting process;
- 20 **agreed** to provide for a statutory set of operating principles, to guide and inform how the water services entities deliver their objectives and functions, and these principles would broadly relate to:
- 20.1 developing and sharing capability and technical expertise – both internally, and across the wider three waters, development control, and land-use planning sectors;
- 20.2 being innovative in the design and delivery of water services and infrastructure;
- 20.3 being open and transparent – including in relation to the calculation and setting of prices, determining levels of service, and reporting on performance;
- 20.4 partnering and engaging early and meaningfully with Māori, local government, and communities;
- 20.5 cooperating with, and supporting, other water services entities and infrastructure providers, local authorities, and the transport sector – including in relation to infrastructure planning, and development control and land-use planning processes;
- 20.6 understanding, supporting, and enabling mātauranga Māori and tikanga Māori and kaitiakitanga to be exercised – both within the entities and when engaging with iwi/Māori;
- 21 **noted** that:
- 21.1 paper two describes, and seeks agreement to, the core design features of the new water services entities, including:
- 21.1.1 the ownership and governance structures;
- 21.1.2 protections against privatisation;
- 21.1.3 planning and accountability mechanisms;

- 21.1.4 funding and financing arrangements; and
- 21.1.5 mechanisms for ensuring consumers and communities have appropriate influence in the new three waters system;
- 21.2 paper 3 describes, and seeks agreement to, mechanisms that provide for iwi/Māori rights and interests in the new service delivery model and three waters system;

Entity numbers and boundaries

- 22 **noted** that a range of factors have been analysed to help determine how many water services entities there should be, and their boundaries, and that key factors previously agreed by Cabinet [DEV-20-MIN-0099] related to:
 - 22.1 scale benefits;
 - 22.2 communities of interest; and
 - 22.3 relationships with other jurisdictional boundaries, including catchments;
- 23 **noted** that recent analysis and evidence demonstrate that scale is critical to success and should be prioritised when determining the number of entities, but that factors outside of economic efficiency also need to be considered to ensure the new entities can operate effectively in relation to water catchments, engage meaningfully with iwi/Māori, understand and reflect community interests, and have access to a skilled local workforce;
- 24 **agreed** to create four water services entities in legislation;
- 25 **agreed** that the draft entities and boundaries be comprised as follows:
 - 25.1 Entity A – the territorial authorities of Auckland, Far North District, Kaipara District, and Whangarei District;
 - 25.2 Entity B – the territorial authorities of: Hamilton City; Hauraki District: Kawerau District; Matamata-Piako District; New Plymouth District; Ōpōtiki District; Ōtorohanga District; Rangitikei District; Rotorua District; Ruapehu District; South Taranaki District; South Waikato District; Stratford District; Taupo District; Tauranga City; Thames-Coromandel District; Waikato District; Waipa District; Waitomo District; Western Bay of Plenty District; Whakatane District; and Whānganui District;
 - 25.3 Entity C – the territorial authorities of: Carterton District; Central Hawke’s Bay District; Chatham Islands; Gisborne District; Hastings District; Horowhenua District; Kapiti Coast District; Hutt City; Manawatu District; Masterton District; Napier District; Nelson City; Palmerston North City; Porirua City; South Wairarapa District; Tararua District; Upper Hutt City; Wairoa District, Wellington City; and those part of Marlborough District and Tasman District that do not comprise the Ngāi Tahu takiwā;
 - 25.4 Entity D – the territorial authorities of: Ashburton District; Buller District; Central Otago District; Christchurch City; Clutha District; Dunedin City; Gore District; Grey District; Hurunui District; Invercargill City; Kaikoura District; Mackenzie District; Queenstown-Lakes District; Selwyn District; Southland District; Timaru District; Waimakariri District; Waimate District; Waitaki District; Westland District; and those parts of the Marlborough District and Tasman District that comprise the Ngāi Tahu takiwā;

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Further considerations relating to the responsibilities of new water services entities

Responsibilities relating to stormwater

- 43 **noted** that these reforms provide an opportunity to lift stormwater management capacity and capability, and address existing and future investment needs, including challenges relating to climate change and urban growth;
- 44 **noted** that there are a number of complex issues, practicalities and potential risks that need to be addressed as part of the transfer of stormwater assets and responsibilities to new water services entities, including in relation to the interface between:
 - 44.1 the wider stormwater system, local road drainage, and overland flow paths across parks and reserves;
 - 44.2 the water services entities, territorial authorities, road-controlling authorities, regional councils, and other relevant agencies, such as Waka Kotahi;
- 45 **noted** that a technical reference group has been formed to explore these issues, and that advice on an approach to transition stormwater to the new water services entities will be provided to Three Waters Ministers in July 2021;

Responsibilities relating to non-council water services

- 46 **noted** that under the proposed approach, the new water services entities would take over the service delivery, infrastructure, and related functions, responsibilities and assets that currently sit with local government;
- 47 **noted** that there is also a need to consider the potential roles and responsibilities of the new water services entities in relation to the many households and communities that do not receive their water services from local government;
- 48 **noted** that the Water Services Bill contains obligations on territorial authorities in relation to non-council drinking water supplies, including:
- 48.1 a duty to ensure communities have access to drinking water if non-council suppliers face significant problems with their services;
- 48.2 a requirement to undertake an assessment of all the drinking water services available to communities in the district, at least once every three years, including all private and community supplies (except domestic self-supplies);
- 49 **agreed** that the legislative obligations on territorial authorities contained in the Water Services Bill would apply to the new water services entities;

Strengthening the wider regulatory and stewardship system**Economic regulation and consumer protection**

- 50 **noted** that in December 2020, Cabinet noted that economic regulation plays a critical role in protecting consumer interests and providing high-quality performance information, and agreed in principle that:
- 50.1 an economic regulation regime will be employed on a reformed New Zealand three waters sector;
- 50.2 an information disclosure regime that allows the performance of entities to be compared will apply, at a minimum, to a substantively reformed three waters sector;
- [CAB-20-MIN-0521:01]
- 51 **noted** that effective economic regulation and consumer protection mechanisms are an integral part of the overall reform package, but that further work needs to be undertaken to explore and consult on the options for an appropriate economic regulation and consumer protection regime;
- 52 **noted** that responsibilities relating to economic regulation and consumer protection fall within the portfolio of the Minister of Commerce and Consumer Affairs, and the preparation of advice would be led by the Ministry of Business, Innovation and Employment;
- 53 **noted** that an indicative timetable for progressing this component of the reform package has been prepared, and includes:
- 53.1 issuing a discussion paper in October 2021;
- 53.2 seeking Cabinet decisions in April 2022;
- 53.3 introducing legislation in late 2022, with anticipated enactment in mid-to-late 2023;

- 53.4 implementation of the first regulatory cycle from 1 July 2024, to align with the 'go live' date of the new water services entities;

Stewardship arrangements and the introduction of a Government Policy Statement

- 54 **noted** that strengthening stewardship arrangements in the three waters service delivery and (related) regulatory system is a critical component of the reform package, in two major respects:

54.1 stewardship and related functions are a core component of the effective design and delivery of the reform programme throughout the establishment and transition phases, including by helping to manage the interface between Ministers, policy advice, and the institutions involved in the transition process;

54.2 effective stewardship is the foundation of a long-term, whole-of-system, proactive and collaborative approach to the ongoing monitoring, review, and oversight of the new three waters system;

- 55 **noted** that during the establishment and transition phases, it is anticipated that:

55.1 the Minister of Local Government, as Minister responsible for the reform programme, will continue to work closely with Three Waters Ministers on the core policy design and transitional issues;

55.2 the Department of Internal Affairs will continue to lead the policy advice, legislative design, engagement, and Ministerial support work relating to the reforms, in collaboration with other relevant agencies and stakeholders, and will also undertake stewardship functions, such as monitoring the transition process;

- 56 **noted** that the focus of stewardship will change over time, as all of the components of the service delivery reforms are implemented, interests change, and other reforms (such as the proposed reforms to the resource management system) take effect;

- 57 **noted** that the Department of Internal Affairs will lead and coordinate a cross-agency piece of work to identify and develop an appropriate approach to the organisation of stewardship functions and governance arrangements in the longer term, and will provide advice to Three Waters Ministers by September 2024;

- 58 **agreed** that any future stewardship arrangements should be designed with the following principles in mind:

58.1 contribute to improved system performance;

58.2 mitigate the risk of poor system performance, through the early detection of issues, and advice on how to correct these issues;

58.3 internalise (rather than marginalise) different policy perspectives and interests;

58.4 support effective operational and policy interfaces;

58.5 agility and responsiveness to change;

58.6 recognise the interests of iwi/Māori, local government, and consumers in three waters services and regulation;

58.7 contribute to Ministerial, Parliamentary, and public confidence in system performance;

- 59 **noted** that the government has an ongoing stewardship role to ensure the new three waters system is fit for purpose and the reform objectives are realised, and that a Government Policy Statement could be an enduring and transparent mechanism for the coordination and expression of Ministerial interests and expectations relating to the delivery of three waters services;
- 60 **agreed** that a Government Policy Statement be provided for in legislation, to enable the provision of direction to water services entities relating to three waters infrastructure and service delivery, and to provide a mechanism to consider related outcomes, in addition to the statutory objectives of the entities;
- 61 **agreed** that the water services entities would be required to:
- 61.1 give effect to the Government Policy Statement; and
 - 61.2 comply with other requests for information as necessary to support and enable central government to undertake effective stewardship of the three waters system;
- 62 **noted** that the intent is that the Government Policy Statement:
- 62.1 would provide high-level strategic direction and deal with cross-cutting matters – covering issues that are not already provided for in regulation or addressed through other mechanisms; and
 - 62.2 would not be pitched at an operational level or concern specific projects;
- 63 **agreed** that the focus of the Government Policy Statement would be on water services and infrastructure, and related wellbeing and interests, not on the wider policy settings surrounding the three waters regulatory system;
- 64 **noted** that this focus is important because the way the new water services entities plan for and prioritise investment in infrastructure and services will have a significant impact on national and local interests, but there will be challenges that will need to be managed;
- 65 **agreed** that the purpose of the Government Policy Statement would relate to:
- 65.1 high-level, strategic policy direction to the new water services – to inform and guide the entities' decisions and actions in fulfilling their statutory purpose and objectives;
 - 65.2 providing certainty to everyone operating in the three waters system and receiving services from the entities about the outcomes the new entities are expected to deliver;
- 66 **agreed** to provide for general design principles to guide the development of the Government Policy Statement, relating to:
- 66.1 relevance – so the Statement is reviewed and updated regularly to ensure the objectives and priorities it contains are relevant to an evolving three waters system, and to a changing national and local context;
 - 66.2 transparency – so the processes for developing the Statement, determining national objectives and priorities, and considering the implications of decisions, are well understood and visible to the public;

66.3 accountability – so the outcomes that are expected to be delivered are measured and published, and responsibility for the achievement of those outcomes sits with the entities that are responsible for delivering them;

66.4 wellbeing-focus – so that the Statement has a focus on wellbeing, and takes account of both national and local interests and outcomes;

67 **agreed** that the process for developing or reviewing the Government Policy Statement would be undertaken with a strong interface between key Ministers, government agencies, regulators, iwi/Māori and local government, and would include engagement with the water services entities, and seeking advice from regulators on the implications of desired objectives;

68 **agreed** that responsibility for issuing the Government Policy Statement would lie with the Minister responsible for the administration of the water services entities legislation, in consultation with Ministers with portfolio interests relating to: Local Government, Environment, Health, Housing, Urban Development, Infrastructure, Commerce and Consumer Affairs, Transport, and Māori Development;

69 **noted** that care will need to be taken when developing the first Government Policy Statement to avoid creating unrealistic expectations about what the entities can deliver in their first years of operation;

Financial implications

70

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]				[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]		
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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Proactively released by the Minister of Local Government

■ [REDACTED]

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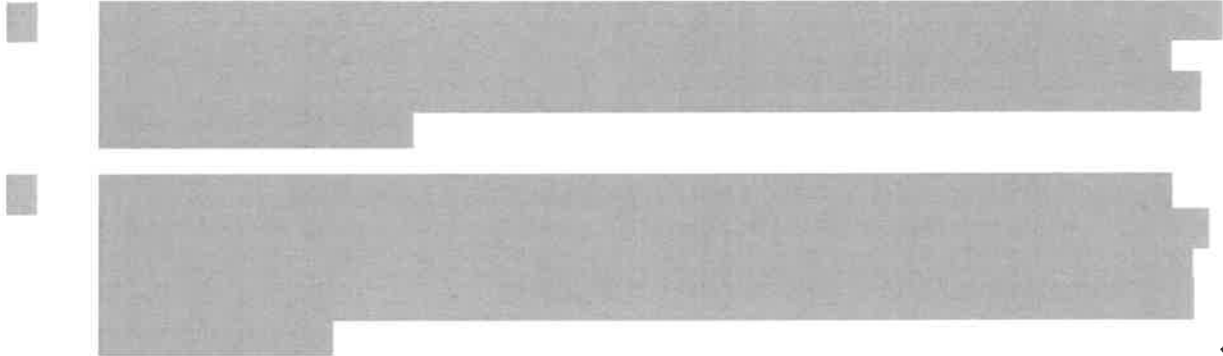
■ [REDACTED]

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Legislative implications

- 79 **agreed** that decisions in the paper under CAB-21-SUB-0226 be implemented through the Water Services Entities Bill, which has a category 4 priority on the 2021 Legislation Programme (to be referred to select committee in 2021), specifically the proposals relating to:
- 79.1 the creation of new water services entities;
 - 79.2 the entities' purpose, objectives, operating principles, general functions and responsibilities;
 - 79.3 the boundaries and constituent local authorities of each entity;
 - 79.4 the Government Policy Statement for three waters services and infrastructure;
- 80 **invited** the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel to give effect to the above decisions;
- 81 **authorised** the Minister of Local Government to approve minor policy and technical matters that may arise during the course of drafting, including any consequential amendments to other legislation that may be required;
- 82 **agreed** that technical experts can be consulted, if needed, during the drafting process.

Michael Webster
Secretary of the Cabinet

Office of the Minister of Local Government

Chair

Cabinet Government Administration and Expenditure Review Committee

A new system for three waters service delivery

Proposal

1. This is the first of a suite of papers seeking decisions on a package of proposals to transform the three waters service delivery system. This paper summarises the case for change and overall reform package, and proposes:
 - 1.1 to establish a new service delivery model, with four, new, publicly owned water services entities;
 - 1.2 the purpose, objectives, and operating principles of the new water services entities;
 - 1.3 the responsibilities of the entities, including that they will deliver drinking water, wastewater and stormwater services currently provided by local government;
 - 1.4 to strengthen stewardship of the three waters service delivery system, including through a Government Policy Statement to provide national strategic direction to the new water services entities.
2. This paper sets the scene for, and is intended to be considered with, two other papers, which provide further details on, and seek decisions regarding, the core components of the new service delivery model:
 - 2.1 Paper 2: *Designing the new three waters service delivery entities.*
 - 2.2 Paper 3: *Protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model.*
3. A fourth paper, setting out proposed arrangements for transitioning to and implementing the new system, will follow shortly afterwards, in July 2021. It is also anticipated that a further paper will be provided in September 2021.
4. Together, these papers present the initial package of reform proposals. If agreed, most of these proposals will be included in a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).

Relation to government priorities

5. This Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a manner that is efficient and affordable for New Zealanders.
6. In April 2019, it was agreed that the Three Waters Review is a Government priority. The 2020 Labour Party Manifesto committed to reform New Zealand's drinking water and wastewater system, and upgrade water infrastructure to create jobs across the country. These reforms are anticipated to occur in parallel with reforms to the resource management system.

Executive summary

7. For the past three and a half years, we have been exploring the challenges and opportunities facing the three waters system. Through this work, we are seeking to address a complex set of systemic issues relating to the regulation, funding, financing, and provision of drinking water, wastewater, and stormwater services (the three waters). This is critical for public health and wellbeing, environmental outcomes, economic growth and job creation, housing and urban development, adapting to the impacts of climate change, and building resilience to natural hazards.
8. It has become clear that New Zealand's three waters system is facing a significant crisis, and will continue to do so without major, transformational reform. Latest estimates indicate that the amount of investment required to replace and refurbish existing infrastructure, upgrade three waters assets to meet drinking water and environmental standards, and provide for future population growth is in the order of \$120 billion to \$185 billion over the next 30 to 40 years. Eliminating this infrastructure deficit and meeting future growth requirements will be beyond the funding and operational capacity of most councils and communities under current arrangements.
9. Last year, we recognised that we have an opportunity to address this situation, by reforming three waters service delivery arrangements to create a small number of large-scale water services entities, with sufficient balance sheet capacity to raise debt to fund these investment requirements and smooth the cost of this investment over time.
10. This would deliver the necessary infrastructure upgrades more efficiently, and at a lower cost to households than under current delivery and funding arrangements. Compared with a 'no reform scenario' the net present cost of three waters service delivery per connected person per year is expected to be between \$480 and \$1,060 lower under the reform proposals. This represents a significant improvement in economic wellbeing compared with a 'no reform' scenario, in addition to the significant health and environmental benefits that reform will deliver.
11. It is also clear that the full benefits of the reforms cannot be achieved solely through the aggregation of three waters services into large-scale entities. The ability of the new water services entities to deliver the efficiency gains is dependent on a package of reforms. Key components include that:
 - 11.1 there is clear national policy direction for the three waters sector, including expectations relating to the contributions by the water services entities to any new spatial / resource management planning processes;
 - 11.2 the entities have effective, professional, independent governance arrangements, and are able to attract and retain appropriately skilled management;
 - 11.3 the new regulatory arrangements for drinking water quality and oversight of improved environmental outcomes are effective;
 - 11.4 economic regulation is established to ensure efficient service delivery and to drive the achievement of efficiency gains;
 - 11.5 the entities have access to the necessary resources, including access to cost-effective borrowing from capital markets, to fund the change processes, and to make the required investments over time;

- 11.6 there is an industry transformation strategy, to support and enable the wider three waters industry to gear up to play its part in the reformed service delivery system.
12. The need for, and dependencies on, these 'pre-conditions' for success demonstrate why it is crucial that central government leads the design and delivery of the reform programme, and uses legislation and other mechanisms to ensure effective implementation.
13. This is the first of a suite of papers seeking substantive decisions on a package of proposals to transform the three waters service delivery system. Given the nature and extent of the changes required, the proposals are complex. However, they are based around a few fundamental elements; these being:
- 13.1 the aggregation of local government three waters services and infrastructure into a small number of dedicated, publicly-owned water services entities, in order to deliver scale efficiencies, address capability and capacity challenges, create new employment opportunities, and enable investment to be delivered in a way that is affordable for communities;
 - 13.2 the transfer of asset ownership from local government to the new water services entities, to enable improved access to capital markets and borrowing at a greater level than councils can achieve, but with:
 - 13.2.1 local authority ownership of the entities themselves, to ensure there is appropriate oversight and influence on behalf of the communities that have invested in water assets over generations;
 - 13.2.2 clear legislative protections against privatisation, including through local authority ownership of the entities, and a public referendum on privatisation proposals;
 - 13.3 independent, competency-based, professional boards to govern the new entities, and make investment decisions about infrastructure delivery over a long time period;
 - 13.4 mechanisms to recognise the rights and interests of iwi/Māori, and to provide for strong community and consumer voice in relation to the new entities;
 - 13.5 strengthened system oversight and stewardship, including through a Government Policy Statement that provides for national strategic direction to the water services entities;
 - 13.6 the development and introduction of an economic regulation regime and mechanisms for protecting consumers.
14. **Part A of this paper presents the case for change, and provides an overview of the reform package proposed over a suite of papers in June 2021.** It outlines some of the systemic issues facing the current system, and the results of the extensive analysis of council data – which demonstrate the significant levels of investment required over the next 30 to 40 years. It also describes the significant economic benefits that reform can bring, including enabling additional economic activity and job creation in every corner of New Zealand. Further details about the supporting analysis are provided in the accompanying regulatory impact assessment.

15. **The creation of large-scale, publicly-owned water services entities is at the heart of the reforms. In Part B of this paper, I seek agreement to the establishment of new water services entities in legislation, and the purpose and objectives of these entities.** The new entities would take over the three waters-related infrastructure and service delivery responsibilities from local authorities, while providing for ongoing public ownership. The anticipated 'go live' date for the new entities is 1 July 2024. This date aligns with the 2021-2024 long-term planning cycle, and would help to facilitate a smooth transition from local authorities to the new entities.
16. I am proposing that four water services entities are created. This approach reflects that scale is critical to the success of the new entities and the reforms, and has been prioritised when determining the number of entities. Other factors have also been considered – outside of economic efficiency – to ensure the new entities operate effectively in relation to water catchments, reflect the rights and interests of iwi/Māori, engage meaningfully with communities and reflect their interests, and provide jobs and employment opportunities for New Zealanders.
17. I am seeking agreement to a preferred option for the boundaries of these entities. However, there will be further discussions with those local authorities and iwi/Māori that are most affected by the proposed boundary choices. I will report back in September 2021 on the outcomes of these discussions, and to seek agreement to any changes to the entity boundaries.
18. It is my strong preference that all communities are able to access the benefits of reform. Achieving the full benefits of reform requires comprehensive participation by local government. Analysis shows that under the proposed approach of four entities, all communities stand to benefit from the reforms, through improved access, performance and affordability of three waters services relative to the status quo. If some territorial authorities do not participate, this could prevent other communities from benefitting.

(b)(2)(iii)

[Redacted text block containing multiple lines of greyed-out content]

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29. **This paper is intended to be considered with two other papers, which seek decisions on the core components of the new service delivery model.** Those papers set out detailed proposals relating to the key design features of the water services entities, including the governance structures; ownership, accountability and financial arrangements; interactions between the new entities, consumers and communities; and mechanisms that provide for the rights and interests of iwi/Māori within the entity design model. These proposals include provisions for local authority ownership of the entities, and other mechanisms for protecting the public interest and preventing privatisation.
30. **A further paper – *Delivering the three waters reforms (Paper 4)* – will set out proposed arrangements for transitioning to, and implementing, the reforms to the service delivery system.** This will cover the proposed transition structures, functions, and powers – including proposed principles relating to the workforce. This paper will provide for the fair treatment of workers and the certainty of process, to ensure the reforms do not result in a loss of current staff and, in fact, create a platform to attract talent to the sector.
31. Together, these papers present the initial package of reform proposals. If agreed, most of the proposals will form the basis of drafting instructions to Parliamentary Counsel Office for a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).
32. It is anticipated that this Bill will be followed by further legislation to provide for detailed transitional arrangements (such as the transfer of assets, liabilities and employees from local authorities to the new entities); and the new economic regulation regime and consumer protection mechanisms relating to the new three waters system. Advice and proposals on these matters will be developed during late 2021 and early 2022.

Background

33. For the past three and a half years, we have been exploring the challenges and opportunities facing the three waters system. Through this work, we are seeking to address a complex set of issues relating to the regulation, funding, financing, and provision of drinking water, wastewater, and stormwater services (the three waters), and to deliver better outcomes for New Zealand's people, environment, and economy.
34. Core outcomes include: safe, affordable drinking water; improved environmental performance of wastewater and stormwater networks; infrastructure to support housing and economic development; addressing a significant accumulated infrastructure deficit; addressing climate change risks and resilience issues; and improved efficiency of service delivery, with benefits for investment, jobs, and productivity.
35. In July and September 2019, we made decisions to significantly strengthen the regulatory system, through the creation of Taumata Arowai, and the introduction of legislation to enhance the regulation of drinking water and performance of wastewater and stormwater networks. These reforms are progressing well: Taumata Arowai became a Crown entity in March 2021, and the Water Services Bill is proceeding through the legislative process.

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36. In July 2020, the Government announced a \$710 million funding package to support economic recovery relating to COVID-19, and address persistent systemic issues facing the three waters sector, through a combination of:
- 36.1 stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
 - 36.2 reforming current water service delivery arrangements into larger-scale entities – to realise significant economic, public health, environmental, and other benefits over the medium to long term.
37. The Cabinet paper that preceded this announcement (the June 2020 paper) signalled some of our minimum expectations, objectives, and starting intentions for the service delivery reform programme (the reform programme). This included:
- 37.1 in-principle agreement to the creation of a small number of new multi-regional water service providers, which would be statutory, asset-owning entities;
 - 37.2 a preference that the new entities would be collectively owned by local authorities, but with legal and financial separation, and a competency-based board;
 - 37.3 confirmation that there would be safeguards against privatisation, and mechanisms that provide for continued public ownership, community input, and local service delivery.
38. In December 2020, Cabinet made further decisions relating to the reform programme (the December 2020 paper). These decisions covered:
- 38.1 the key components of the reform strategy and timetable;
 - 38.2 agreement to continue with a voluntary approach to reform, subject to reassessing this position if it became clear the reforms were at risk of not being achieved;
 - 38.3 agreement to develop legislation needed to facilitate a voluntary approach, by enabling councils to make decisions to participate in the new service delivery system;
 - 38.4 the process for identifying the numbers and boundaries of new water services entities;
 - 38.5 the entity design scenarios that would be tested with credit rating agencies;
 - 38.6 in-principle agreement that economic regulation will be an integral part of the new system.
39. The past few months have involved an intense phase of policy advice, commercial, legal and analytical work, discussions with Three Waters Ministers, and engagement with local government and iwi/Māori. This work has informed the preparation of an extensive package of detailed reform proposals, which I am presenting for consideration and decision through this suite of papers.

40. The work to date has been predicated on a shared understanding between central and local government that a partnership approach will best support wider community interests, and ensure that any transition to new service delivery arrangements is well managed and as smooth as possible. To reflect this understanding, a Joint Steering Committee, comprising central and local government representatives, has met regularly, and provided invaluable oversight and guidance of the reform programme.

Analysis

Part A: Case for change and overview of reform package

We have ambitions to significantly improve public health, environmental and economic outcomes through a strengthened three waters system

41. This Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a way that is efficient and affordable for New Zealanders. This is critical for:
 - 41.1 public health and wellbeing;
 - 41.2 environmental outcomes;
 - 41.3 economic growth and employment;
 - 41.4 housing and support for population growth;
 - 41.5 adapting to the impacts of climate change and reducing greenhouse gas emissions;
 - 41.6 mitigating the effects of natural hazards.
42. We also want to ensure we deliver on our Treaty-related obligations, including by improving outcomes for iwi/Māori in relation to three waters service delivery.
43. Integral to this is effective infrastructure delivery, underpinned by an efficient, high-performing, financially sustainable, and transparent three waters system, which is well-connected to, and integrated with, local and regional planning processes and strategies (including spatial plans).

We will need to transform three waters services delivery arrangements to achieve these ambitions, and to overcome a number of systemic challenges

44. It has become clear that the current three waters system is not set up in a manner that will enable us to achieve these ambitions, or to gain maximum benefit from the regulatory reforms that are already in train.
45. At the heart of the problem is the way the service delivery system is designed, governed and funded, and the stewardship arrangements that sit around this system.
46. New Zealand has a highly fragmented and dispersed system, in which services and infrastructure are delivered, operated, and paid for by (or on behalf of) a large number of providers – including 67 territorial authorities, and thousands of private and community organisations and marae. The majority of these providers – including most councils – have a relatively small population/customer base.

47. Territorial authority service providers operate in a political environment, in which investment decisions are made by elected representatives, and a constrained financial environment, in which the main funding and financing mechanisms are via ratepayers and councils borrowing. There are limitations on the level of three waters investment that can be raised through these means. These limitations are due to factors such as:
- 47.1 covenants imposed by lenders;
 - 47.2 attitudes to debt and rates increases;
 - 47.3 financially constrained households (such as ratepayers on low or fixed incomes);
 - 47.4 misaligned incentives, and a lack of management focus, connected with an operating environment in which the three waters are part of a wide range of other services and responsibilities that councils and communities need to fund.
48. Service delivery system design issues are compounded by inadequate oversight and stewardship arrangements, and weaknesses in the regulatory environment, including a lack of economic regulation.
49. While we are already taking steps to strengthen the regulatory environment – through the creation of Taumata Arowai and the Water Services Bill – this is focusing on improving the quality of the three waters, and gaps in the system of regulation remain. Most notably, existing water service providers are not subject to even a basic form of economic regulation: information disclosure. This has hampered the quality of information about, and an understanding of, the condition of three waters assets and the performance of water networks.
50. This means there is a lack of transparency about fundamental elements of the three waters system – such as the costs and performance of services, asset condition, and required investment – and a corresponding weakness in accountability for performance. The dispersed nature of stewardship roles and responsibilities, which are spread across a large number of agencies, means no one is responsible for monitoring or oversight of the performance of the whole system.
51. These factors have resulted in a series of issues and challenges, which together mean that current three waters service delivery arrangements are ineffective, inefficient, and no longer fit for purpose. Key issues and challenges relate to:
- 51.1 Capability at both governance and operational levels – including a lack of the breadth and depth of expertise, and/or a lack of the systems and processes, needed to manage highly complex three waters infrastructure and services, and make associated investment decisions.
 - 51.2 Economic inefficiencies and capacity challenges, due to a lack of organisational scale, the dispersed nature of service delivery arrangements across a large number of providers, and the inability to make strategic resourcing and infrastructure investment decisions across district and regional boundaries, in support of regional development and infrastructure needs.

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- 51.3 Affordability issues facing many councils and communities, who are struggling to fund the infrastructure needed to meet regulatory requirements and local expectations, keep pace with population growth, build resilience to natural hazards, and respond to climate risks. Over time, councils may also come under increased financial pressure if local private and community suppliers are unable to meet requirements to deliver safe drinking water and need assistance to comply with regulatory requirements.
- 51.4 The need to improve three waters services and outcomes for iwi/Māori, who are overrepresented in the groups that are underserved by council-owned reticulated services, and to deliver obligations relating to Te Mana o te Wai.
- 51.5 Significant and widespread under-investment in three waters infrastructure over several decades – as discussed further below – such that we now face a significant infrastructure deficit and a service delivery system that is associated with widespread performance failures.
52. Thanks to the considerable efforts of territorial authorities, officials, and the Water Industry Commission for Scotland (WICS), we now have the most comprehensive picture of three waters assets and investment requirements that has ever been available. While the state of information still falls short of what might be expected within a modern regulatory environment, it provides a strong evidence base to underpin the proposed reforms.
53. In October 2020, the Department of Internal Affairs issued a comprehensive request for information (RFI) to inform policy advice and detailed economic, commercial and financial analysis. The information requested enabled assessment of the asset base, asset condition, operating environment, current commercial and financial arrangements, and forecast investment plans. The RFI has been used to supplement available information in local authority annual reports and long-term plans, to undertake a range of economic and financial analyses.
54. The Water Industry Commission used the data as part of an economic analysis of water services aggregation, which considered the economic benefits from aggregation under a wide range of aggregation scenarios compared with a counterfactual scenario under which local authorities continued to deliver water services.
55. This analysis showed that significant levels of investment – in the order of \$120 billion to \$185 billion – will be required across the country to replace and refurbish existing infrastructure, upgrade three waters assets to meet drinking water and environmental standards, and provide for future population growth. Meeting this investment challenge could take 30 to 40 years, and will be beyond the funding and operational capacity of most councils and communities under current arrangements.
56. The future investment required needs to be considered in context. It compares with historic council capital expenditure of \$1.5 billion on average annually over the last five years. Forecasts in draft 2021-31 long-term plans indicate this investment is expected to increase to around \$2.7 billion annually – or between \$42 billion to \$81 billion, if extended over the next 30 years. However, this anticipated increase in investment would still leave a significant investment gap, according to the WICS estimates. These figures could ultimately be even higher, as they do not take account of projected investment requirements associated with the need to provide for seismic resilience, address climate risks, or responding to iwi/Māori expectations.

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57. The analysis highlights the affordability challenge that local authorities will face in the absence of reform. Without service delivery reform, and the associated efficiency gains, the real cost increases to households of meeting the required investment would be significant, and likely unaffordable for many smaller communities and low-income customers.
58. For rural councils, average household costs in 2019 ranged from less than \$500² per annum to \$2,600 per annum across the 67 councils, with a median of \$1,300. To meet the investment required, average household costs would need to increase by between three and 13 times in real terms. For some small, rural local authorities, average household costs in 2050 could reach as high as \$9,000 in today's dollars, and would be unaffordable for many households.
59. The situation is not much better for larger provincial and metropolitan councils. Average household bills (in 2019) for provincial councils ranged from around \$600 to \$2,550, with a median of \$1,120. By 2050, these bills would need to increase by between two and eight times to meet the required investment. Similarly, average household bills across metropolitan councils would need to increase by between 1.5 and seven times. In some metropolitan councils, bills could reach between \$1,700 and \$3,500 per annum in today's dollars.
60. In addition to the analysis undertaken by WICS, my officials commissioned an economic impact assessment from Deloitte to understand the potential impacts of reform. This analysis compares the impact of a step-up in investment in the sector enabled through reform, relative to a scenario without reform (counterfactual) in which councils continue to deliver three waters services. Importantly, the counterfactual envisages that councils will deliver an increase in investment over current levels of between 25 per cent and 57 per cent.
61. The reforms are forecast to impact every corner of the economy and could see Gross Domestic Product (GDP) expand by \$14 billion to \$23 billion over the next 30 years, relative to the counterfactual. To put this in perspective, this represents investment equivalent to 4.4 per cent to 7.1 per cent of the total New Zealand economy. In relative terms, this increased economic activity equates to an average increase in GDP of 0.3 per cent to 0.5 per cent per annum.
62. The benefits of reform are widespread, with provincial and rural areas expected to experience significant increases in GDP compared to current levels.
63. The reforms are expected to support additional jobs across the economy. Relative to the counterfactual, New Zealand could have on average an extra 5,850 to 9,260 additional full-time equivalent (FTE) jobs between 2022 and 2051. The increased jobs and associated economic activity will help generate between \$4 billion and \$6 billion in additional tax receipts for the Crown.

² Current costs are not necessarily a good reflection of what funding is required to meet the full costs of economic depreciation (that is, to provide resources for asset maintenance and renewal).

64. Total employment within the water sector is expected to increase by up to 80 per cent over the medium to longer term as a result of the proposed reforms. However, the composition of the water sector is expected to change, particularly over the transition period, as older employees choose to retire while others elect to pursue opportunities in other parts of local government or other sectors (where employment is also expected to increase). Over time, as investment in more efficient systems and processes for delivering the three waters takes effect, and as the sector matures, the workforce is likely to become more specialised with more attractive career pathways.

I have developed a package of proposals to transform the three waters system

65. The nature and extent of the challenges facing the system, and the root causes of these problems, mean we cannot expect the current system of service delivery to respond to meet these challenges – particularly in the comprehensive, widespread and sustained manner that is required.
66. I do not consider that relying on central government funding to address infrastructure deficits – as has been suggested by some councils – to be a viable long-term solution. This would offer no guarantee of the level of funding that needs to be sustained over 30 to 50 years, and does not address other systemic issues noted above. Local authorities are not set up to deliver the necessary increase in infrastructure investment. Even if they had access to the necessary funding, they do not have the scale, financial flexibility, and capability to do so in a manner that is economically efficient and affordable for their communities.
67. What is needed – and what I am proposing in these papers – is transformation of the three waters service delivery system. I have developed a package of inter-connected reforms, designed to target multiple issues, overhaul the service delivery system, and bring about the step change in service performance that will achieve the outcomes we are seeking for all New Zealanders, in an affordable and financially sustainable manner.
68. These reforms are based around a number of core components, many of which were outlined in my earlier papers. It is important to note that my proposals form an integrated package and need to be implemented together in order to achieve the maximum impact and desired outcomes. The core components relate to:
- 68.1 The aggregation of local government three waters services/infrastructure into a small number of new, dedicated, publicly-owned water services entities. This approach is designed to:
- 68.1.1 deliver scale efficiencies – including greater dynamic, allocative, regulatory, and administrative efficiency;
 - 68.1.2 address existing capability and capacity challenges, while also creating new employment opportunities and supporting workforce development;
 - 68.1.3 help to address affordability challenges, by increasing the size of the customer base of each service provider, and enabling costs to be shared across larger populations.

- 68.2 Transferring asset ownership from local government to the new water services entities, to enable improved access to capital markets (similar to other utilities) and borrowing at a greater level than councils can achieve. (Note that there will be mechanisms to ensure these entities and their assets remain in public ownership, with legislative protections against privatisation.)
- 68.3 Competency-based, independent, professional boards to govern the new entities, and make investment decisions about infrastructure delivery over a long time period. Strong governance and accountability arrangements will need to be at the heart of the new system, if we are to achieve and maintain the desired step change in performance.
- 68.4 Mechanisms to provide for a strong community and consumer voice in relation to the new entities, to recognise the rights and interests of iwi/Māori and to require the water services entities to participate in and support local government and resource management planning processes.
- 68.5 Economic regulation, to provide greater transparency about the costs and performance of three waters services and infrastructure and to strengthen accountability for performance. It is intended that price-quality regulation will be introduced to ensure the new entities are operating efficiently, performing effectively, and charging a fair price to consumers. This is discussed further in Part D, below.
- 68.6 Mechanisms for protecting consumers, to ensure quality of service and provide clear recourse to resolve disputes.
- 68.7 Strengthened system oversight and stewardship, including the introduction of a Government Policy Statement for three waters services and infrastructure, to provide national policy direction to the water services entities.
- 68.8 An industry transformation strategy, to support and enable the wider three waters industry to gear up to play its part in the reformed service delivery system.

Part B: Establishing new water services entities

At the heart of the reforms is the creation of large-scale, publicly-owned water services entities

69. Last year, we made in-principle decisions to reform the current service delivery model by aggregating local government water service provision into a small number of large-scale, publicly-owned water services entities. This approach recognised the potential opportunities to achieve scale-related efficiencies and other benefits, subject to further advice and analysis. As described in this paper, that analysis has now been undertaken, and supports our earlier decisions.
70. I am now seeking agreement to proceed with the reforms, and to the development of legislation that will establish new water services entities and provide for key aspects of the transition process.

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71. These new entities would take over the three waters-related infrastructure and service delivery responsibilities from local authorities, while providing for ongoing public ownership and governance oversight. The anticipated 'go live' date for the new entities is 1 July 2024. This date aligns with the 2021-2024 long-term planning cycle, and would help to facilitate a smooth transition from local authorities to the new entities.
72. I am also seeking to confirm the detailed arrangements relating to the new entities, which will be provided for in the establishing legislation. There are three key elements:
- 72.1 the entities' purpose, objectives, general responsibilities, and operating principles;
 - 72.2 the number of entities, and their boundaries;
 - 72.3 the core design features of the entities – including ownership and governance structures; protections against privatisation; planning and accountability mechanisms; funding and financing arrangements; and mechanisms for ensuring consumers, communities, and iwi/Māori have appropriate influence in relation to the new entities and system.
73. This paper seeks agreement to proposals relating to the first two of these items. It also discusses some of the other factors that are critical to the success of the new entities, and the reforms more broadly – particularly stewardship arrangements (including the role of a Government Policy Statement), economic regulation and consumer protection mechanisms.
74. The second in this suite of papers provides detailed proposals relating to the core design features of the entities. It also explains the interactions between the new entities, consumers and communities, and proposals for providing for the rights and interests of iwi/Māori within the entity design model.
75. The third paper explains how iwi/Māori rights and interests have been considered throughout the development of the package of reform proposals, including considerations relating to the Treaty of Waitangi, and engagement on these matters.
76. I am seeking agreement to implement the decisions in these papers through a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year). That Bill would also implement some of the decisions in the fourth in this suite of papers, relating to the approach to, and powers needed for, the transition.
77. It is intended this Bill will be followed by further legislation to deliver all of the components of these reforms, which would provide for:
- 77.1 detailed transitional arrangements to the new entities and service delivery system – including provisions relating to the transfer of assets, liabilities and employees; and the specific powers, functions and responsibilities the new entities will require to operate;
 - 77.2 an economic regulation regime and consumer protection mechanisms relating to the new three waters system.

These would be statutory entities, with their purpose, objectives, responsibilities, and other critical features set out in legislation

78. I am seeking agreement to reform existing three waters service delivery arrangements by establishing new, dedicated water services entities, which are operationally and financially separate from local government (while remaining owned by territorial authorities). These would be statutory entities, created in legislation.
79. In December 2020, Cabinet provided early direction on the proposed new water services entities, by agreeing they will have a commercial objective, among other objectives. I am now seeking to confirm further details about the objectives of the entities, along with the purpose, operating principles, and general responsibilities that would be included in legislation (the proposed Water Services Entities Bill).
80. I am proposing that the purpose of the entities would be to provide safe, reliable and efficient water services. Flowing from this would be high-level objectives relating to:
- 80.1 delivering water services, and related infrastructure, in an efficient and financially sustainable manner;
 - 80.2 protecting and promoting public health and the environment;
 - 80.3 supporting and enabling housing and urban development;
 - 80.4 operating in accordance with best commercial and business practices;
 - 80.5 acting in the best interests of consumers and communities, in the present and for the future;
 - 80.6 giving effect to Te Mana o te Wai to the extent Te Mana o te Wai applies to the duties and functions of the entities³;
 - 80.7 delivering and managing water services in a sustainable and resilient manner, which seeks to address climate risks and mitigate the negative effects of natural hazards.
81. I am proposing the entities would provide services and infrastructure relating to drinking water, wastewater and stormwater. For the avoidance of doubt, this proposal applies only to assets and responsibilities that are currently held by (or delivered on behalf of) local authorities – not those held by the Crown, private organisations, marae, or individual households.
82. The entities would be drinking water suppliers for the purposes of the drinking water regulatory framework, and would be regulated by Taumata Arowai (once Taumata Arowai assumes those responsibilities). The entities would also be wastewater and stormwater network operators, and their performance would be regulated and monitored in that respect under the applicable regulatory frameworks.

³ Paper 3 provides examples of how the entities would be required to give effect to Te Mana o te Wai.

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83. The entities will need to have the legislative powers, functions, and responsibilities required to fulfil their purpose and objectives, and undertake the roles envisaged. This would include a wide range of powers and responsibilities relating to water service delivery, which currently sit with local government under various pieces of legislation. For example, local authorities have responsibilities applying to lifeline utilities under the Civil Defence Emergency Management Act 2002; powers to access land for the purpose of maintaining infrastructure that sits on or under that land; powers and responsibilities relating to trade waste; and obligations to operate three waters services in compliance with resource consents.
84. I note that further, detailed work will be required to identify precisely which responsibilities, powers, functions, and assets would be transferred to, and/or held and exercised by, the new entities. Unbundling water assets, liabilities and associated contracts and staff will be a technically and legally complex process, particularly with regard to stormwater. This work will be undertaken early in the transition phase, in partnership with the local government sector, and key operational agencies like Waka Kotahi. Detailed legislative provisions to give effect to the transfer of water services, and related responsibilities and powers, would be included in a second Bill – as indicated above.
85. A large number of consequential amendments to other legislation are also likely to be required, to ensure there is clarity about the entities' roles and responsibilities across the wider regulatory framework. This would be dealt with during the legislative drafting process.
86. Local government would continue to have primary accountability for urban and land-use planning. The water services entities will be required to identify and make provision for infrastructure to support growth and development identified in relevant plans. This will enable them to service demand for new strategic capacity, including to meet the three waters needs of all new housing development, and commercial and industrial customers. When providing new infrastructure, the entities will need to work with urban and land use planning authorities, and other infrastructure providers, to ensure that the delivery of infrastructure is sequenced and supports committed development, to minimise the likelihood of redundant assets.
87. In parallel with the resource management reforms, I expect that legislation will need to provide for statutory obligations on the water services entities to support an integrated planning approach. These obligations would ensure that urban planning authorities, the new water services entities, and other infrastructure providers, coordinate the planning and delivery of the right infrastructure, at the right time, in accordance with commitments in agreed urban growth strategies, and spatial and implementation plans (including those provided for under the new resource management system).
88. I am also seeking agreement to include some operating principles in the legislation, to guide and inform how the water services entities deliver their objectives and functions. These would broadly relate to:
- 88.1 developing and sharing capability and technical expertise – both internally, and across the wider three waters, development control, and land-use planning sectors;
 - 88.2 being innovative in the design and delivery of water services and infrastructure;

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- 88.3 being open and transparent – including in relation to the calculation and setting of prices, determining levels of service, and reporting on performance;
- 88.4 partnering and engaging early and meaningfully with Māori, local government, and communities;
- 88.5 cooperating with, and supporting, other water services entities and infrastructure providers, local authorities, and the transport sector – including in relation to infrastructure planning, and development control and land-use planning processes;
- 88.6 understanding, supporting, and enabling mātauranga Māori and tikanga Māori and kaitiakitanga to be exercised – both within the entities and when engaging with iwi/Māori.

A range of factors have been analysed to help determine how many entities there should be, and their boundaries

- 89. The June and December 2020 papers outlined the factors that would guide decision making on the number and boundaries of the new entities, and the process that would be followed to support these decisions. Key factors agreed by Cabinet were: scale benefits; communities of interest; and relationships with other jurisdictional boundaries, including catchments.

Scale is critical to success, and must be given priority when determining the number of entities

- 90. Achieving our ambitions for the reforms requires entities to have a sufficient asset and customer base to be financially sustainable, operate at an economically efficient scale, and enable prices to be affordable and levels of service to be broadly comparable. Decisions on the number of new entities, and their boundaries, are key to ensuring the entities are set up for success.
- 91. WICS drew on its international experience and available empirical evidence to analyse the economic benefits of aggregation, including considering the scope for efficiency gains. This analysis took account of the potential for efficiency gains across financing costs, operating expenditure, and capital expenditure for each aggregation scenario.
- 92. International evidence indicates each entity would need to serve a connected population of at least 600,000 to 800,000 to achieve the desired level of efficiency. Below this point, entities may find it difficult to fully realise the efficiency benefits that have been shown to be possible in other jurisdictions.
- 93. The main benefits from scale relate to:
 - 93.1 financial capacity and capability – associated with balance sheet capacity; management and governance competency, and investor confidence and certainty;
 - 93.2 financial sustainability – through scale benefits in asset management, procurement and operating efficiency; and funding and pricing flexibility to address geographical, climate risk, and intergenerational equity concerns;
 - 93.3 sector capacity and strategic workforce – by providing sufficient scale to encourage strategic workforce planning, and provide the required depth of management and governance talent;

93.4 regulatory burden and benchmarking – including the ability to adequately benchmark performance without introducing a costly regulatory burden to entities of insufficient scale.

94. A further benefit of scale relates to the potential to spread costs over a larger population base, which can, for example, assist in ensuring an acceptable level of service can be delivered affordably in smaller, rural communities. While a degree of price harmonisation is appropriate, I see this as less important than ensuring there is broadly consistent quality of service across similar groups of customers. Indeed, it will be important to enable water services entities to maintain some flexibility around how they charge for their services, within an appropriate pricing and charging framework.

Additional factors also need to be considered when making decisions about the number of entities, and boundaries in particular

95. Scale and efficiency are not the only considerations when determining the number and boundaries of entities. Other factors also need to be considered, to ensure the new entities can operate effectively in relation to water catchments, engage meaningfully with iwi/Māori, understand and reflect community interests, and have access to a skilled local workforce.
96. In particular, water catchments are a relevant consideration in determining the boundaries of water services entities. Achieving good environmental outcomes is dependent on containing entire catchments within the boundaries of entities. This will enable effective catchment planning and management of associated infrastructure.
97. Iwi/Māori have also raised the importance of considering a Te Ao Māori expression of kaitiakitanga through ki uta ki tai – the passage of water from the mountains and great inland lakes, down the rivers to hāpua/lagoons, wahapū/estuaries, and to the sea. Furthermore, decisions on boundaries needs to be informed by an understanding of rohe/takiwā boundaries, which tend to align with catchment boundaries.
98. Analysis of these factors was undertaken as part of the policy development process. This included extensive GIS mapping, integrating physical boundaries with catchment, rohe/takiwā and regulatory boundaries to identify potential problem areas at the margins of entity scenarios. This analysis confirmed that catchment boundaries are the next most important factor, after considering scale.

My preferred approach is to create four new water services entities, and to enable all communities to benefit from reform

99. Having weighed up all of the above factors, considered the supporting analysis, and discussed this matter with other Three Waters Ministers, my preferred approach is for there to be four water services entities.
100. It is worth noting that the Joint Three Waters Central/Local Government Steering Committee broadly endorsed the conclusion of officials that three or four entities best balances the range of relevant considerations in determining the number of entities, and that, on balance, a four-entity model was likely to have a broader appeal to the sector than a three-entity option, given greater connection to communities of interest.

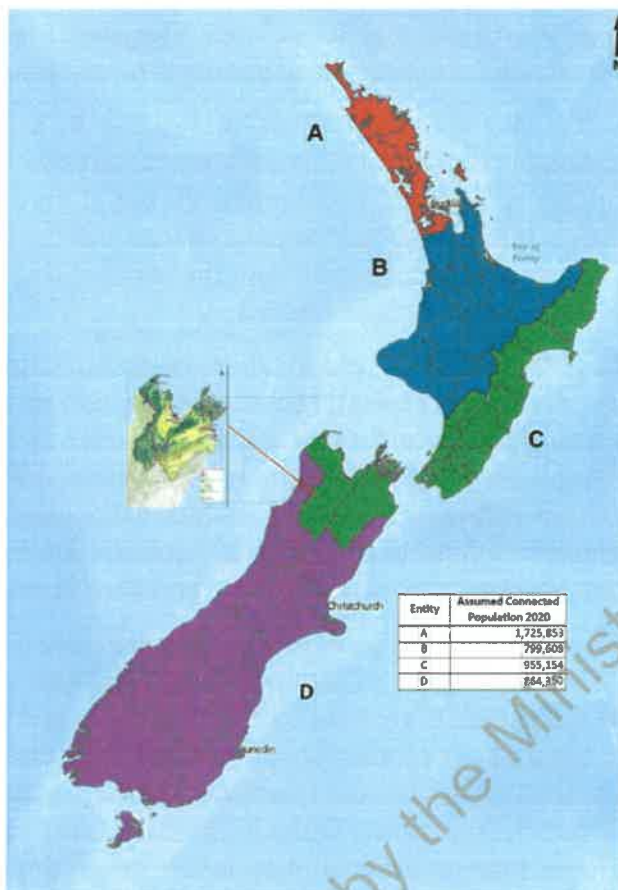
101. I consider that a four-entity option offers the greatest potential to achieve the outcomes sought through our reform programme, and balances the benefits offered by scale with other considerations. I am proposing that the legislation provides for this number of entities.
102. We also need to determine the boundaries of each of these entities – again, giving consideration to many of the factors discussed above. There are several potential configurations of a four-entity model, and Three Waters Ministers have received advice and analysis on a number of options. Discussions have indicated that priority should be accorded to ensuring the boundaries best provide for catchments, to the effect that environmental outcomes within the entities benefit from a ki uta ki tai approach. Other important considerations include whakapapa linkages and established inter-regional economic linkages.
103. Further analysis and engagement have identified three key choices relating to the determination of entity boundaries within a four-entity option. These choices relate to:
- 103.1 whether to extend an upper North Island (Auckland/Northland) entity to include other districts surrounding the Hauraki Gulf, enabling a more integrated approach to the management of the Hauraki Gulf marine catchment;
 - 103.2 which entity would include the Taranaki region, taking into account ki uta ki tai, whakapapa connections, and economic geography / community of interest considerations; and
 - 103.3 whether there should be a single entity covering the whole of the South Island, or instead take an approach that divides the South Island to reflect communities of interest, achieve a balanced population across the four entities, and reflect iwi/Māori boundaries (that is, a lower South Island entity that represents the Ngāi Tahu takiwā, while also preserving whakapapa connections between the upper part of the South Island – in Tasman, Nelson and Marlborough – with the lower North Island).
104. On balance, I propose that Cabinet agree to a preferred option based on the following entity configurations:
- 104.1 Entity A comprising the Auckland and Northland regions.
 - 104.2 Entity B comprising all districts from the Waikato, Bay of Plenty and Taranaki regions and the upper parts of Manawatū-Whanganui region (Ruapehu, Whanganui, and Rangitikei).
 - 104.3 Entity C comprising:
 - 104.3.1 the local authorities in the eastern and lower part of the North Island (Gisborne, Hawke's Bay region, lower parts of the Manawatū-Whanganui region⁴, and Wellington regions); and
 - 104.3.2 the local authorities at the top of the South Island (Tasman, Nelson and Marlborough).

⁴ This includes Horowhenua, Manawatu, Palmerston North and Tararua.

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104.4 Entity D comprising the districts and regions in the rest of the South Island, including those parts of the Marlborough and Tasman Districts that comprise the Ngāi Tahu takiwā.⁵

105. A map showing this option is below:



106. This option has the advantages that it:

106.1 results in broadly even populations served outside of the 'northern' entity (Entity A, which includes Auckland). Any initial differences are expected to be moderated in the medium-term, as the smallest entity (Entity B) includes some high growth areas;

106.2 combines all districts in the Waikato and Bay of Plenty into a single entity, recognising the significant relationships between these councils, and leveraging the considerable work that this group of councils has already undertaken toward three waters reform;

106.3 aligns catchments in the central North Island, in particular from the Taupō District through the Waikato region, and supports ki uta ki tai approach based around maunga in the central plateau and Taranaki;

106.4 recognises whakapapa linkages between the North and South Islands, including iwi boundaries that span the two islands.

⁵ Adjustments will be made to this boundary to correspond to the Ngāi Tahu takiwā rather than conforming to local authority boundaries.

107. While the proposed option does not provide for containment of catchments that impact on the Hauraki Gulf marine area (for example, this catchment also encompasses Hauraki, Thames Coromandel and Matamata-Piako districts, and part of the South Waikato District), these districts also align strongly to Waikato and Bay of Plenty. Any concerns about misalignment of entity boundaries to this catchment can be addressed through the two upper North Island entities collaborating with relevant regional councils on an integrated catchment management approach for the Hauraki Gulf.
108. The Steering Committee advised that, once an initial proposal is confirmed, there should be further testing of boundary issues including, for example, the top of the South Island and the catchment approach in the Hauraki Gulf, and noted that final decisions on these matters would benefit from further engagement with the affected councils and their neighbours, and with affected iwi and mana whenua.
109. Given the significance of these boundary decisions, and the finely balanced nature of some of the judgements around key boundary choices, I consider it is important to further consider the views of local authorities and iwi that are most affected by the proposed boundaries, before setting them in legislation. I therefore recommend that further discussions are held with those local authorities and iwi/Maori that would be most affected by the boundary choices outlined in paragraph 103 above. I will report back to Cabinet, in September 2021, seeking confirmation of the proposed approach.
110. Under the proposed option, WICS estimates that customers would experience either a reduction or much smaller rises in real average costs per household than under a 'no reform' scenario. Changes in real average costs per household would be limited to between a 27 per cent reduction and a 54 per cent increase if the assumed efficiencies are realised. The variation in average annual costs per household between entities would also be manageable, while noting that costs in Entity A (the lowest cost entity) would likely be 1.5 to two times lower than for other entities. Future uncertainties regarding technology change, population growth, climate impacts, entity performance and other factors mean actual pricing outcomes may differ from these estimates.
111. While the proposed reforms will reduce the rise in real average costs required compared to a 'no reform' scenario, some consumers will face a significant and sustained increase in costs, especially in communities that have not been charging enough to cover the full costs of service delivery (including covering economic depreciation to provide for future asset replacement). It is difficult to be precise around the specific implications for price changes until much more detailed analysis of current charges has been undertaken, including understanding current price differences between household and business customers.
112. The Government will have some ability to influence the scale of the increases faced by individual consumers, either by applying restrictions on price rises during the transition period, or through the Government Policy Statement. Nonetheless, there are trade-offs associated with the Government seeking to influence prices. Further advice on the approach to managing pricing transition will be provided in my next paper.

113. The ability of water services entities to raise a financially sustainable level of revenue is of particular importance, given the water services entities will rely heavily on the capital markets to finance their investment in infrastructure. It is proposed that water services entities will take on a significant amount of debt (as much as six to seven times revenue, consistent with levels of debt employed overseas), and will have no access to equity capital. The absolute quantum of debt able to be borrowed will depend on investors being comfortable that water services entities demonstrate a willingness and ability to increase prices to meet the full cost of delivering their services, supported by an independent economic regulatory regime.

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Part C – Further considerations relating to the new water services entities’ roles and responsibilities

The reforms are an opportunity to achieve a step change in the performance of the stormwater system, but there are some complexities – including relating to the roading interface – that require further investigation and will be reported back to Ministers

158. I am proposing that territorial authority responsibilities for managing stormwater are transferred to the new water entities.

159. Bringing together the delivery of drinking water, wastewater and stormwater enables the new water services entities to adopt an integrated catchment approach to the management and operation of urban water systems. In practice, there are multiple ‘interactions’ between the three waters, and in many parts of the country wastewater enters the stormwater systems, and vice versa, through leaking wastewater pipes, constructed overflows, or illegal connections.

160. Transferring territorial authority responsibilities to the new water services entities also recognises that there are specific challenges facing the stormwater system, and that community expectations around the performance of the stormwater system are continuing to increase. The continuing expansion of urban areas, increasing frequency of high-intensity rainfall events, and a growing awareness of the environmental impact of stormwater run-off on fresh and coastal water bodies, are all placing significant pressure on the existing arrangements for managing the stormwater system.

¹⁰ This amount is in addition to the \$5 billion to \$7 billion of local authority debt that the water services entities would take over as part of the transfer process.

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161. An increase in investment, capability and capacity is needed to lift the performance of stormwater systems, ensure they are resilient, reduce impacts on water quality, and adapt to long-term challenges like climate change.
162. Stormwater funding and delivery issues have also been identified as a major constraint across Kāinga Ora's large-scale projects in Auckland and Eastern Porirua. The current alignment and coordination issues facing large-scale housing projects could be improved if responsibility for stormwater sat with fewer entities.
163. Few councils (outside of major metropolitan areas) have the capacity and capability to address these challenges. The transfer of drinking water and wastewater to the new water entities will only exacerbate the existing constraints faced by smaller councils.
164. This analysis has been supported by my engagement with local government stakeholders and iwi/Māori, which has revealed that there is strong support for the integrated management of all three waters, including stormwater. Iwi/Māori have also been consistent in their view that 'wai is wai', and have strongly supported the integrated management of all three waters.
165. Some councils, including those in the Wellington Water Group, and the Waikato and Bay of Plenty, have indicated that inclusion of stormwater underpins their support for reform. For those councils, and the wider sector, it is important we provide certainty, and make a decision to include stormwater in the scope of the new water services entities.
166. Developing the future arrangements to support the transfer of territorial authority stormwater responsibilities to the new entities will require a different approach from the transfer of drinking water and wastewater. While most stormwater systems will include dedicated stormwater infrastructure, the bulk of the system – both above and below ground – is owned by public landowners (councils and road-controlling authorities) and private landowners.
167. While it is not practical to transfer all those elements to the new water services entities, the reforms create the opportunity to coordinate and align stormwater management functions to apply an integrated catchment management approach. Currently, management of the stormwater system is largely reactive, with limited understanding of the system, or management of cumulative effects across that system.
168. Consolidating stormwater functions will lift capability and capacity, and improve operational efficiency. However, future arrangements for managing the stormwater system will require a framework for service level agreements between the water services entities, councils, road-controlling authorities, private land owners, and key public sector utility agencies like Waka Kotahi and KiwiRail. Further work is also required to ensure the water services entities have appropriate powers to undertake functions to meet compliance requirements set through the resource management regime.
169. To the extent that any stormwater assets are transferred to the water services entities, these would relate only to territorial authority assets. Other publicly and privately-owned stormwater assets are excluded from the scope of these reforms, including assets associated with state highways or other transport providers (such as KiwiRail), where stormwater systems have been developed to protect the functions of road and rail corridors.

170. While the transfer of territorial authority stormwater responsibilities is complex, many of the complexities have not been investigated thoroughly before – including the complicated array of legislative provisions and assets, and the policy and planning framework. These reforms are an opportunity to develop a much clearer legislative, policy and operational framework, to ensure accountabilities are clear, and there are robust arrangements in place for the maintenance, operation, and funding of stormwater system in the future.
171. While the issues are complex, the inclusion of stormwater within the scope of water services entities is not without precedent. Similar approaches have been followed in other jurisdictions; for example, Melbourne Water manages bulk stormwater infrastructure. I am also advised that officials from Tasmania recently indicated to the Central/Local Government Three Waters Steering Committee that, on reflection, it would have been preferable for stormwater to have been included as part of the reforms that occurred there.
172. A 'stormwater technical working group' – comprising experts from central and local government, iwi/Māori, and the water sector, and with an independent chair – has been formed to provide advice on the approach to transferring stormwater responsibility to the new water services entities. Key areas of focus include:
- 172.1 identifying which assets and responsibilities would be transferred, and which would remain under council ownership and management;
 - 172.2 developing systems, processes, and relationships required to support the water services entities to work with territorial authorities, regional councils, road controlling authorities, and other relevant agencies (such as Waka Kotahi) to effectively manage the stormwater system;
 - 172.3 ensuring the new entities can balance the need to urgently progress priority upgrades of the drinking water and wastewater system, while lifting the overall performance of the stormwater system, in a timeframe that meets community expectations and keeps costs affordable.
173. The stormwater technical working group will support the development of a proposed approach and/or framework to transition stormwater to the water services entities, and 'unbundle' existing arrangements. It is also expected that further policy work will be needed to identify and address current gaps in legislative and policy frameworks. Some of this work can be completed during the transition and establishment phase for the new water services entities.
174. Further advice will be provided to Three Waters Ministers, and other relevant Ministers, in July 2021 on the proposed an approach to transition stormwater to the water services entities.

The entities will have some initial responsibilities relating to private and community providers of water services, and these are likely to increase over time

175. Under my proposed approach, the new water services entities would take over the service delivery, infrastructure, and related functions, responsibilities and assets that currently sit with local authorities. Collectively, these suppliers provide water services to approximately 85 per cent of the population.

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176. However, many people in this country – particularly people living in rural communities and marae – do not receive water services from local authorities. We need to consider communities served by these private and community supplies as part of these reforms. This includes the potential roles that the new entities might play in providing support to, and building the capacity of, these supplies to achieve compliance with regulatory requirements, and the potential to transfer responsibility for these supplies to the new entities.
177. Mechanisms such as the Government Policy Statement, proposed later in this paper, could be used to provide direction to the entities. For example, this Statement could be used to set national expectations for addressing inequalities in access to, and levels of service in, currently under-served communities; or provide direction about the connection strategy to be pursued. There would be many factors to weigh up and consider when determining the nature and extent of any obligation placed on the entities, though, given the significant costs that may be involved.
178. In the meantime, to begin addressing existing inequities in quality and access to water services, \$30 million was set aside as part of the funding decisions in June 2020 to support rural drinking water suppliers, including marae, to meet the regulatory requirements prescribed in the Water Services Bill.
179. Since then, officials have been developing advice on how this funding might be allocated, and used effectively to support rural marae and papakāinga, and other remote communities to have affordable access to safe drinking water. The proposed, two-phase approach has been designed to maximise and leverage the funding allocation to support the development of water treatment solutions (at source or at point of use) that can be accessed by small, rural and community suppliers, including marae, that may need to upgrade existing treatment systems.
180. Water services are also provided by the Crown, including by the Department of Corrections, New Zealand Defence Force, Department of Conservation, and some schools. As noted above, and in my previous papers, these agencies are not currently included in the scope of the proposed service delivery reforms, and their assets and responsibilities would not be transferred to the new water services entities at this time.
181. I understand these agencies are already working together, and with Taumata Arowai, to consider how they can improve the provision of water services and meet regulatory requirements. I anticipate that, once established, the water services entities are likely to become involved in these discussions, and there may be opportunities for them to provide assistance. This could include, for example, considering the potential transfer of responsibilities for some supplies to the new entities, on a case-by-case basis.
182. There are a number of complex issues that need to be examined further during the transition phase, and there will need to be a clear process for doing this. My officials are currently working with these agencies to develop a process and timeframe for undertaking this work. I am proposing to provide further details on this matter in my next paper (July 2021), including a deadline for reporting back to Ministers on the issues, options and proposals relating to Crown supplies, if appropriate.

The Water Services Bill contains obligations on territorial authorities that would apply to the new water services entities

183. The Water Services Bill amends the Local Government Act 2002 to place a duty on territorial authorities to ensure communities have access to drinking water if existing, non-council suppliers face significant problems with their services. A significant problem could include a persistent failure to comply with drinking water regulatory requirements, there being a serious risk to public health, or that the supplier has ceased to operate a service.
184. In this situation, the duty on territorial authorities would include:
- 184.1 working collaboratively with existing suppliers, Taumata Arowai, and consumers to identify solutions; and
 - 184.2 potentially stepping in to ensure drinking water is provided to affected consumers, which might include (but does not necessarily require) taking over the management and operations of a service on a temporary or permanent basis.
185. In addition, each territorial authority will be required to undertake a 'proactive' assessment of the drinking water services available to communities in its district, at least once every three years. This includes assessing all private and community supplies, except domestic self-supplies. These assessments can also be undertaken by organisations on a territorial authority's behalf, including an iwi or Māori organisation.
186. I am proposing that these legislative responsibilities and obligations, if enacted, would be transferred from territorial authorities to the new water services entities.

Part D – Strengthening the wider regulatory and stewardship system

Economic regulation and consumer protection are a critical part of the overall reform package, but detailed proposals will be developed over a slightly longer timeframe

187. Evidence from overseas jurisdictions, and other utility sectors in New Zealand, is clear that economic regulation will play a critical part in a well-functioning three waters system. It will do this by protecting and enhancing the long-term interests of consumers, and providing system-wide performance information that will be utilised by a range of system players and stakeholders.
188. Effective economic regulation is an integral part of the overall reform package, which can be used to drive:
- 188.1 efficient pricing, procurement and asset management practices;
 - 188.2 incentives to invest and innovate; and
 - 188.3 the provision of services at a quality and level of resilience that reflects consumer and wider community demands.
189. In December 2020, Cabinet noted that economic regulation plays a critical role in protecting consumer interests and providing high-quality performance information. Cabinet also agreed, in principle, that:
- 189.1 an economic regulation regime will be employed in a reformed New Zealand three waters sector; and

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- 189.2 an information disclosure regime that allows the performance of entities to be compared will apply, at a minimum, to a substantively reformed three waters sector [CAB-20-MIN-0521.01 refers].
190. Further work needs to be undertaken to explore and consult on the options for an appropriate economic regulation and consumer protection regime, and develop advice on a proposed approach. Regulatory design issues include considering who would be regulated; what form of regulation should apply; key requirements; who the economic regulator would be; and how the regulator would be funded. It will be important to consult consumers on the consumer-facing aspects of the proposed regulatory tools.
191. Responsibilities relating to economic regulation fall within the portfolio of the Minister of Commerce and Consumer Affairs, and the preparation of advice would be led by the Ministry of Business, Employment and Innovation, in consultation with the Department of Internal Affairs and the Treasury. I am advised that an indicative timetable has been prepared, which includes:
- 191.1 issuing a discussion paper in October 2021;
 - 191.2 seeking Cabinet decisions in April 2022;
 - 191.3 introducing legislation in late 2022, with anticipated enactment in mid-to-late 2023;
 - 191.4 implementation of the first regulatory cycle from 1 July 2024, to align with the 'go live' date of the new water services entities.
192. This work will also include the development of advice and proposals relating to consumer protection mechanisms for the new three waters system. Ensuring consumer rights are protected is an important part of the overall reform package, which complements and enhances the mechanisms for 'community and consumer voice' that are proposed for water services entities in Paper 2. In addition to provisions that apply to new water services entities to protect the rights of their customers, there is a need to consider which protections should apply to any community and private schemes.
193. The overall aim is to design a consumer protection and economic regulation system that affords appropriate protection to all consumers. Mechanisms that will be considered through the discussion paper include:
- 193.1 the design of an appropriate dispute resolution process;
 - 193.2 the establishment of a consumer advocacy council (or the extension of an existing body) to provide expert advocacy on behalf of consumers;
 - 193.3 options to protect consumers who are vulnerable due to their age, health, disability, or financial position;
 - 193.4 an ability for a regulator to mandate service quality codes;
 - 193.5 the process for setting prices, including requirements for pricing transparency.
194. Three Waters Ministers will have a strong interest in how this work is progressing, and the options and proposals being considered. The Ministry of Business, Innovation and Employment will provide regular updates on this work to Ministers.

Effective stewardship of the three waters system is integral to the implementation and long-term success of the reforms

Why is stewardship important to the reform programme?

195. If my proposals are agreed to, we will be embarking on a high profile, transformational series of reforms, which are of high interest to a range of Ministers and government agencies, all councils and communities, iwi/Māori, industry stakeholders, and the general public.
196. This is a very large and complex programme, which will last for several years. It requires extensive specialist support and advice on a vast array of matters, with many components being designed and delivered in parallel. Fully implementing the reforms, and achieving the desired long-term changes and outcomes, is likely to require government oversight and performance monitoring over several decades.
197. It is vital that we get this right, and design and implement all components of the reform package effectively. There will be risks to the reform objectives in the medium-to-longer-term if transition is not managed well.
198. The service delivery reforms are also part of a wider, interconnected programme of reforms. In addition to the implementation of the three waters regulatory reforms and establishment of Taumata Arowai, there are proposed changes to the resource management system.
199. To help to overcome these challenges and complexities, one of the core components of my reform package is strengthening the stewardship arrangements in the three waters service delivery and (related) regulatory system. This is important in two major respects.
200. Firstly, stewardship and related functions are a core component of the effective design and delivery of the reform programme throughout the establishment and transition phase. This phase will extend from our decisions in these papers, through to 'day one' of the new water services entities – currently anticipated to be 1 July 2024 – and for a year beyond that point. It will involve significant policy, operational, and legislative design work relating to the creation of the new service delivery entities and regulatory model.
201. There are likely to be a large number of issues and risks that will need to be managed during this phase, and many areas of interest to Ministers – including the implications for the water services entities of changes to the resource management system. This will include ensuring all of the components of the reform programme are on track, and are ready to come together by the required deadlines.
202. During this phase, effective system stewardship arrangements will play an important role in managing the interface between Ministers, policy advice, and the institutions involved in the transition process. It will help to ensure there is bigger picture oversight and coordination across multiple components of the reform programme, and connections with other parts of the three waters system. This includes the development of the new economic regulation regime, design of the consumer protection policy proposals, and reforms and priorities in other portfolios (including the resource management reforms).

203. Secondly, good stewardship is the foundation of a long-term, whole-of-system, proactive and collaborative approach to the ongoing monitoring, review, and oversight of the new three waters system. Proactively promoting stewardship is a statutory obligation for public service agencies, and part of the *Government Expectations for Good Regulatory Practice*.
204. Through these reforms, we have high expectations for achieving long-term benefits and improved outcomes for all New Zealanders. We need to ensure these benefits are fully realised and sustained over time, and that the system can adapt, and continues to be fit for purpose. We also need to remember that inadequacies in stewardship arrangements were identified as problematic by the Inquiry into Havelock North Drinking Water and early findings of the Three Waters Review.
205. We must take this opportunity to ensure effective oversight and stewardship are embedded in the three waters system, for the transition period and in the longer-term. This is critical if there is going to be ongoing improvement, and a proactive approach to performance monitoring and risk management, which is well-coordinated across multiple agencies.

Oversight and stewardship during the transition phase of the reforms

206. As Minister, I am responsible for leading the three waters work programme, as well as being the responsible Minister for Taumata Arowā. I will continue to work closely with the group of Three Waters Ministers as this reform programme is developed and implemented, including throughout the transition phase.
207. My officials at the Department of Internal Affairs (the Department) will support me in this work. I expect the Department will continue in the 'lead agency' role it has been performing in the Three Waters Review to date. This will largely involve leading the significant policy advice, legislative design and support work, and engagement that are at the heart of the multi-year reform programme.
208. In addition, I anticipate the Department will undertake some stewardship functions during the transition phase. This will include ongoing monitoring of the transition process; commissioning a review of the transition arrangements once they expire and considering the lessons learned; and helping to develop appropriate longer-term stewardship arrangements and mechanisms, as outlined below.
209. The Department will work collaboratively with many other interested agencies and stakeholders throughout this process. It will not cut across other agencies' responsibilities, but rather coordinate and consider the range of portfolio interests that are relevant to the three waters regulatory and service delivery reforms.

Stewardship arrangements in the longer term

210. While the arrangements outlined above make sense during the transition phase of the reform programme, I anticipate the focus of stewardship will change over time, as:
- 210.1 we move from the policy and transition phase to implementation of the service delivery reforms, and the new water services entities begin operating;
- 210.2 local government interests in the entities mature, and change to being 'guardians' of the entities on behalf of their communities;

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- 210.3 Taumata Arowai becomes a fully operational regulator and the new regulatory regime it oversees takes effect;
- 210.4 the proposed economic and consumer protection regulatory regimes are established and begin operating;
- 210.5 the proposed reforms to the resource management system take effect.
211. All of these factors – combined with the need to ensure there is an ongoing focus on performance and accountability – will mean that Ministerial and agency interests in the three waters system will develop further, and are likely to change over time.
212. Specific, longer-term stewardship arrangements for the three waters are largely machinery of government matters, which can be developed over time to respond to the above factors. However, I am proposing that any future stewardship arrangements should be designed with the following principles in mind:
- 212.1 Contribute to improved system performance, through clear accountabilities.
- 212.2 Mitigate the risk of poor system performance through the early detection of issues and advice on how to correct these issues.
- 212.3 Internalise (rather than marginalise) different policy perspectives and interests.
- 212.4 Support effective operational and policy interfaces, by identifying interfaces and supporting aligned operation.
- 212.5 Agility and responsiveness to change.
- 212.6 Recognise the interests of local government and consumers in three waters services and regulation.
- 212.7 Recognise the specific interests of iwi/Māori in three waters services and regulation.
- 212.8 Contribute to Ministerial, Parliamentary and public confidence in system performance.
213. During the transition phase, the Department will lead and coordinate a cross-agency piece of work to identify and develop an appropriate approach to organising stewardship functions and governance arrangements in the longer term. I am proposing that the Department is asked to report back to Three Waters Ministers with advice on this matter in September 2024, so that any new arrangements can begin to be implemented within the first year of the new system going live.
214. A range of options would be explored through this work. There may be a need to establish formal mechanisms for ensuring there is appropriate collaboration, coordination, and accountability across many policy and regulatory agencies and other interested parties. For example, regulatory charters are often used to support effective coordination between multiple regulators. I expect this mechanism would be considered in relation to Taumata Arowai and the proposed economic regulator.
- A Government Policy Statement would provide clarity about government objectives for three waters services and infrastructure provision, and direction in relation to the entities***
215. While the potential role of specific stewardship structures and mechanisms would be explored later in the transition work, I am seeking agreement to one mechanism now: a Government Policy Statement for water services and infrastructure.

216. The Government has an ongoing stewardship role to ensure the new three waters system is fit for purpose, and the reform objectives are realised. I envisage a Government Policy Statement would be the main vehicle for the coordination and expression of Ministerial interests and expectations relating to the new water services entities. It would provide policy direction regarding three waters infrastructure and services.
217. I am proposing that the water services entities would be required in legislation to give effect to the Government Policy Statement. They would also be required to comply with other requests for information, which may be necessary to support and enable central government to undertake effective stewardship of the three waters system.
218. Specific outcomes relating to public health, the environment, housing and urban development, climate change mitigation and adaptation, water security, resilience to natural hazards, and social wellbeing (such as equity of access to services, and levels of service) could be addressed through this mechanism. This would complement the objectives for the new water services entities, which would sit in primary legislation – as proposed earlier in this paper.
219. The intent is that this Statement would provide a high-level strategic direction and deal with cross-cutting matters – covering issues that are not already provided for in regulation or addressed through other mechanisms. It would not be pitched at an operational level or concern specific projects, and would be directed only at the water services entities – not other water service providers, or regulators.
220. The focus of the Statement would be on service delivery and infrastructure provision, and on related wellbeing outcomes and interests, not on the wider policy settings surrounding the three waters regulatory system. For example, drinking water quality, environmental standards, and other related regulatory provisions would continue to be set through the broader legislative and regulatory framework (such as the proposed Water Services Act, Natural and Built Environments Act, Strategic Planning Act, and Climate Change Adaptation Act).
221. This focus is important because the way the new water services entities plan for and prioritise investment in infrastructure and services will have a significant impact on national and local interests, across all aspects of economic, environmental, social and cultural wellbeing. However, there will be some important challenges that will need to be considered and managed, including:
- 221.1 the size of the three waters investment deficit, and affordability and supply chain considerations will require the entities to prioritise what they can deliver and when, especially in the early years of the reforms;
 - 221.2 there is a risk that different roles and accountabilities of regulators and land use planning authorities will have competing priorities and level of service objectives;
 - 221.3 the investment focus and/or requirements in the entities will change over time, as the three waters system transitions and the most urgent infrastructure upgrades are completed.
222. A Government Policy Statement would provide an enduring and transparent mechanism to support the Government's system stewardship responsibilities, and to address these challenges. In particular, it would:

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- 222.1 provide high-level policy direction to the new water services entities;
- 222.2 inform and guide the decisions and actions of water services entities in fulfilling their statutory purpose and objectives;
- 222.3 conveying any Government expectations in relation to Māori interests, partnering with Māori, and protections for Māori interests;
- 222.4 provide certainty to everyone operating in the three waters system and receiving services from the entities about the outcomes the new entities are expected to deliver. Over time, this could include, for example, government expectations for addressing inequalities and/or extending supplies to underserved communities.
223. I am seeking agreement to include provisions for a Government Policy Statement relating to three waters service delivery and infrastructure provision in legislation, with the purpose and focus indicated above. The new water services entities would be required to give effect to the direction contained in this Statement, providing this direction is consistent with their statutory purpose, objectives and functions.
224. While the intention is that the Statement would provide consistency and certainty of national policy direction over time, there would need to be provision within the legislation to review and update it to reflect contemporary issues of the day, which may not be anticipated at the outset.
225. The legislation would also outline the general design principles and process for developing this Statement. Design principles would relate to:
- 225.1 Relevance – so that the Statement is reviewed and updated regularly to ensure the objectives and priorities it contains are relevant to an evolving three waters system; and to ensure it evolves with the changing national and local context, and is built on a foundation of strong engagement with central and local government, communities, and the water services sector.
- 225.2 Transparency – so that the process for developing the Statement, determining national objectives and priorities, and considering the implications of decisions (such as costs and trade-offs) are well understood and visible to the public.
- 225.3 Accountability – so that the outcomes that are expected to be delivered through the Statement are measured and published; and responsibility for the achievement of those outcomes sits with the entities that are responsible for delivering them.
- 225.4 Wellbeing-focus – so that the Statement has a focus on wellbeing, and takes account of both national and local interests and outcomes.
226. In addition, the process for developing or reviewing the Government Policy Statement would need to be undertaken with a strong interface between key Ministers and government agencies, regulators, local government, iwi/Māori, and water services entities. The legislation would be clear about which stakeholders would be directly involved and/or consulted.

227. I anticipate key portfolio interests would relate to: Local Government, Environment, Health, Housing, Urban Development, Infrastructure, Commerce and Consumer Affairs, Transport, and Māori Development. Responsibility for issuing the Statement would lie with the Minister responsible for the administration of the water services entities legislation, in consultation with these portfolios and associated agencies. Relevant regulatory bodies (such as Taumata Arowai and the economic regulator), iwi/Māori, and local government would also be consulted.
228. When developing the Statement, it will be particularly important to engage with the water services entities, and to seek advice from regulators on the implications of desired objectives. There will be a need to understand the impact on particular outcomes (such as public health and the environment), and the costs to entities and consumers, and to consider the balance and trade-offs between objectives. Particular care will need to be taken when developing the first Statement, to avoid creating unrealistic expectations about what the entities can deliver in their first years of operation.
229. I recognise that there are risks associated with Government Policy Statements. These risks have been acknowledged while developing the proposed approach, and will need to be managed on an ongoing basis.
230. Ultimately, the effectiveness of this Government Policy Statement will depend on how well it is executed. I note that a similar approach has been used successfully in Scotland, whereby 'Ministerial directions' are issued to Scottish Water every six years. Current directions cover government priorities such as supporting rural communities, supporting housing development, resilience to climate change, security of water supply, flood risk management, and obligations relating to climate change mitigation.
231. I understand this is viewed as an essential tool by all of the relevant regulatory bodies and parts of government in Scotland – as well as by Scottish Water itself. I consider that an appropriately designed and implemented Government Policy Statement has the potential to deliver significant benefits here, as part of a reformed three waters system – providing we are mindful of the risks, and take steps to mitigate them. Having a clear scope and process, and strengthened system stewardship arrangements, will be important in this respect.

Implementation

232. A detailed approach to implementing the reform proposals will be provided in the fourth of this package of papers. Matters that are likely to be canvassed in that paper include:
- 232.1 the form and functions of the bodies that will oversee and manage the transition process, and the powers these bodies will need to operate;
 - 232.2 the role of councils and iwi/Māori during the transition process;
 - 232.3 the process for implementing transfers between local authorities and the new water services entities;
 - 232.4 the strategy for transforming the industry and workforce to ensure the reform objectives can be delivered.

Financial implications

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Legislative implications

241. I am seeking agreement to implement the decisions in this paper through a Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year).
242. The Bill would give effect to the proposals in this paper by creating the new water services entities; providing for their statutory purpose, objectives, operating principles, general functions and responsibilities; and setting out the boundaries and constituent local authorities of each entity. It would also provide for a Government Policy Statement for three waters services and infrastructure.
243. It is also intended that this Bill would implement the decisions made in the accompanying papers, relating to the core design components of the new water services entities. This includes proposals for the entities' ownership and governance structures; protections against privatisation; planning and accountability mechanisms; funding and financing arrangements; mechanisms for ensuring consumers and communities have appropriate influence in the new system; and mechanisms that provide for iwi/Māori rights and interests. In addition, the Bill would implement some decisions made in Paper 4, including provisions relating to transition powers.
244. Subject to Cabinet approval, I may wish to consult with technical experts from the local government sector and iwi/Māori during the drafting process.
245. I note that this proposed Bill is just one component of a multi-faceted package for reforming three waters services in New Zealand. I anticipate that our approach to three waters reform will result in a suite of legislation, spanning across the 53rd Parliamentary term.
246. The Bill will need to be followed by further legislation to provide for:
- 246.1 detailed transitional arrangements for the new entities and service delivery system – including provisions relating to the transfer of assets, liabilities and employees from local authorities to new water services entities; and the specific powers, functions, and responsibilities the new entities will require to operate;
 - 246.2 an economic regulation regime and consumer protection mechanisms relating to the new three waters system.
247. The preferred approach to the content and sequencing of the entity design and subsequent transition legislation will be determined during 2021.

Impact analysis

Regulatory Impact Statement

248. A quality assurance panel with representatives from the Department of Internal Affairs, the Ministry of Business, Innovation and Employment, and the Regulatory Impact Analysis Team at the Treasury has reviewed the Regulatory Impact Statement (RIS) for the *Reform of the Three Waters Service Delivery Arrangements*. The panel provided the following comments.
249. "The panel considers that the RIS **meets** the Quality Assurance criteria.
250. Overall the RIS is clear, convincing and well-structured.

251. However, the full implications of the decision to include stormwater in the scope of the reform are uncertain, as the decision will take place ahead of the substantive work intended to clarify the 'perimeter' between stormwater and other assets. The logic and arguments for including stormwater in the reform are convincing but uncertainty remains on the implications for local councils in deciding to transfer stormwater assets to the entities.
252. Also, the proposed benefits of the directive Government Policy Statement (GPS) are dependent on the content of the GPS, how it is operationalised by the entities, and ongoing stewardship of the system.
253. Finally, transitional arrangements for the reform package are yet to be agreed and the impacts of these arrangements on the objectives of the reform are not covered by this RIS."

Climate Implications of Policy Assessment

254. None

Population Implications

255. None

Human Rights

256. None

Consultation and engagement

Agency consultation

257. The Ministry for the Environment; Ministry of Health; Ministry of Business, Innovation and Employment; The Treasury; Ministry for Primary Industries; National Emergency Management Agency; Ministry of Housing and Urban Development; Department of the Prime Minister and Cabinet; Ministry of Transport; Te Puni Kōkiri; Te Arawhiti; Infrastructure Commission; New Zealand Transport Agency; Kāinga Ora; Public Services Commission; and Inland Revenue Department have been consulted on this paper.
258. The Department of Conservation, Ministry of Education, New Zealand Defence Force, and Department of Corrections have operational responsibility for three waters services and have been consulted in this capacity. These agencies have noted they are experiencing similar infrastructure and funding issues identified in this paper, and would like to explore the opportunities that may become available with the creation of new water services entities. A process for undertaking this work is currently being developed, and further details will be provided in the fourth paper (July 2021).

Engagement with local government, iwi/Māori, and industry stakeholders

259. There has been an ongoing programme of engagement with local government and iwi/Māori throughout the three waters reforms.

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260. When the service delivery reform programme was initiated – in May/June 2020 – central and local government agreed to a partnership approach, which included the creation of the Joint Central/Local Government Three Waters Steering Committee. This Committee has provided oversight of the reform programme, and has been a testing ground for many of the emerging policy proposals that form the basis of this suite of papers. Early drafts of the papers were also shared, in confidence, with members of the Committee.
261. Since mid-2020, there has been extensive engagement on the reform programme, through meetings, workshops, email updates, webinars, and online information releases. This engagement has included a series of:
- 261.1 meetings with the Steering Committee;
 - 261.2 17 workshops in September/October 2020, involving approximately 300 attendees from local government and iwi/hapū;
 - 261.3 eight workshops in March 2021, involving approximately 960 attendees from local government and iwi/hapū;
 - 261.4 meetings and discussions with Mayoral Forums, Local Government New Zealand zone and sector groups, and individual local authorities;
 - 261.5 meetings and workshops with several different technical reference groups, including local government, industry, and iwi/Māori groups;
 - 261.6 informal meetings and hui with iwi/hapū;
 - 261.7 update emails to local authority mayors and chief executives, and mana whenua contacts;
 - 261.8 pre- and post-workshop webinars;
 - 261.9 online clinics and one-to-one support sessions for local authorities relating to the Request for Information;
 - 261.10 information releases on the Department of Internal Affairs' website.
262. The regulatory impact assessment that accompanies this suite of papers includes further information on the engagement that has occurred, and how this has informed the options analysis and development of proposals.
263. Paper 3 provides an overview of the ongoing engagement with iwi/Māori, and the key themes raised to date.

Communications

264. Comprehensive and strategic communications and engagement plans, aligned with a national public information and education campaign, are being put in place to support the reform programme, and Government decisions. As discussed earlier in this paper, I am anticipating that public announcements will occur in phases.

Proactive Release

265. I intend to release this suite of papers (subject to any redactions) to coincide with the second phase of announcements on the reforms. I note that this may occur outside of the usual timeframes in Cabinet Office circular CO (18) 4.


Recommendations

266. The Minister of Local Government recommends that the Cabinet Government Administration and Expenditure Review Committee:

Background and overview

1. **note** that this Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a way that is efficient and affordable for New Zealanders, and that this is critical for:
 - 1.1 public health and wellbeing;
 - 1.2 environmental outcomes;
 - 1.3 economic growth and job creation;
 - 1.4 housing and support for population growth;
 - 1.5 adapting to the impacts of climate change and reducing greenhouse gas emissions;
 - 1.6 mitigating the effects of natural hazards;
 - 1.7 improving outcomes relating to water services for iwi/Māori;
2. **note** that New Zealand's three waters system is not set up in a manner that will enable the achievement of these ambitions, and is facing a series of issues and challenges that, together, mean service delivery arrangements are ineffective, inefficient, and no longer fit for purpose;
3. **note** that key issues and challenges relate to:
 - 3.1 the highly fragmented and dispersed system, in which services and infrastructure are delivered by a large number of providers, the majority of which have a relatively small customer base;
 - 3.2 economic inefficiencies and capacity challenges;
 - 3.3 affordability issues facing many councils and communities, and a constrained financial environment;
 - 3.4 capability at governance and operational levels;
 - 3.5 inadequate oversight and stewardship arrangements, and weaknesses in the regulatory environment, including a lack of transparency and weaknesses in accountability for performance;
 - 3.6 extensive and widespread under-investment in three waters infrastructure;
 - 3.7 how the existing three waters infrastructure is often ill-equipped to cope with the impacts of climate change;
4. **note** that recent analysis of local authority data, gathered through an extensive 'Request for Information' process, shows that significant levels of investment will be required across the country and over a sustained period – in the order of \$120 billion to \$185 billion over 30 to 40 years;

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5. **note** that, in June and December 2020, Cabinet made initial decisions to address this situation, by reforming three waters service delivery arrangements to create large-scale water services entities, to achieve scale-related efficiencies and other benefits, and with sufficient balance sheet capacity to raise debt to fund these investment requirements;
6. **note** that the full benefits of reform cannot be achieved by scale alone, and the ability of new water services entities to realise any efficiencies will depend on several other factors, including:
 - 6.1 clear, ongoing national policy direction for the three waters sector;
 - 6.2 the entities have effective, professional, independent governance arrangements, and are able to attract and retain appropriately skilled management;
 - 6.3 the new regulatory arrangements for drinking water quality and oversight of improved environmental outcomes are effective;
 - 6.4 the establishment of an economic regulation regime and mechanisms for protecting consumers;
 - 6.5 the water services entities have access to the necessary resources to fund the change processes, and to make the required investments over time;
 - 6.6 there is an industry transformation strategy, to support and enable the wider three waters industry to participate in the reformed service delivery system;
7. **note** that this is the first of a suite of papers seeking substantive policy decisions on a comprehensive, integrated package of proposals to transform the three waters service delivery system and associated regulation, and is intended to be considered together with two other papers:
 - 7.1 *Designing the new three waters service delivery entities* (Paper 2);
 - 7.2 *Protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model* (Paper 3);
8. **note** that a fourth paper will follow in July 2021, which will set out proposed arrangements for transitioning to, and implementing, the new service delivery system; §(2)(iv)

9. **note** that agreement is being sought to implement the decisions in this suite of papers through a Water Services Entities Bill, as described in recommendation 79 below;
10. **note** that it is intended that the Water Services Bill would be followed by further pieces of legislation to deliver all of the components of these reforms, which would include:
 - 10.1 detailed transitional arrangements to the new entities and service delivery system – including provisions relating to the transfer of assets, liabilities and employees; and the specific powers, functions and responsibilities the new entities will require to operate;
 - 10.2 an economic regulation regime and consumer protection mechanisms relating to the new three waters system;

Establishing new water services entities

11. **note** that extensive policy, financial and legal analysis supports the in-principle decisions Cabinet made in 2020, and demonstrates the benefits offered by a reformed three waters system and new service delivery arrangements;
12. **agree** to proceed with the reforms to the three waters system, with the creation of large-scale, publicly-owned, water services entities;
13. **agree** that the new water services entities would be statutory entities, created in legislation;
14. **agree** that the purpose of the water services entities would be to provide safe, reliable and efficient water services;
15. **agree** that the water services entities would have objectives that flow from this purpose, relating to:
 - 15.1 delivering water services, and related infrastructure, in an efficient and financially sustainable manner
 - 15.2 operating in accordance with best commercial and business practices;
 - 15.3 acting in the best interests of consumers and communities, in the present and for the future;
 - 15.4 giving effect to Te Mana o te Wai (to the extent that Te Mana o te Wai applies to the duties and functions of the entities);
 - 15.5 delivering and managing water services in a sustainable and resilient manner, which seeks to address climate risks and mitigate the negative effects of natural hazards;
 - 15.6 protecting and promoting public health and the environment;
 - 15.7 supporting and enabling housing and urban development;
16. **agree** that the water services entities will be responsible for:
 - 16.1 all service delivery arrangements and infrastructure relating to drinking water and wastewater – including taking over the related services and assets currently held by (or managed on behalf of) local authorities;
 - 16.2 services and infrastructure relating to stormwater quality and quantity – including taking over the related services and assets currently held by territorial authorities (though not including stormwater services and infrastructure related to their role as road-controlling authorities);
17. **agree** that the water services entities will have the statutory powers, functions, and responsibilities required to fulfil their purpose and objectives, and undertake the roles envisaged, including the powers and responsibilities relating to water service delivery that are currently held by local authorities under various pieces of legislation;
18. **note** that further work will be required to identify precisely which powers, functions, responsibilities, and assets would be transferred to, and held and exercised by, the new entities, and that:
 - 18.1 this will be a technically and legally complex process;
 - 18.2 detailed legislative provisions may be included in one or more pieces of legislation used to implement these reforms;

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19. **note** that a number of consequential amendments to other legislation will be required to ensure there is clarity about the roles and responsibilities of the water services entities across the wider regulatory framework, and this would be dealt with during the legislative drafting process;
20. **agree** to provide for a statutory set of operating principles, to guide and inform how the water services entities deliver their objectives and functions, and these principles would broadly relate to:
 - 20.1 developing and sharing capability and technical expertise – both internally, and across the wider three waters, development control, and land-use planning sectors;
 - 20.2 being innovative in the design and delivery of water services and infrastructure;
 - 20.3 being open and transparent – including in relation to the calculation and setting of prices, determining levels of service, and reporting on performance;
 - 20.4 partnering and engaging early and meaningfully with Māori, local government, and communities;
 - 20.5 cooperating with, and supporting, other water services entities and infrastructure providers, local authorities, and the transport sector – including in relation to infrastructure planning, and development control and land-use planning processes;
 - 20.6 understanding, supporting, and enabling mātauranga Māori and tikanga Māori and kaitiakitanga to be exercised – both within the entities and when engaging with iwi/Māori;
21. **note** that:
 - 21.1 Paper 2 describes, and seeks agreement to, the core design features of the new water services entities, including the ownership and governance structures; protections against privatisation; planning and accountability mechanisms; funding and financing arrangements; and mechanisms for ensuring consumers and communities have appropriate influence in the new three waters system;
 - 21.2 Paper 3 describes, and seeks agreement to, mechanisms that provide for iwi/Māori rights and interests in the new service delivery model and three waters system;

Entity numbers and boundaries

22. **note** that a range of factors have been analysed to help determine how many water services entities there should be, and their boundaries, and that key factors previously agreed by Cabinet related to:
 - 22.1 scale benefits;
 - 22.2 communities of interest; and
 - 22.3 relationships with other jurisdictional boundaries, including catchments [DEV-20-MIN-0099 refers];

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23. **note** that recent analysis and evidence demonstrate that scale is critical to success and should be prioritised when determining the number of entities, but that factors outside of economic efficiency also need to be considered to ensure the new entities can operate effectively in relation to water catchments, engage meaningfully with iwi/Māori, understand and reflect community interests, and have access to a skilled local workforce;
24. **agree** to create four water services entities in legislation;
25. **agree** that the entities are comprised as follows:
 - 25.1 Entity A – the territorial authorities of Auckland, Far North District, Kaipara District, and Whangarei District;
 - 25.2 Entity B – the territorial authorities of: Hamilton City; Hauraki District; Kawerau District; Matamata-Piako District; New Plymouth District; Ōpōtiki District; Ōtorohanga District; Rangitikei District; Rotorua District; Ruapehu District; South Taranaki District; South Waikato District; Stratford District; Taupo District; Tauranga City; Thames-Coromandel District; Waikato District; Waipa District; Waitomo District; Western Bay of Plenty District; Whakatane District; and Whanganui District;
 - 25.3 Entity C – the territorial authorities of: Carterton District; Central Hawke’s Bay District; Chatham Islands; Gisborne District; Hastings District; Horowhenua District; Kapiti Coast District; Hutt City; Manawatu District; Masterton District; Napier District; Nelson City; Palmerston North City; Porirua City; South Wairarapa District; Tararua District; Upper Hutt City; Wairoa District, Wellington City; and those part of Marlborough District and Tasman District that do not comprise the Ngāi Tahu takiwā;
 - 25.4 Entity D – the territorial authorities of: Ashburton District; Buller District; Central Otago District; Christchurch City; Clutha District; Dunedin City; Gore District; Grey District; Hurunui District; Invercargill City; Kaikoura District; Mackenzie District; Queenstown-Lakes District; Selwyn District; Southland District; Timaru District; Waimakariri District; Waimate District; Waitaki District; Westland District; and those parts of the Marlborough District and Tasman District that comprise the Ngāi Tahu takiwā;
26. **note** that the takiwā of the Ngāi Tahu Whānui referred to in recommendations 25.3 and 25.4 is provided by section 5 of the Te Runanga o Ngai Tahu Act 1996;
27. **note** that further discussions will be held with those local authorities and iwi/Māori that are most affected by the proposed boundary choices;
28. **note** that there will be further discussions with the Chatham Islands Council about the approach to be taken for that local authority;
29. **invite** the Minister of Local Government to report back in September 2021 on the outcome of the discussions referred to in recommendations 27 and 28 above, and to seek agreement to any changes to the entity boundaries;

9(2)(f)(iv)

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Further considerations relating to the responsibilities of new water services entities

Responsibilities relating to stormwater

- 43. **note** that these reforms provide an opportunity to lift stormwater management capacity and capability, and address existing and future investment needs, including challenges relating to climate change and urban growth;
- 44. **note** that there are a number of complex issues; practicalities and potential risks that need to be addressed as part of the transfer of stormwater assets and responsibilities to new water services entities, including in relation to the interface between:
 - 44.1 the wider stormwater system, local road drainage, and overland flow paths across parks and reserves;
 - 44.2 the water services entities, territorial authorities, road-controlling authorities, regional councils, and other relevant agencies, such as Waka Kotahi;
- 45. **note** that a technical reference group has been formed to explore these issues, and that advice on an approach to transition stormwater to the new water services entities will be provided to Three Waters Ministers in July 2021;

Responsibilities relating to non-council water services

- 46. **note** that under the proposed approach, the new water services entities would take over the service delivery, infrastructure, and related functions, responsibilities and assets that currently sit with local government;
- 47. **note** that there is also a need to consider the potential roles and responsibilities of the new water services entities in relation to the many households and communities that do not receive their water services from local government;
- 48. **note** that the Water Services Bill contains obligations on territorial authorities in relation to non-council drinking water supplies, including:
 - 48.1 a duty to ensure communities have access to drinking water if non-council suppliers face significant problems with their services;

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- 48.2 a requirement to undertake an assessment of all the drinking water services available to communities in the district, at least once every three years, including all private and community supplies (except domestic self-supplies);
- 49. **agree** that the legislative obligations on territorial authorities contained in the Water Services Bill would apply to the new water services entities;

Strengthening the wider regulatory and stewardship system

Economic regulation and consumer protection

- 50. **note** that in December 2020, Cabinet noted that economic regulation plays a critical role in protecting consumer interests and providing high-quality performance information, and agreed in principle that:
 - 50.1 an economic regulation regime will be employed on a reformed New Zealand three waters sector;
 - 50.2 an information disclosure regime that allows the performance of entities to be compared will apply, at a minimum, to a substantively reformed three waters sector [CAB-20-MIN-0521.01 refers];
- 51. **note** that effective economic regulation and consumer protection mechanisms are an integral part of the overall reform package, but further work needs to be undertaken to explore and consult on the options for an appropriate economic regulation and consumer protection regime;
- 52. **note** that responsibilities relating to economic regulation and consumer protection fall within the portfolio of the Minister of Commerce and Consumer Affairs, and the preparation of advice would be led by the Ministry of Business, Innovation and Employment;
- 53. **note** that an indicative timetable for progressing this component of the reform package has been prepared, and includes:
 - 53.1 issuing a discussion paper in October 2021;
 - 53.2 seeking Cabinet decisions in April 2022;
 - 53.3 introducing legislation in late 2022, with anticipated enactment in mid-to-late 2023;
 - 53.4 implementation of the first regulatory cycle from 1 July 2024, to align with the 'go live' date of the new water services entities;

Stewardship arrangements and the introduction of a Government Policy Statement

- 54. **note** that strengthening stewardship arrangements in the three waters service delivery and (related) regulatory system is a critical component of the reform package, in two major respects:
 - 54.1 stewardship and related functions are a core component of the effective design and delivery of the reform programme throughout the establishment and transition phases, including by helping to manage the interface between Ministers, policy advice, and the institutions involved in the transition process;

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- 54.2 effective stewardship is the foundation of a long-term, whole-of-system, proactive and collaborative approach to the ongoing monitoring, review, and oversight of the new three waters system;
55. **note** that during the establishment and transition phases it is anticipated that:
- 55.1 the Minister of Local Government, as Minister responsible for the reform programme, will continue to work closely with Three Waters Ministers on the core policy design and transitional issues;
- 55.2 the Department of Internal Affairs will continue to lead the policy advice, legislative design, engagement, and Ministerial support work relating to the reforms, in collaboration with other relevant agencies and stakeholders, and will also undertake stewardship functions, such as monitoring the transition process;
56. **note** that the focus of stewardship will change over time, as all of the components of the service delivery reforms are implemented, interests change, and other reforms (such as the proposed reforms to the resource management system) take effect;
57. **note** that the Department of Internal Affairs will lead and coordinate a cross-agency piece of work to identify and develop an appropriate approach to the organisation of stewardship functions and governance arrangements in the longer term, and will provide advice to Three Waters Ministers by September 2024;
58. **agree** that any future stewardship arrangements should be designed with the following principles in mind:
- 58.1 contribute to improved system performance;
- 58.2 mitigate the risk of poor system performance, through the early detection of issues, and advice on how to correct these issues;
- 58.3 internalise (rather than marginalise) different policy perspectives and interests;
- 58.4 support effective operational and policy interfaces;
- 58.5 agility and responsiveness to change;
- 58.6 recognise the interests of iwi/Māori, local government, and consumers in three waters services and regulation;
- 58.7 contribute to Ministerial, Parliamentary, and public confidence in system performance;
59. **note** that the Government has an ongoing stewardship role to ensure the new three waters system is fit for purpose and the reform objectives are realised, and that a Government Policy Statement could be an enduring and transparent mechanism for the coordination and expression of Ministerial interests and expectations relating to the delivery of three waters services;
60. **agree** that a Government Policy Statement be provided for in legislation, to enable the provision of direction to water services entities relating to three waters infrastructure and service delivery, and to provide a mechanism to consider related outcomes, in addition to the statutory objectives of the entities;
61. **agree** that the water services entities would be required to:

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- 61.1 give effect to the Government Policy Statement; and
- 61.2 comply with other requests for information as necessary to support and enable central government to undertake effective stewardship of the three waters system;
62. **note** that the intent is that the Government Policy Statement:
- 62.1 would provide high-level strategic direction and deal with cross-cutting matters – covering issues that are not already provided for in regulation or addressed through other mechanisms; and
- 62.2 would not be pitched at an operational level or concern specific projects;
63. **agree** that the focus of the Government Policy Statement would be on water services and infrastructure, and related wellbeing and interests, not on the wider policy settings surrounding the three waters regulatory system;
64. **note** that this focus is important because the way the new water services entities plan for and prioritise investment in infrastructure and services will have a significant impact on national and local interests, but there will be challenges that will need to be managed;
65. **agree** that the purpose of the Government Policy Statement would relate to:
- 65.1 high-level, strategic policy direction to the new water services – to inform and guide the entities’ decisions and actions in fulfilling their statutory purpose and objectives;
- 65.2 providing certainty to everyone operating in the three waters system and receiving services from the entities about the outcomes the new entities are expected to deliver;
66. **agree** to provide for general design principles to guide the development of the Government Policy Statement, relating to:
- 66.1 relevance – so the Statement is reviewed and updated regularly to ensure the objectives and priorities it contains are relevant to an evolving three waters system, and to a changing national and local context;
- 66.2 transparency – so the processes for developing the Statement, determining national objectives and priorities, and considering the implications of decisions, are well understood and visible to the public;
- 66.3 accountability – so the outcomes that are expected to be delivered are measured and published, and responsibility for the achievement of those outcomes sits with the entities that are responsible for delivering them;
- 66.4 wellbeing-focus – so that the Statement has a focus on wellbeing, and takes account of both national and local interests and outcomes;
67. **agree** that the process for developing or reviewing the Government Policy Statement would be undertaken with a strong interface between key Ministers, government agencies, regulators, iwi/Māori and local government, and would include engagement with the water services entities, and seeking advice from regulators on the implications of desired objectives;

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Legislative implications and issuing of drafting instructions

79. **agree** that decisions in this paper be implemented through the Water Services Entities Bill, which is included in this year's legislative programme with a priority category 4 (to be referred to select committee within the year), specifically the proposals relating to:
 - 79.1 the creation of new water services entities;
 - 79.2 the entities' purpose, objectives, operating principles, general functions and responsibilities;
 - 79.3 the boundaries and constituent local authorities of each entity;
 - 79.4 the Government Policy Statement for three waters services and infrastructure;
80. **invite** the Minister of Local Government to issue drafting instructions to Parliamentary Counsel in accordance with the decisions in this paper;
81. **authorise** the Minister of Local Government to approve minor policy and technical matters that may arise during the course of drafting, including any consequential amendments to other legislation that may be required;
82. **agree** that technical experts can be consulted, if needed, during the drafting process.

Authorised for lodgement

Hon Nanaia Mahuta

Minister of Local Government

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Appendix A has been redacted under 9(2)(f)(iv) of Official Information Act 1982

Proactively released by the Minister of Local Government

From: s7(2)(a) LGOIMA
Sent: Thursday, 23 September 2021 12:07 PM
To: Steve Chadwick; Dave Donaldson; Peter Bentley; Raj Kumar; Trevor Maxwell; Merepeka Raukawa-Tait; Tania Tapsell; Sandra Kai Fong; Reynold Macpherson; Fisher Wang; Mercia Yates; Todd McClay; nanaia.mahuta@parliament.govt.nz
Subject: 3 Waters - Rotorua
Attachments: 3waters.doc

Attached.

s7(2)(a) LGOIMA

Rotorua 3015

Rotorua Lakes Council
1061 Haupapa St
Rotorua

23 September 2021

Dear Councillors

I am writing to all Council members today to express my concerns regarding the 3 waters scheme proposed by the current government.

- 1) The government proposes to buy the assets at a fraction of their value. This will apparently involve loans that have to be repaid.
- 2) The costings provided so far seem remarkably uniform which seems highly unlikely to be realistic.
- 3) The scheme is based on a Scottish model which is not working well in Scotland.
- 4) I am opposed to the proposed scheme being run by unelected board members who are not accountable to the ratepayers who will have to foot all the bills.
- 5) One size does not fit all. Different regions of NZ have completely different 3 waters needs.
- 6) Ratepayers should be consulted prior to any potential sale of assets which have been paid for by said ratepayers over generations.
- 7) There is potential for conflict of interests in the proposed board structure.

Given the above, no action should be taken by Council with out a public referendum giving a mandate to do so.

Yours sincerely

s7(2)(a) LGOIMA

cc Todd McClay MP, Nania Mahuta MP.

From: s7(2)(a) LGOIMA
Sent: Friday, 24 September 2021 8:40 PM
To: Steve Chadwick; Dave Donaldson; Peter Bentley; Raj Kumar; Trevor Maxwell; Merepeka Raukawa-Tait; Tania Tapsell; Sandra Kai Fong; Reynold Macpherson; Fisher Wang; Mercia Yates
Subject: Three Waters

Good evening Councillors,

I apologise for emailing you all together rather than individually but I need to be efficient with my time. I will try not to use too much of your time either but I wish to make a few points and ask a simple questions.

The question is "Where do you stand on the 3 waters proposal?" Simply, are you supporting it or opposing it. I anticipate that some will not wish to answer this and some will say they are undecided, but as you only have a few days left to determine your position, I do not think that will be a valid way out of explaining your position.

My points are simple:


1. We, the ratepayers have paid for these assets, or have underwritten the loans that have allowed them to be built. While we (Council) may get some token cash for the assets handed over, I would be confident, the debt that has supported their construction will not also be given with the assets, so we (the ratepayer) will continue to have that debt – just as we did with the airport.
2. Any suggestion that a government appointed entity can be more efficient than what we currently have is laughable. There is clear evidence that Transpower (100% government owned) could not avoid blackouts a few weeks ago. Government also retains majority ownership of almost all of the major electricity generators and they could not prevent the blackouts.
3. We are encouraged to electrify how we live – so we can burn more coal to provide the electricity? Again lack of foresight and ability on behalf of Government entities (power companies and Transpower) have left us in this position.
4. There are many more examples – vaccine rollout, MIQ, Immigration etc but I do not wish to take up too much of your time.
5. Rotorua is now the very poor cousin of Tauranga and in fact is an orphan as far as Auckland, Wellington and other major centres are concerned. Even LTSA do not bother including Rotorua on signposts until you are almost here. In that environment, do we really believe that our interests will rank pari passu with those other centres, or will we simply be hung out to dry at huge cost.
6. LTSA (a government agency) are incapable of managing our roading network as evidenced by both the Ngongotaha and Tarawera roundabouts and the generally appalling and declining general state of our roads around NZ.
7. If we (our Council) do not have 3 waters to manage, we need to very deeply consider the need for having a Council at all. We would be better off if we simply amalgamated with many other Councils with one Mayor, one CEO, one Council Building, one District Plan etc as there would only be roads and rubbish, parks and some local facilities to manage. We will have to pay our way out of this somehow and removing great swathes of Councils across NZ might be a way of doing this.

So, I would invite you to let me know how you are planning to vote on this as my representative, given I have not been consulted at all on this.

Thanks for your time,

Kind regards

s7(2)(a) LGOIMA



From: s7(2)(a) LGOIMA
Sent: Thursday, 30 September 2021 6:35 PM
To: RDC Mail; Steve Chadwick; Reynold Macpherson; Mercia Yates; Peter Bentley; Dave Donaldson; Raj Kumar; Trevor Maxwell; Merepeka Raukawa-Tait; Tania Tapsell; Sandra Kai Fong; Fisher Wang
Subject: Three Waters reform

Rotorua Mayor and Councilors,

My husband and I have been reading up on the Three Waters reform lately and have become extremely concerned.

From what we can understand if council goes ahead with this reform our water resources will no longer be controlled and owned by the local council. Ratepayers have paid for these resources over many years and this needs to be retained. Central government can assist councils to do it better, but control should not be handed over to them, or to another entity.

We all have a role in looking after our water and this will be done better by locals. We have more at stake in our water and our funds can go directly into our resources. Centralized reform as offered, could mean we have no say in our own water and funds raised from rates could be used elsewhere.

This needs to be refused as it stands, with more time and consultation between ratepayers, councils and government needs to occur.

Please do not sell our assets.

Sincerely,

s7(2)(a) LGOIMA
[Redacted Signature]

From: §7(2)(a) LGOIMA
Sent: Tuesday, 5 October 2021 9:01 PM
To: Dave Donaldson; Fisher Wang; Mercia Yates; Merepeka Raukawa-Tait; Peter Bentley; Raj Kumar; Raj Kumar; Reynold Macpherson; Sandra Kai Fong; Steve Chadwick; Steve Chadwick; Tania Tapsell; Trevor Maxwell
Subject: Three Waters Reform

To our Mayor and Councillors of the Rotorua Lakes Council.

This is not a generic letter. Apart from yourselves no one else has seen this letter.

As I have done previously I write as a long time Reporoa resident who has been recently re-homed into Glenholme in Rotorua!

I understand that the RLC have considered the Three Waters Reform and has written to Minister Mahuta seeking answers and clarification.

Regardless of your questions I need to write expressing my concerns at the total concept of the Three Waters Reform.

What I am well aware of is that the water available from the tap in both Reporoa and Rotorua is of a very good quality. The governments television promotion of the need for the Three waters Reform showed taps discharging a green slime. In my time as a Reporoa resident for 60 + years and more recently in Rotorua I have seen nothing of the sort. A glass of chilled water from either of our homes is a very refreshing drink.

Credit for this good quality water and infrastructure must go to the past and the present councils. In the very early days, the farming community part funded the Reporoa water scheme and both urban and rural water uses have paid an adequate rate to ensure the infrastructure is maintained and that the water quality is good.

So it begs the question, Why would we consider transferring what we have to a government established organisation for what I understand to be about 10% of its current capital value? What the government is promoting needs to be seen for what it is. A classic socialist agenda whereby good quality assets are being taken from the people and local councils and placed with a government established central committee. It does not sit comfortably with me and neither it should a democratically elected council.

I understand that there is broken infrastructure out there, and to sort those issues government needs to be providing councils with support rather than a nationwide restructure and community upheaval. Surely targeting the problems would make much more sense.

The other issue I need to comment on is the structure of the zone committees. There is to be 12 seats at the table, 6 are to go to Iwi with the other 6 allocated to the 22 local councils. 6 seats for 22 councils is a nonsense and will mean the majority will be unrepresented. This structure sits very uncomfortably with me as it should a democratically elected council.

My final comment would be that if the RLC is to seriously consider what Minister Mahuta comes back to you with I would expect a round of public consultation follows by a referendum.

But simply my message would be "don't go there" "Just don't go there."

Thankyou for your time.

