

Strategy and Planning Committee Agenda

13 July 2022



Meeting will be held in the Council Chamber at Level 2, Philip Laing House
144 Rattray Street, Dunedin - Councillors

[ORC YouTube Livestream - Members of the Public](#)

Members:

Cr Gretchen Robertson, Co-Chair	Cr Carmen Hope
Cr Kate Wilson, Co-Chair	Cr Gary Kelliher
Cr Hilary Calvert	Cr Michael Laws
Dr Lyn Carter	Cr Kevin Malcolm
Cr Michael Deaker	Cr Andrew Noone
Mr Edward Ellison	Cr Bryan Scott
Cr Alexa Forbes	

Senior Officer: Pim Borren, Interim Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

13 July 2022 01:00 PM

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1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. PUBLIC FORUM No requests to address the Committee under Public Forum were received prior to publication of the agenda.	
3. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
4. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
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Minutes of a meeting of the Strategy and Planning Committee
held in the Council Chamber
on Wednesday 13 April 2022 at 1:00pm

Membership

Cr Gretchen Robertson (Co-Chair)
Cr Kate Wilson (Co-Chair)
Cr Hilary Calvert
Dr Lyn Carter
Cr Michael Deaker
Mr Edward Ellison
Cr Alexa Forbes
Cr Carmen Hope
Cr Gary Kelliher
Cr Michael Laws
Cr Kevin Malcolm
Cr Andrew Noone
Cr Bryan Scott

Welcome

Chairperson Robertson welcomed Councillors, members of the public and staff to the meeting at 1:04 pm. Staff present in the Chamber was Dianne Railton (Governance Support). Staff present electronically were Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Anita Dawe (Acting GM Policy and Science), Gavin Palmer (GM Operations), Amanda Vercoe (GM Governance, Culture and Customer), and Jonathan Rowe (Programme Manager, South Dunedin Future), Tim van Woerden (Acting Manager Hazards), Sharon Hornblow (Natural Hazards Analyst), Garry Maloney (Principal Advisor – Transport Planning), Doug Rodgers (Manager Transport), Andrea Howard (Manager Environmental Implementation), Sam Walton (Policy Analyst - Freshwater and Land), Dolina Lee (Senior Analyst - Freshwater and Land) and Warren Hanley (Senior Resource Planner Liaison).

1. APOLOGIES

Resolution: Cr Robertson Moved, Cr Hope Seconded:

That the apology for Cr Laws lateness be accepted. Cr Deaker and Cr Scott attended the meeting electronically, and it was noted that Cr Laws would attend the meeting electronically.

MOTION CARRIED

2. PUBLIC FORUM

No public forum was held.

3. CONFIRMATION OF AGENDA

Chairperson Robertson confirmed that item 7.7 LWRPGG would be considered before item 7.6 Proposed ORC submission to MPI consultation on changes to the NZ ETS for managing exotic forestry incentives, as a number of members would leave the meeting for item 7.6 due to possible conflicts of interest.

4. CONFLICT OF INTEREST

Chairperson Robertson, Cr Noone, Cr Hope, Cr Scott and Mr Ellison confirmed possible conflicts of interest for item 7.6 Proposed ORC submission to MPI consultation on changes to the NZ ETS for managing exotic forestry incentives. Cr Wilson would Chair item 7.6.

5. CONFIRMATION OF MINUTES

Resolution: Cr Calvert Moved, Cr Wilson Seconded

That the minutes of the meeting held on 9 February 2022 be received and confirmed as a true and accurate record, with the amendment that it was noted that only the TAG minutes for the October 2022 meeting were available, and Ms Elsum provided verbal update of the November and December 2021 TAG meetings.

MOTION CARRIED

6. ACTIONS

The report on the open resolutions of the Strategy and Planning Committee was reviewed.

7. MATTERS FOR CONSIDERATION

7.1. Update on the South Dunedin Future Programme

The report provided an interim update on the South Dunedin Future (SDF) programme. The programme will provide a framework for developing climate change adaptation options for South Dunedin (and Harbourside). Gavin Palmer (GM Operations) and Jonathan Rowe (Programme Manager, South Dunedin Future) were present to speak to the report and respond to questions.

Jonathan Rowe advised that the report is an update on the definition phase over the last 3-4 months looking into those issues more deeply, deciding how the elements relate to another, who would need to be involved and how that may be packaged moving forward. Mr Rowe said that the next report in June 2022 will lay that out in more detail and present a plan for how the plan is proposed to be taken forward for the next 4 to 5 years.

The meeting adjourned for 5 minutes due to a power outage in the Council Chamber.

Cr Hope asked how the public can find out information regarding the South Dunedin area with regard to purchasing property. Mr Rowe said that LIM is the primary source of that data, and

advised that natural hazards information is a key element. He said that work is currently being undertaken with the ORC Natural Hazards Team on how to package the information ORC is collecting and monitoring to make it more accessible to a layperson.

Cr Laws joined the meeting at 1:26pm

Resolution SP22-103: Cr Noone Moved, Cr Hope Seconded

That the Strategy and Planning Committee:

- 1) **Notes** the South Dunedin Future – Interim Update report.
- 2) **Notes** that Councillors will have an opportunity to discuss development of the South Dunedin Future programme plan during a workshop in May 2022.
- 3) **Notes** that a further update report, and draft South Dunedin Future programme plan, will be submitted to Councils for consideration and approval in June 2022.

MOTION CARRIED

7.2. Otago Active Faults: Planning Options

The report was provided to inform the Committee of options for incorporating information on active faults held by ORC into planning frameworks across Otago and to seek endorsement of an approach to fault zone management across the region. Gavin Palmer (GM Operations), Tim van Woerden (Acting Manager Hazards), Anita Dawe (Acting General Manager Policy and Science) and Sharon Hornblow (Natural Hazards Analyst) were present to speak to the report and respond to questions.

Dr Hornblow spoke to the presentation Active Faults in Otago, which explained the process of mapping and understanding Otago's active faults, and next steps toward a risk-based approach to ground surface rupture hazard.

Cr Calvert left the room due to a possible conflict of interest at 1:55pm.

Resolution SP22-104: Cr Wilson Moved, Cr Hope Seconded

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Endorses** the tiered approach to fault zone management in Otago – with Fault Avoidance Zones (FAZ) and Fault Awareness Areas (FAA) – as described in this report.
- 3) **Notes** the collaborative work being undertaken with the Otago territorial authorities.
- 4) **Directs** that a report be provided to the relevant Council Committee by January 2023 on a recommended option and implementation plan, developed in collaboration with Territorial Authorities, for incorporating the tiered approach into planning frameworks across Otago.

MOTION CARRIED

Cr Calvert returned to the meeting at 2:07pm

7.3. Shaping Future Dunedin Transport Fares and Frequency Business Case

The report was provided to seek approval of the Shaping Future Dunedin Transport Fares and Frequency Single Stage Business Case scoping report. Gavin Palmer (GM Operations), Garry Maloney (Principal Advisor – Transport Planning) and Doug Rodgers (Manager Transport) were present to speak to the report and respond to questions.

*Cr Hope left the meeting at 2:09pm and returned at 2:11pm.
Cr Kelliher left the meeting at 2:10pm and returned at 2:18pm.*

Cr Forbes questioned DCC's involvement and Sarah Gardner advised that Connecting Dunedin is the place where anything that intersects with ORC's transport and roading are discussed, and where support and alignment are generated. Mrs Gardner confirmed continuing a conversation through Connecting Dunedin is the appropriate way to manage this, and noted that Connecting Dunedin hadn't met for approximately one year. Cr Deaker said that he felt this paper is an ideal catalyst for ORC to convene a Connecting Dunedin meeting urgently.

Resolution SP22-105: Cr Hope Moved, Cr Forbes Seconded

That the Strategy and Planning Committee:

- 1) **Notes** this report.

MOTION CARRIED

Resolution SP22-106: Cr Forbes Moved, Cr Hope Seconded

That the Strategy and Planning Committee:

- 1) **Approves** the scope of the Shaping Future Dunedin Transport Fares and Frequency Single Stage Business Case as described in the appended Shaping Future Dunedin Transport Fares and Frequency Single Stage Business Case Scoping Report.

MOTION CARRIED

Resolution SP22-107: Cr Hope Moved, Cr Noone Seconded

That the Strategy and Planning Committee:

- 1) **Notes** that the business case will not consider a real time service as such a system became operative in April 2021 in Dunedin and Queenstown.

MOTION CARRIED

Resolution SP22-108: Cr Wilson Moved, Cr Calvert Seconded

That the Strategy and Planning Committee:

- 1) **Requests** that Cr Forbes, Cr Noone and Cr Deaker present the report to the members of Connecting Dunedin at the earliest opportunity and to discuss it at the next meeting.

MOTION CARRIED

7.4. Manuherehia Interim Work Programme

The paper outlined Otago Regional Council's (ORC's) approach to developing a work programme specific to the Manuherehia rohe to enable Capacity building / education on water management; Catchment groups; and Riparian works. Gavin Palmer (GM Operations) and Andrea Howard (Manager Environmental Implementation) were present to speak to the report and respond to questions.

Cr Kelliher left the meeting due to a possible conflict of interest.

Following lengthy discussion on the work programme including nominating a representative, Cr Wilson moved:

Resolution SP22-109: Cr Wilson Moved, Cr Noone Seconded

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Approves** that a more detailed strategic and work programme will be developed with mana whenua, stakeholders and the community as a part of catchment action planning for the Manuherehia, either through the ORC Integrated Catchment Management (ICM) process and with connection to the Ministry for the Environment's Manuherehia Exemplar Catchment Programme.
- 3) **Approves** the interim work programme which outlines which actions can be delivered through business-as-usual work.
- 4) **Notes** that further discussion with the community and stakeholders in the Manuherehia rohe will occur to inform a specific action plan for potential riparian/critical source area works, and provision for access.
- 5) **Nominate** Cr Malcolm (Cr Laws alternate) as representative for the Ministry for the Environment's Manuherehia Exemplar Catchment Programme Governance Group.

MOTION CARRIED

Cr Kelliher returned to the meeting.

The meeting adjourned for a short break at 2:35pm.

7.5. Summary of key points from Environment Court Decision No. [2022] NZEnvC 25 and implications for identifying wetlands under the NPSFM 2020

The purpose of this paper is to provide the Otago Regional Council (Council or ORC) with a summary of key points from the Environment Court Decision *Greater Wellington Regional Council v S L Adams & others* [2022] NZEnvC 25 and an overview of key implications of this decision for the Council's various functions. Anita Dawe (Acting GM Policy and Planning) and Sam Walton (Policy Analyst - Freshwater and Land) were present to speak to the report and respond to questions.

Resolution SP22-110: Cr Calvert Moved, Cr Malcolm Seconded

That the Strategy and Planning Committee:

- 1) **Notes** this report.

MOTION CARRIED

Item 7.7 was considered before item 7.6 as advised in the Confirmation of Agenda.

7.7. LWRPGG Verbal Update

Cr Noone provided a verbal update from the LWRP Governance Group.

Cr Wilson took over as Chairperson for the remainder of the meeting. Cr Robertson, Cr Hope, Cr Noone, Cr Scott and Mr Ellison left the meeting due to a possible conflict of interest for this item.

7.6. Proposed ORC submission to MPI consultation on changes to the NZ ETS for managing exotic forestry incentives

The paper advised Councillors on the Ministry for Primary Industries' (the Ministry) current consultation: "*Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.*" (the consultation). Anita Dawe (Acting GM Policy and Science) and Warren Hanley (Senior Resource Planner Liaison) were present to speak to the report and respond to questions.

Resolution SP22-111: Cr Malcolm Moved, Cr Calvert Seconded

That the Committee:

- 1) **Notes** this report.
- 2) **Notes** that staff will be lodging a submission on the Ministry for Primary Industries consultation document: *“Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme.*
- 3) **Notes** that a copy of the submission will report back to a full Council meeting in May 2022.

MOTION CARRIED

8. CLOSURE

There was no further business and Chairperson Robertson declared the meeting closed at 4:09pm.

Chairperson

Date

OPEN ACTIONS FROM RESOLUTIONS OF THE STRATEGY AND PLANNING COMMITTEE AT 13 JULY 2022

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
13/04/2022	PPT2116 Shaping Future Dunedin Transport Fares and Frequency Business Case	Completed	Cr Forbes, Cr Noone and Cr Deaker to present the report to the members of Connecting Dunedin at the earliest opportunity and to discuss it at the next meeting.	Chairperson	<p>05/05/2022 Chair Noone has contacted Mayor Hawkins about an opportunity for ORC to present where things are at with the Business Case – either by way of Connecting Dunedin or some other forum. The Mayor has followed up with staff, who advised that there will be an opportunity in the near future.</p> <p>04/07/2022 At the Connecting Dunedin meeting on 7 June 2022, Doug Rodgers (Transport Manager) and Garry Maloney (Principal Advisor - Transport Planning) gave a presentation of the scope regarding the draft Fares and Frequency Business Case. This was well received.</p>	30/06/2022
10/11/2021	SPS2162 Otago Lakes Strategic Plan – Scope	In Progress	Procure the services of a consultant to carry out the scoping study – Stage 1. RES SP21-122	General Manager Governance, Culture and Customer, Manager Strategy	<p>05/04/2022 Governance Support Officer Project scope due to go out to tender soon. This has been delayed by other work priorities. Scope review expected to be underway by end of financial year, with probable completion by September 2022.</p>	30/09/2022
13/04/2022	HAZ2201 Otago Active Faults: Planning Options	In Progress	Provide a report to the relevant Council Committee by January 2023 on a recommended option and implementation plan, developed in collaboration with Territorial Authorities, for incorporating a tiered approach into planning frameworks across Otago.	General Manager Operations, Manager Natural Hazards	<p>14/06/2022 Executive Assistant, Operations In preparation.</p>	31/01/2023

7.1. Joint Future Development Strategy with Dunedin City Council

Prepared for:	Strategy and Planning Committee
Report No.	SPS2223
Activity:	Governance Report
Author:	Lisa Hawkins, Acting Manager Planning and Policy
Endorsed by:	Anita Dawe, General Manager Policy and Science; and Gavin Palmer, General Manager, Operations
Date:	13 July 2022

PURPOSE

- [1] To inform the Committee of the requirement to develop a Future Development Strategy (FDS), and to seek approval of an interim governance structure, to work in partnership with Dunedin City Council (DCC) to deliver the FDS for Dunedin.

EXECUTIVE SUMMARY

- [2] ORC is required to develop a FDS with DCC in partnership with mana whenua. It is mandatory under the National Policy Statement for Urban Development (NPS-UD) 2020 that FDS's are jointly prepared by the regional and local authority
- [3] An FDS is a strategic document that sets out how sufficient development capacity to meet expected future demand will be provided and enabled over the coming 30 years in such a way that delivers 'well-functioning urban environments. It is a requirement under the NPS-UD, with the FDS to be prepared in time to inform the 2024-34 Long-term Plans.
- [4] This report follows a workshop with the Strategy and Planning Committee and the DCC's Planning and Environment Committee held at the DCC held in May 2022 and seeks approval of the interim governance structure to deliver the FDS, in partnership with DCC. It also seeks endorsement for the DCC to assume the lead coordinator role in the partnership, and it sets out the project management arrangements that will steer the project through to completion in late 2024.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.
 - 2) **Endorse** the recommendation that DCC act as lead coordinator in the preparation of the Dunedin FDS and Implementation Plan, subject to endorsement of Dunedin City Council.
 - 3) **Endorse** the workshop approach, noting that workshops are held in public excluded sessions.
 - 4) **Endorse** the interim governance arrangement for the period leading to the 2022 local government elections.
 - 5) **Notes** the project management arrangements that are proposed to endure throughout the preparation of the Future Development Strategy and Implementation Plan.
-

BACKGROUND

- [5] The National Policy Statement on Urban Development 2020 (NPS-UD) sets out objectives, policies and requirements relating to urban development. Its primary focus is to integrate land use planning with infrastructure planning. Specifically, it aims to ensure sufficient development capacity is provided in district plans to meet future needs, with sufficient infrastructure in place in time to support this development.
- [6] The NPS-UD requires that an FDS is prepared for all tier 1 and tier 2 urban environments, in partnership between the regional and local authority. For Otago, both Queenstown and Dunedin are tier 2 urban environments. ORC therefore has a responsibility to jointly prepare a FDS in partnership with QLDC and with DCC. A separate process is underway with the QLDC, and this will be reported separately.
- [7] The NPS-UD requires that the FDS set out how both local authorities will achieve 'well-functioning urban environments' and ensure sufficient development capacity over the next 30 years. The FDS must also include a clear statement of hapū and iwi values and aspirations for urban development, noting a well-functioning urban environment is one that 'enables Māori to express their cultural traditions and norms'.
- [8] The FDS must spatially identify:
- The broad locations for long-term growth (with the areas for short term and medium growth required to be included in the DCC District Plan (2GP)).
 - Adequate infrastructure to support and service that long-term capacity, and
 - Any constraints on development.
- [9] The FDS must be informed by:
- The most recent applicable Housing and Business Assessment(s)¹.
 - A consideration of the advantages and disadvantages of different spatial scenarios for achieving the purpose of the FDS.
 - The relevant long-term plan and its infrastructure strategy, and any other relevant strategies and plans.
 - Māori, and in particular tangata whenua, values and aspirations for urban development.
 - Feedback received through consultation and engagement.
 - Every other National Policy Statement under the Act, including the New Zealand Coastal Policy Statement.
 - Any other relevant national policy required by, or issued under, legislation.
- [10] The FDS is not a regulatory resource management document (it is a LGA document), but it may trigger reviews of regional and district planning documents. For example, a district plan change may be required to ensure provision of adequate medium-term development capacity. For ORC, discharge permits may be required for new infrastructure and consequential alterations may be required to ORC's Public Transport plans to support agreed development areas.

¹ information on the demand and supply of housing and of business land

- [11] It must be prepared in time to inform each authority's 2024-34 Long-term Plan and then be reviewed every three years to inform the next long-term plan. Alongside the FDS, ORC and DCC must also develop an FDS Implementation Plan, and update this annually.
- [12] The FDS is a critical strategic document, prepared under the Local Government Act (2002) that will help guide:
- Changes to ORC's Regional Policy Statement and other Regional Plans, along with the District Plan for DCC.
 - The future infrastructure and services that are planned for and funded through long-term plans and infrastructure strategies, for both Councils.
- [13] In addition, decision making on plan making and resource consents must 'have regard to' the FDS, and decision makers must also be 'responsive' to proposals that are not anticipated by, or out of sequence with the FDS where those proposals provide 'significant development capacity'.
- [14] Two critical decisions relating to the adoption of the FDS will be the responsibility of the full Councils of the DCC and the ORC. As the FDS is prepared under the Special Consultative Procedure of the Local Government Act (2002), a draft FDS must be endorsed by respective Councils and published for public submissions to be heard by a joint Hearings Panel established by resolution of both Councils. The joint Panel may be granted the power to recommend changes (for the respective Councils to accept or reject), or to decide changes and adopt the FDS on the Councils' behalf. The membership of the joint Panel, and its decision-making powers, will be decided later in the FDS programme, in the next triennium.
- [15] The requirement to prepare an FDS is likely to be superseded by new requirements that emerge through the national resource management system reforms. Therefore, the FDS may be an interim strategy. Greater clarity on the resource management system reforms is expected over the course of the FDS preparation period and Committee members will be briefed on new information relevant to the FDS.

DISCUSSION

- [16] To set out the requirements of the NPS-UD, and the expectations around the development of the FDS, a workshop was held between the ORC Strategy and Planning Committee and DCC Planning and Environment Committee on 26 May 2022. At this workshop Councillors were provided with an overview of the FDS, including the proposed interim governance arrangements.
- [17] ORC is required to develop, in partnership with DCC, an FDS in accordance with the NPS-UD. Due to the joint partnership requirement, it is important that both Councils are clear on roles and expectations. And whilst only ORC and DCC have responsibility for preparation of the FDS, it is recommended the FDS is prepared in partnership with mana whenua.

Project leadership

- [18] Whilst ORC and DCC, are jointly responsible for preparation of the FDS and both Councils have signalled their intention to develop it with mana whenua, DCC is responsible for many aspects of long-term growth planning, including the provision of development capacity and critical infrastructure. For that reason, it is recommended that DCC lead the coordination of the project.
- [19] As lead coordinator, DCC will be responsible for coordinating resources, and ensuring delivery of tasks and outputs. ORC will be lead agency for providing expertise and evidence on matters of regional significance, including highly productive land, natural hazards, transport, air quality, water quality, and other natural environment features or values (wetlands, coast etc). Mana whenua will be responsible for matters of importance to iwi and hapū.
- [20] Staff are supportive of DCC being lead coordinator for a number of reasons – in particular, DCC has staff with urban expertise, and has been working on strategic urban development and urban growth processes for some time. In contrast, both of ORC's urban specialists have left, with roles currently being recruited for, hence there is merit in the process being led by DCC.

Interim governance arrangements

- [21] The objective of establishing project governance arrangements is to ensure the preparation of a FDS in a manner that is acceptable to both Councils, and to mana whenua. In the period leading up to the 2022 elections, interim governance arrangements are proposed whereby ORC's Strategy and Planning Committee and the DCC's Planning and Environment Committee will be responsible for providing strategic direction. Both committees have mana whenua representatives, and this approach will enable the draft FDS to be prepared in partnership with mana whenua.
- [22] The respective committees will be responsible for shaping the content of the draft FDS through advising officers on strategic objectives and priorities via workshops of both committees that explore strategic issues in detail. The workshops will be co-chaired by one of the co-Chairs of ORC's Strategy and Planning Committee, along with the relevant equivalent from the DCC. The workshops will be public excluded - no decisions will be made, and the informal nature of the workshops will assist Committee members to speak freely in identifying common positions. DCC will host the workshops and reports will be taken to both committees and/or full Councils as needed to progress the project.
- [23] Under the interim governance arrangements, the strategic intent and matters of significance will be confirmed by reports to the respective committees. Project governance arrangements for the completion of the FDS, including the membership and powers of the joint Hearings Panel, will be revisited following the 2022 local government elections.

Project delivery approach

[24] Strategic oversight and leadership will be provided by a joint Executive Steering Group (ESG) comprised of chief executives and general managers from ORC and DCC. Preparation of the FDS will be undertaken alongside both Councils’ 2024 long term plans and the Otago Southland Regional Land Transport Plan (RLTP). A key role for the ESG will be to ensure that strategic alignment is maintained between the FDS, 2024 long-term plans, the RLTP, and other strategic projects. The ESG will also be responsible for maintaining the interface with committee members, identification and resolution of significant issues and risks, and ensuring resources (in-kind and financial) are available to meet key decision milestones.

[25] The ESG includes the following Personnel:

- Chief Executive, ORC
- General Manager, Policy and Science, ORC
- General Manager, Operations, ORC
- Chief Executive, DCC
- General Manager, Infrastructure and Development DCC
- Manahautū, (General Manager Māori, Partnerships and Policy), DCC

[26] To support the ESG, a joint Project Management Team (PMT) will be responsible for maintaining the progress, overall integrity and coherence of the project and ensuring the project delivers NPS-UD requirements. The PMT will comprise officers from both Councils and representation from Aukaha (as an operational link into the project to represent mana whenua’s interests). External stakeholders to the project, including government agencies and the development industry, will be engaged throughout the project, most likely through a Stakeholder Reference Forum and ongoing engagement on specific issues on an as-needed basis.

[27] Figure 1 below illustrates the interim project governance and delivery structure for the FDS as set out above.

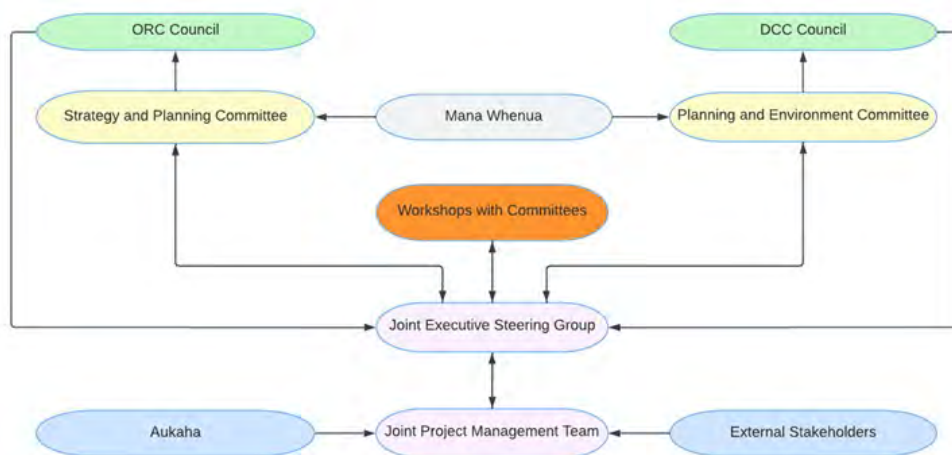


Figure 1 – Interim FDS project governance and delivery structure

OPTIONS

[28] At this stage, there are no options.

CONSIDERATIONS**Strategic Framework and Policy Considerations**

[29] The proposed Otago RPS provides direction for ORC to prepare the FDS with the relevant territorial authorities.

[30] The FDS is prepared under the Special Consultative Procedure of the Local Government Act (2002), and a draft FDS must be published for public submissions to be heard by a joint Hearings Panel, established by resolution of both councils. The joint Panel may be granted the power to recommend changes (for the respective Councils to accept or reject), or to decide changes and adopt the FDS on the councils' behalf. The membership of the joint Panel, and its decision-making powers, do not need to be decided until later in the FDS programme, and the process will be developed in accordance with Councils' decision on the governance arrangements.

Financial Considerations

[31] The joint work with DCC to develop the FDS is budgeted work, assuming it is led by the City.

Significance and Engagement

[32] In order to fulfil Council's obligations under He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy, it is important that Strategy and Planning Committee, with mana whenua representation, is able to inform Council of key decisions.

[33] In addition, because the draft FDS is notified for consultation, that process will satisfy the requirements of the LGA in terms of consultation.

Legislative and Risk Considerations

[34] Development of an FDS is a requirement for Regional Councils under the NPS-UD. The process set out above meets those requirements.

[35] Councillors should note the requirement to prepare an FDS may be superseded by new requirements that emerge through the national resource management reforms. Greater clarity on the resource management reforms is expected over the next 12 months. The governance approach provides the opportunity to keep abreast of any changes as they relate to this process.

[36] There is also risk associated with the local government elections later in 2022, however while Councillors may change, and Committee names and structures may change, there is still the obligation on both organisations to undertake this work. For this reason, staff consider this risk can be appropriately managed.

Climate Change Considerations

[37] The effects of climate change and mitigation and adaptation options for future development will be considered as part of the development of the FDS.

Communications Considerations

- [38] There are no direct communications considerations as a result of this paper, however there may be the opportunity for a joint media release on the positive approach to partnership with DCC and mana whenua.

NEXT STEPS

- [39] The Executive Steering Group and the Project Management Team are formally established and will enable ORC officers and partners to make further progress to the preparation of the FDS. The Executive Steering Group will coordinate engagement between the project delivery structure, Councillors, and mana whenua.
- [40] DCC will host joint workshops of both committees throughout the preparation of the FDS and reports will be taken to both committees and/or full Councils as needed in accordance with the Project Brief and to progress the project.

ATTACHMENTS

Nil

7.2. Joint Future Development Strategy with Queenstown Lakes District Council

Prepared for:	Strategy and Planning Committee
Report No.	SPS2229
Activity:	Governance Report
Author:	Lisa Hawkins, Acting Manager Policy and Planning
Endorsed by:	Anita Dawe, General Manager Policy and Science; and Gavin Palmer, General Manager, Operations
Date:	13 July 2022

PURPOSE

- [1] To inform Council of the requirement to develop a Future Development Strategy (FDS), and to seek endorsement of a governance structure, to work in partnership with Queenstown Lakes District Council (QLDC) to deliver the FDS for Queenstown.

EXECUTIVE SUMMARY

- [2] Pursuant to the National Policy Statement Urban development 2020 (NPS-UD) ORC is required to develop an FDS, in partnership with QLDC.
- [3] An FDS is a strategic document that sets out how sufficient development capacity to meet expected future demand will be provided and enabled over the coming 30 years in such a way that delivers 'well-functioning urban environments'. It is a requirement of the NPS-UD that the FDS is to be prepared in time to inform the 2024-2034 Long-term Plans.
- [4] QLDC have over the past few years been preparing their spatial plan for Queenstown Lakes District through their Grow Well Whaiora Partnership. The Queenstown Lakes Spatial Plan was adopted by QLDC's Council in July 2021. The spatial plan is not an FDS, and the work ahead will need to progress existing work to fulfil requirements of an FDS. This report follows a presentation from QLDC ahead of the Strategy and Planning Committee, setting out the direction of the Grow Well Whaiora Partnership, the spatial plan, and the opportunity to build on the existing governance structure to deliver the FDS together.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Endorses** the approach to build on the Spatial Plan for Queenstown Lakes District to fulfil the requirements of delivering an FDS.
- 3) **Endorses** the use of the existing Grow Well Whaiora Partnership to deliver the FDS in partnership with QLDC.

BACKGROUND

- [5] The National Policy Statement Urban Development (NPS-UD) requires tier 1 and 2 local authorities¹ to prepare a Future Development Strategy (FDS) every 6 years to inform the preparation of the next long-term plan.
- [6] Queenstown is defined as a tier 2 environment which means the local authorities with jurisdiction over those areas, ORC and QLDC, are jointly required to prepare and approve an FDS.
- [7] Over the past few years QLDC have been preparing a spatial plan to guide future development locations within their district. This plan was approved in July 2021 by QLDC Council, and then endorsed by the Grow Well Whaiora Partnership on 22 September 2021. The spatial plan was not jointly prepared by QLDC and ORC however ORC was involved in the formation of the Spatial Plan. ORC staff attended workshops, briefings were provided to staff and Councillors prior to the adoption of the Spatial Plan, and an opportunity was provided to comment on the draft Spatial Plan. Feedback from ORC was taken into consideration when finalising the draft for public consultation.
- [8] The Spatial Plan is structured on three key principles set out below, and promotes a consolidated approach to accommodate future growth:
- *Hauora / Wellbeing*: Decisions about growth recognise social, economic, environmental and cultural considerations;
 - *Aumangea / Resilience*: Ensuring communities and visions are resilient to shocks of the future, including adapting to climate change;
 - *Whakauku / Sustainability*: Programmes and activities are delivered according to sustainable development principles and work towards zero emissions.
- [9] A FDS must spatially identify broad locations of development capacity to meet the future needs of the community, development infrastructure and additional infrastructure required to support or service the capacity of any constraints. It must also contain a clear statement of hapu and iwi values and aspirations for urban development. These are all key components of the existing Spatial Plan. As a result, it is proposed to use the recently adopted Spatial Plan as the basis for an FDS and to supplement the existing Spatial Plan with the additional requirements from the NPS-UD.

DISCUSSION

- [10] The existing Spatial Plan was informed and produced by the Grow Well Whaiora Partnership. While the requirement of the NPS-UD is for the FDS to be prepared by QLDC and ORC, it is proposed for the FDS to be prepared through the Grow Well Whaiora Partnership and for it to be adopted by both Councils and endorsed by the partnership.
- [11] The Grow Well Whaiora Partnership was set up as part of the Government's Urban Growth Agenda to improve the co-ordination and alignment between central and local government and mana whenua in New Zealand's high growth urban areas. The partnership includes Kāi Tahu, QLDC, and key Government Agencies, including Ministry of Housing and Urban Development, Ministry of Business, innovation and Employment,

¹ For Otago, there are no Tier 1 Councils, and Dunedin City and Queenstown Lakes are Tier 2 Councils.

Department of Internal Affairs, Kainga Ora, Waka Kotahi and more recently, ORC. The partnership aims to improve outcomes relating to housing, land use and infrastructure planning (including transport).

[12] The success of the partnership relies on the ability of each partner to collaborate effectively at every level of government, locally, regionally, and nationally. ORC was invited by QLDC in October 2021 to join the partnership, with the Mayor and CEO of QLDC presenting to ORC. ORC committed to joining the partnership in January 2022, with the following appointments:

- Partnership Governance Group: Cr Andrew Noone and Cr Alexa Forbes
- Partnership Steering Group: GM Operations, and GM Policy and Science.

[13] Set out below is the partnership Structure.

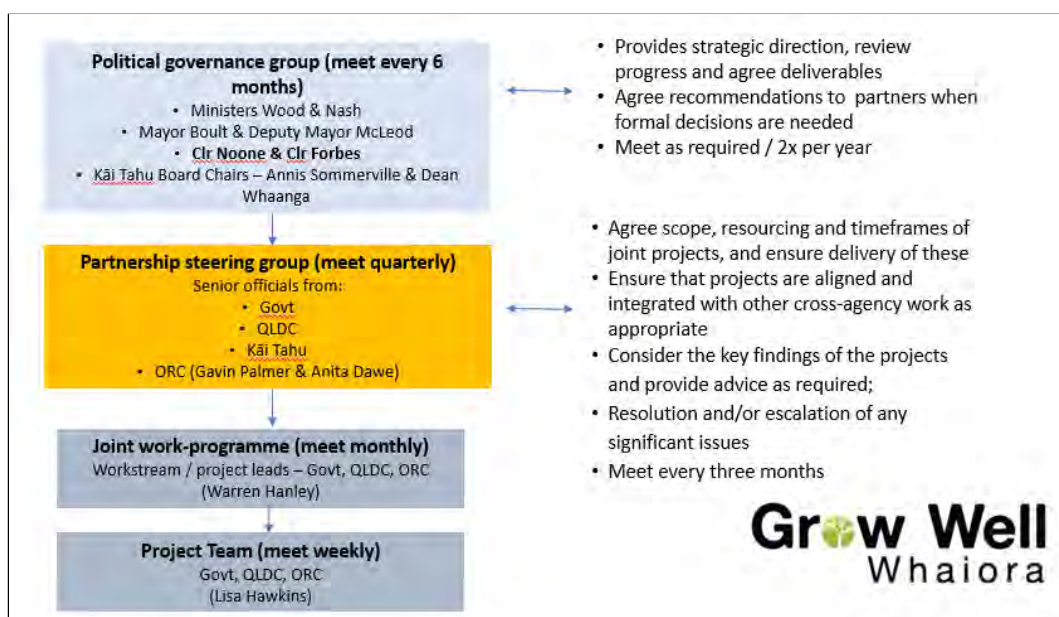


Figure 1: Grow Well Whaiora Partnership Structure.

[14] The Grow Well Whaiora Partnership provides input from the key agencies who have interest or responsibilities for urban development in the Queenstown Lakes District. It provides the opportunity to test and guide direction on key projects that wouldn't ordinarily be readily available to either Council.

[15] The project team have been working on a draft project brief for the FDS preparation which identifies the following key deliverables over the next 18 months as follows:

- Background investigations – mid 2022
- Internal consultation with key Council staff July 2022
- Targeted engagement with partners and key stakeholders to build on the Spatial plan / identified improvements and gap analysis – August / September 2022
- Broader consultation (including developer and public) – September/October 2022
- Begin preparation of draft FDS – November 2022
- Council workshops following elections – December 2022
- Partners and key Stakeholder review of FDS – March 2023
- Draft FDS adopted for public consultation by both ORC/QLDC – May/June 2023

- Joint hearing ORC / QLDC – August/September 2023
- Finalise FDS and adoption by both Councils – October/November 2023
- An opportunity for Endorsement of the FDS by the Grow Well Whaiora Partnership Governance Group – second half of 2023/early 2024 (at the next available Partnership Governance Group meeting)

[16] These timeframes are indicative and will be firmed up as the project team works through each task, including discussions with ORC and QLDC Councillors. Progress on the programme will be reported through to the Project Steering Group, and will be brought to the Strategy and Planning Committee for quarterly updates.

OPTIONS

Using the Spatial Plan as the basis for the FDS

[17] The first question for consideration is whether the development of the FDS should be based on the Queenstown Lakes Spatial Plan.

[18] Staff consider that the FDS should be based on the Queenstown Lakes Spatial Plan for several reasons – in particular this document provides a sound basis which meets a number of the requirements of the FDS preparation. It has had input from ORC during its drafting and was led by QLDC with their urban and strategic expertise. Further whilst the process of the FDS provides the opportunity to build on the Spatial Plan, the programme provides the opportunity to revisit elements where needed within the scope of the FDS.

[19] The development of the FDS needs to be completed in a relatively short time frame and utilising the Spatial Plan as the foundation streamlines the process and reduces the amount of work needing to be done. The alternative would result in an inefficient use of resources from both Councils to revisit work that has been so recently undertaken. Further, to undertake such a substantial piece of work is not budgeted for in the Annual Plan, nor does the policy team currently have staff resources to support such a project with both urban positions currently vacant and being recruited.

Governance structure to deliver the FDS

[20] Further to the question of utilising the Spatial Plan, there are also considerations as to the most appropriate governance structure to support delivery of the FDS.

Option One - Utilising the Grow Well Whaiora partnership

[21] As set out above ORC has been involved as a partner in the Grow Well Whaiora Partnerships since early 2022. The remit of the partnership is beyond that of the specific requirements for an FDS, but all programmes relate to the growth and development of Queenstown Lakes District and its communities. It therefore makes sense, and is efficient, to include the development of the FDS within the partnership structure.

[22] Whilst the responsibility of approving the FDS only lies with ORC and QLDC, staff consider the input from other agencies and partners through the Grow Well Whaiora Partnership will add to the robustness of the FDS. Importantly the existing partnership supports the involvement of Kāi Tahu at all levels of development and decisions making.

- [23] How this option will work on the ground:
- Members of the project team will drive the development and content of the FDS.
 - Members from the Joint work group (Integration Group) will be asked to input on different stages of the FDS, and will form part of the Project Team where necessary.
 - Progress and content of the FDS will be reported and tested with the Steering Group.
 - Workshops with Council (through the Strategy and Planning Committee) will test the approach and seek endorsement on key directions.
 - Formal decisions on the FDS will still rest with both ORC and QLDC Councils.
 - The Political Governance Group will endorse the FDS, as the Grow Well Whaiora Partnership, following adoption by the individual Councils.
- [24] The benefit of this approach is the efficiency and higher level of engagement with all partners within the Grow Well Whaiora Partnership. The partner agencies would be key stakeholders in the project in any event but utilising the partnership as a governance vehicle increases the level of engagement. There is also benefit in the FDS ultimately being endorsed by the Grow Well Whaiora Partnership as this strengthens the relationship between central government and local government and improves the linkages from what is essentially a strategic document in the FDS, with the other implementation projects under the Partnership.
- [25] The risks associated with this approach is partners who do not have the responsibility of implementing the FDS, may not agree be in agreement with the content and direction of the FDS. This can be managed through any divergent approaches being flagged early and resolved at the Steering Group level, and ultimately as ORC and QLDC will approve the content the risk is minimised.

Option Two – Working outside the Grow Well Whaiora Partnership

- [26] An alternative option is to work outside of the Grow Well Whaiora Partnership. This process would still require ORC and QLDC to work together, and it is likely that the project management approach would largely reflect that which has been put in place for the Grow Well Whaiora Partnership. Namely this would require a structure that reflects a Project Team, Integration Team and Steering Group with membership from ORC, QLDC and Iwi.
- [27] Engagement with the other partners on Grow Well Whaiora Partnership would still need to occur, but would need to be factored into the programme as additional steps beyond the core project management approach. This is likely to reflect the process of key stakeholder consultation. Engagement with both Councils would occur in the same way through seeking direction and endorsement at key points of the programme. The decision to adopt the FDS still rests with both Councils.
- [28] This approach is not supported by both ORC and QLDC staff. The risk of this approach is partners may be less engaged through a process that runs outside of the Grow Well Whaiora Partnership. It may also extend the budgeted programme of delivery by having to build in additional engagement with stakeholders outside of the core project management team. Further there is a risk that linkage between the strategic document of the FDS and implementation projects within the Grow Well Whaiora Partnership are weakened.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [29] The proposed Otago RPS provides direction for ORC to prepare the FDS with the relevant territorial authorities.
- [30] The FDS is prepared under the Special Consultative Procedure of the Local Governance Act (2002), and a draft FDS must be published for public submissions to be heard by a joint Hearings Panel, established by resolution of both Councils. The joint Panel may be granted the power to recommend changes (for the respective Councils to accept or reject), or to decide changes and adopt the FDS on the Councils' behalf. The membership of the joint Panel, and its decision-making powers, do not need to be decided until later in the FDS programme, and the process will be developed in accordance with Councils' decision on the governance arrangements.

Financial Considerations

- [31] The joint work with QLDC to develop the FDS is budgeted work, with the assumption that Council input is through the Grow Well Whaiora Partnership. Key staff input would be facilitated through this process. An alternative approach will have budget impacts.

Significance and Engagement Considerations

- [32] In order to fulfil Council's obligations under the He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy, it is important that Strategy and Planning Committee, with mana whenua representation, is able to inform Council of key decisions.
- [33] In addition because the draft FDS is notified for consultation, that process satisfies the requirements of the LGA in terms of consultation.

Legislative and Risk Considerations

- [34] Development of an FDS is a requirement for Regional Councils under the NPS-UD. The process set out above meets those requirements.
- [35] Councillors should note the requirement to prepare an FDS may be superseded by new requirements that emerge through the national resource management reforms. Greater clarity on the resource management reforms is expected over the next 12 months. The governance approach provides the opportunity to keep abreast of any changes as they relate to this process.
- [36] There is also risk associated with the local government elections later in 2022, however while Councillors may change, and committee names and structures may change, there is still the obligations on both organisations to undertake this work and role in the Grow Well Whaiora Partnership. For this reason, staff consider this risk can be appropriately managed.
- [37] It is also important to note that ORC is obliged to contribute to, and deliver two FDS's – one with QLDC and one with DCC (subject to a separate paper to Strategy and Planning Committee on 13 July 2020). This creates risks in terms of both Governance and staff inputs and resources. It will also be important that each FDS is seen in the overall regional context as well as delivering on their individual district requirements.

Climate Change Considerations

[38] The effects of climate change and mitigation and adaptation options for future development will be considered as part of the development of the FDS.

Communications Considerations

[39] There are no direct communications considerations as a result of this paper.

NEXT STEPS

[40] The work to review the Spatial Plan as the basis for the FDS will begin, and the timelines and key tasks identified earlier in the report will be undertaken. This will include identification of points of engagement with Council. Progress on the work will be provided to the Steering Group at their next meeting in August 2022.

ATTACHMENTS

Nil

7.3. South Dunedin Future – Programme Plan

Prepared for:	Strategy and Planning Committee
Report No.	OPS2223
Activity:	Governance Report
Author:	Jonathan Rowe - Programme Manager, South Dunedin Future
Endorsed by:	Gavin Palmer, General Manager Operations
Date:	13 July 2022

PURPOSE

- [1] This report provides an update on the South Dunedin Future (SDF) programme and seeks the approval of Council to proceed on the basis outlined in the attached programme plan.

EXECUTIVE SUMMARY

- [2] This report provides an update on the South Dunedin Future (SDF) programme and seeks the approval of Council Committees to proceed on the basis outlined in the attached programme plan. Approval will be sought from the Dunedin City Council (DCC) Planning and Environment Committee (P&E) and Otago Regional Council (ORC) Strategy and Planning Committee (S&P) on 6 and 13 July 2022 respectively.
- [3] The programme plan has been developed collaboratively by DCC and ORC to outline the 4-year process by which partners and stakeholders can navigate the complex social, environmental, economic and political issues required to determine the future for South Dunedin. The programme plan does not provide answers, these will come in time. Rather, it outlines the key questions that need to be asked and describes how partners, stakeholders, and decision-makers will progressively work through the issues.
- [4] The objective is to develop a comprehensive climate change adaptation strategy for South Dunedin, and to do this in a way that is robust, transparent, and inclusive. Central to this will be community engagement, where partners and stakeholders will be provided with a range of opportunities to consider the issues, understand the options and trade-offs, hear what others think and want, and ultimately influence the final decisions. In this way, everyone should have an opportunity to shape the future of South Dunedin.
- [5] Effectively adapting South Dunedin to a changing climate will be a complex process, filled with uncertainties. It is very unlikely to be a challenge that is 'solved' by a single, large, one-off investment or decision, because the issues involved are diverse, interwoven, and enduring. The more likely course is a series of incremental decisions, policies and investments which over time reshape the urban form of South Dunedin to better manage climate risk, while seeking to retain and enhance the many unique characteristics of the community and environment present today.
- [6] While the challenges facing South Dunedin are considerable, the expectations for its future are correspondingly, and appropriately, ambitious. This programme is not simply
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about protecting the status quo for as long as possible. Rather it seeks to empower partners and stakeholders to envision a better future for South Dunedin, one where they are not only better prepared for and more resilient to the effects of climate change, but where adaptation occurs in a manner that also supports their broader social, cultural, and economic ambitions.

- [7] In this sense, the programme has a dual focus on managing the growing risks presented by climate change, while also about realising the opportunity that will come with change. In doing so, the intent is to realise the best possible future for South Dunedin.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report titled *South Dunedin Future – Programme Plan*.
- 2) **Notes** the contents of the attached *South Dunedin Future Programme Plan*, which outlines the proposed process for developing a climate change adaptation strategy and implementation plan for South Dunedin.
- 3) **Endorses** the proposed approach to delivering the *South Dunedin Future programme*, which includes utilising the *Dynamic Adaptive Planning Pathways (DAPP)* methodology, as recommended by the Ministry for the Environment for climate change adaptation work.
- 4) **Notes** the proposed strategic intent for the *South Dunedin Future programme*, noting this is interim, will be further developed to incorporate *mana whenua* inputs, and that Council approval of a final version will be sought in due course.
- 5) **Endorses** the proposed scope of the *South Dunedin Future programme*, noting the complexity, uncertainty and interdependence of the issues involved, and the graduated and flexible nature of the scope.
- 6) **Notes** the systemic nature of climate change and urban development issues will likely require the *South Dunedin Future programme* to examine the wider natural hazards environment, and to consider city-wide planning and infrastructure issues, when assessing the implications for South Dunedin.
- 7) **Endorses** the proposed *South Dunedin Future governance and management arrangements*, noting these arrangements may need to be revisited in future, including following the local government elections in October 2022.
- 8) **Endorses** the continued collaboration between *Dunedin City Council (DCC)* and *Otago Relational Council (ORC)* to manage and deliver the *South Dunedin Future programme*
- 9) **Approves** the *South Dunedin Future Programme Plan* attached to this report.

BACKGROUND

- [8] For many years the Dunedin City Council (DCC) and Otago Regional Council (ORC) have been collaborating to address the numerous climate change-related issues facing South Dunedin¹. This has included adopting a programme approach, working across both Councils, and in August 2021 included appointing a dedicated Programme Manager to oversee the work.

¹ *Update on South Dunedin Groundwater Monitoring and Sea Level Rise*, Report 2014/0957, Report to 24 July 2014 meeting of the Otago Regional Council Technical Committee; and *South Dunedin Collaboration*, Report to 18 October 2018 meeting of the Otago Regional Council Policy Committee; and *ORC Role in South Dunedin Harbourside Adaptation Collaboration with DCC*, Report No. P&S1885, Report to the 24 November 2020 meeting of the Otago Regional Council Strategy and Planning Committee.

- [9] This report on the South Dunedin Future programme plan builds on three previous interactions with Councillors since August 2021, including:
- November 2021: A report updated Councils on the status of the South Dunedin Future programme², following the appointment of a dedicated Programme Manager in August 2021. It presented the findings of an initial assessment of climate change-related challenges facing South Dunedin and outlined the proposed programme, structure, logic, activities, and next steps. Councillors noted the report, including that a programme plan would be provided in mid-2022.
 - April 2022: A report provided an interim update on the South Dunedin Future programme to the Dunedin City Council's Planning and Environment (P&E) Committee and the Otago Regional Council's Strategy and Planning (S&P) Committee³, each of which includes mana whenua representation. The report outlined activities underway and described the steps involved in developing the programme plan by June 2022, as the programme progressed through a definition phase. Committee members noted the report.
 - May 2022: A workshop provided P&E and S&P Committee members with updates on the programme, including overviews of the Dynamic Adaptive Planning Pathways (DAPP) process, updates on natural hazard work, insights into the interdependencies across the programme, and an engagement exercise modelled on those undertaken with community groups. Committee members provided a range of comments and feedback that has since been used to develop the programme plan.

DISCUSSION

Summary

- [10] The South Dunedin Future programme provides a framework for developing climate change adaptation options for South Dunedin. Adaptation means adjusting to the actual or expected climate and its effects, to reduce harm and take advantage of new opportunities. Taking the time to carefully develop these options and craft a strategy will maximise opportunities to enhance resilience, and improve social, cultural, economic, and environmental wellbeing.
- [11] The focus is on developing options for adapting to the locked-in impacts of climate change, and better understanding the risks presented by our changing climate, so we can better plan for the future. Successful delivery of the programme will require coordination of detailed technical work and extensive engagement with mana whenua partners, affected communities, and other stakeholders, over a number of years. The aim is to develop and deliver an adaptation strategy for South Dunedin that is viable, affordable, and backed by the community.

Overview of programme plan

- [12] The programme plan seeks to consolidate and summarise key information associated with defining what the programme is (and what it is not), outlining how the programme will be controlled, and how progress will be tracked over time. The programme plan seeks to:

² *South Dunedin Future Programme Update Report*, Report No. HAZ2109, Report to 24 November 2021 meeting of Otago Regional Council.

³ *South Dunedin Programme Update*, Report No. OPS2215, Report to 13 April 2022 meeting of the Otago Regional Council Strategy and Planning Committee.

1. Outline the background and context of the programme, enabling a common understanding of its origins, and the key problems it is seeking to address.
2. Record the objectives of the programme and desired outcomes in a draft strategic intent. This strategic intent will be further tested and refined as the programme progresses through subsequent phases.
3. Define the scope of the programme, by providing a framework for assessing activities and determining their relevance to the programme. This includes identifying exclusions, that is things that are considered outside of the programme scope (but which might commonly be thought of as being inside or associated with the programme).
4. Record programme constraints and assumptions, including known boundaries in which the programme must operate, and areas of uncertainty in which assumptions are made due to timing or limited available information.
5. Identify the key interfaces and dependencies the programme has with other key pieces of work and note how these might affect the programme now or in the future.
6. Describe key risks and issues related to the programme, and outline roles, responsibilities, and arrangements for managing and mitigating risk.
7. Describe the overall approach, including the methodology that will be used to deliver the programme, and how the DAPP approach will be applied. This will also outline the programme structure, phases of work, connections and dependencies between, and key milestones, including a high-level programme schedule.
8. Provide a high-level breakdown of the work that is expected to be undertaken as part of the programme. This includes a range of questions that need to be answered, and associated activities that are planned to provide the necessary information or outputs.
9. Outline the programme structure, including key roles and responsibilities, and how these roles interact in the governance, management, and delivery of the programme. This includes summarising how the programme will be controlled, and how performance will be monitored and measured.

Highlights from the programme plan

- [13] The draft strategic intent seeks to provide goalposts for the programme, supporting South Dunedin to adapt to the impacts of climate change, while also promoting community wellbeing, resilience, and regenerating South Dunedin in the process. The main tool for doing this will be a climate change adaptation strategy for South Dunedin, which will seek to shape and inform work across DCC and ORC, as well as influence wider local and central government, community, and private sectors. The intention is to embed adaptation into day-to-day decisions.
- [14] Importantly, the programme will not replace or deliver business-as-usual functions of Councils (e.g. hazard investigations, land use planning, or infrastructure investment). Rather it will seek to (i) complement day-to-day functions through temporary, targeted additional work, and (ii) shape and inform day-to-day work to drive greater consideration of climate change adaptation factors, in an effort to ensure council work is more sustainable and climate resilient.
- [15] The programme plan breaks this work into five phases, which mirror the DAPP process, and focus on answering five key questions: (i) what is happening; (ii) what matters most; (iii) what can we do; (iv) (how can we) make it happen; and (v) how is it working?

- [16] Within this framework, the programme is broken down into 37 different steps or programme actions, each of which will seek to provide essential information, answer critical questions, or step partners and stakeholders through a set of issues relevant to the programme.
- [17] The programme schedule outlines the high-level timeframes involved in working through the 37 steps and five phases of the programme over a 4-year period through to 2026. Importantly, throughout this process there will be many opportunities for the programme to inform business-as-usual work of Councils, through periodic reporting and delivery of programme milestones (e.g. community engagements, risk assessments, staged adaptation option assessment, etc), which will each provide new information to inform decision-making across DCC and ORC. There is no requirement to wait until delivery of the final climate change adaptation strategy and implementation plan in 2026. The programme will also be informed by developments in a range of areas, such as new technical information, new legislation, or community feedback.
- [18] As the programme works through the 37 steps and five phases, all partners and stakeholders will play a role identifying viable adaptation options and pathways. This is expected to follow a cycle of: technical work – community engagement – council decision, which repeats several times until preferred options and pathways are identified, and these are captured in a climate change adaptation strategy and implementation plan for South Dunedin.

What could this look like in practice?

- [19] How South Dunedin could best adapt to the impacts of climate change is not yet known. This will be progressively produced by the programme over time. How this process may develop, and what that might mean for South Dunedin and the wider city, could take shape as follows:
- The programme produces information about the anticipated changes to the physical environment, the risks these changes present, and how this could affect what people value most in South Dunedin.
 - Following a series of community engagements, which assess a range of options for adapting to the expected impacts of climate change, viable options are identified and combined over different time periods to form adaptation pathways.
 - This network of adaptation options is progressively implemented across South Dunedin to manage risk and support other objectives. These initiatives could varyingly seek to:
 - i) accommodate hazards (by adjusting existing assets, such as raising floor levels or increasing stormwater network capacity in anticipation of future flood events);
 - ii) protect from the hazards (by holding the line using natural buffers, like dunes, or hard structures, like seawalls);
 - iii) retreat from hazard-prone areas (by moving people and existing assets away from the risk areas in a managed way over time); or
 - iv) avoid (stopping placing people and assets in harm's way, primarily using land-use planning measures to prevent or discourage development in higher risk areas).
 - As progress is made along pathways, certain signals would be registered (e.g. increasing severe rainfall events, more frequent flood events), eventually leading to certain triggers (e.g. sea-level reaches a particular height, certain infrastructure

reaches end of life, withdrawal of finance or insurance), which lead to a switch between options or pathways.

- The combination of changing physical environment, infrastructure investment, and shifting land use in different pathways potentially leads to de-intensification in high-risk areas of South Dunedin, and intensification in lower risk locations (to help compensate for any lost capacity and support general growth of the city).
- Over time (likely decades) this process gradually reshapes the current mosaic of land use in South Dunedin to reflect to the changing climate change risk and hazard profile. The urban form of South Dunedin is reshaped in the process, in a gradual but constant progression that seeks to stay ahead of the changing physical environment, while remaining in sync with the community's priorities and ability to absorb change.
- The resulting urban form would potentially be less-evenly developed than at present, with certain areas de-intensified and transitioned to green or blue space (e.g. parks, wetlands, open water courses, which may flood periodically), with other areas intensified (higher-density, possibly mid-rise, residential, commercial and industrial land use with additional infrastructure enabling such development).
- This would be a continual process of adaptation, with the rate and ultimate duration likely determined by the trajectory of global emissions and the resulting sea-level rise.

[20] The above description is one of many possible paths the programme and process may follow.

OPTIONS

[21] Councillors have previously endorsed a programmatic approach to managing climate change adaptation issues facing South Dunedin. There are two primary options for progressing this work, either (i) through a formal, dedicated programme of work; or (ii) via business-as-usual approaches supplemented by informal coordination and collaboration across Councils, partners, and stakeholders. The merits of these respective approaches are summarised below.

Option One – Recommended Option

[22] The recommended approach is through a formal, dedicated programme of work that establishes a framework for collaborating across councils, partners, and stakeholders, with dedicated staffing and operating budget.

Advantages

- Clearer strategic intent for the work, including alignment to existing organisational strategies of DCC and ORC, supporting greater strategic coherence.
- Provides a formal structure in which to work across both Councils, enabling staff to coordinate and collaborate more effectively, and establish additional work streams necessary to progress the programme (which might otherwise sit outside or in between existing structures).
- Enables a range of operational efficiencies, including through:
 - i) centralisation of selected council functions relating to South Dunedin (e.g. communications, community engagement, multi-disciplinary work like risk assessments);

- ii) enhanced coordination should reduce duplication of effort, help resolve previously intractable issues, and enable a range of efficiencies in terms of staff time and operating expenditure; and
- iii) embedding climate change adaptation into council strategy, planning, budgeting, and operations to reduce the risk of both maladaptation (actions that lead to unintended consequences or increased risk from climate change); and creation of stranded assets (assets that have suffered from unanticipated or premature write-downs, devaluations, or conversion to liabilities).
- Provides a dedicated vehicle through which to undertake the extensive community engagement considered necessary to develop climate change adaptation options for South Dunedin in a robust, transparent and inclusive manner.

Disadvantages

- A formal, dedicated programme of work requires additional resourcing, including personnel and financial, and involves contributions of time and effort from a wide range of DCC and ORC staff (which will need to be redirected from other functions).

Option Two – Status Quo

[23] The alternative approach is to continue to manage the collection of work via business-as-usual approaches, supplemented by informal, or less formal, coordination and collaboration across DCC and ORC on a case-by-case basis.

Advantages

- Avoids creation of a new or separate structure, and the financial and personnel commitments associated with a formal, dedicated programme office.
- Staff can focus primarily on delivering core functions of their respective areas, coordinating and collaborating on a case-by-case approach, if and as required.

Disadvantages

- Less clarity on strategic direction of the work, or how constituent projects fit together to form a coherent whole, as these are subject to interpretation from the disparate parts of DCC and ORC undertaking the work. Leads to ad hoc, issues-based adaptation.
- Primarily dependent on good will and individual efforts of staff, meaning momentum can easily be lost, through staff departures, changing workloads or priorities.
- Requires staff undertaking multidisciplinary work to either operate outside their areas of responsibility, or depend on others to complete different aspects of the work, which can lead to a lack of clarity around roles and responsibilities, and wasted effort on partly completed work.
- Unclear how the extensive community engagement would be undertaken, though likely this would be on a case-by-case basis, led by different teams across DCC and ORC.
- This approach has proved problematic in the past and has not been effective or efficient at managing climate change adaptation issues facing South Dunedin.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[24] These are described in the paper and attachments.

Financial Considerations

[25] These are described in the paper. ORC's component of the programme is provided for in the 2022/23 Annual Plan.

Significance and Engagement

[26] Not relevant to the decisions being made in respect of this paper.

Legislative and Risk Considerations

[27] These are described in the paper and attachments.

Climate Change Considerations

[28] The programme is making a significant contribution to climate change adaptation in Otago.

Communications Considerations

[29] These are described in the paper and attachments.

NEXT STEPS

[30] If approved by Council Committees, the next step would be to transition the programme from definition phase to a delivery phase. This would include several tranches of work, including:

- Undertaking programme management activities:
 - i) Developing and delivering a communications and engagement strategy
 - ii) Detailed stakeholder analysis and profiling
 - iii) Establishment of programme governance and management groups
- Commencing initial programme actions (from the programme plan):
 - i) Engagement with mana whenua
 - ii) Consolidated natural hazards information management
 - iii) Initial climate change and natural hazards risk assessment for Dunedin
 - iv) Detailed review of national and international adaptation options

ATTACHMENTS

1. South Dunedin Future Programme Plan [7.3.1 - 40 pages]
2. Annex 1 - South Dunedin Future Programme [7.3.2 - 1 page]
3. Annex 2 - Cross-Council Adaptation Work [7.3.3 - 1 page]
4. Annex 3 - Programme Role Descriptions [7.3.4 - 4 pages]
5. Annex 4 - Programme Action Descriptions [7.3.5 - 6 pages]
6. Annex 5 - Glossary [7.3.6 - 3 pages]



Programme Plan
South Dunedin Future

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1. DOCUMENT INTRODUCTION

The Dunedin City Council (DCC) and Otago Regional Council (ORC) have for several years been collaborating in a joint effort to address climate change-related issues facing South Dunedin. This has included adopting a programmatic approach, working across both councils to better coordinate a wide range of work focussed on improving social, economic, and environmental wellbeing in South Dunedin. This joint approach is known as the South Dunedin Future programme (“the programme”).

While much of the programme is captured in this document, an operating reality of adapting to climate change is navigating complexity and uncertainty. As the programme develops over time, refinements to the programme plan will be needed, including to the scope, objectives, outcomes, outputs, governance, and management, to ensure it remains fit for purpose.

This information will be developed iteratively over time and as the programme progresses through phases. At various intervals, particularly when transitioning between phases, it will be necessary to update the programme definition and this plan to reflect new information.

2. DOCUMENT PURPOSE AND SCOPE

The purpose of this programme plan is to consolidate and summarise key information to define the programme, outline how the programme will be controlled, and how progress will be tracked. The programme plan should also provide confidence to partners and stakeholders that the situation facing South Dunedin is being actively managed by both councils in a coordinated manner. Further detail will need to be developed for programme actions, activities and projects, which will be captured separately (for example, in project-level documentation).

The programme plan will:

- Outline the background and context of the programme, enabling a common understanding of its origins, and the key problems it is seeking to address.
- Record the objectives of the programme and desired outcomes in a draft strategic intent. This strategic intent will be further developed with input from mana whenua and refined as the programme progresses through subsequent phases.
- Seek to define the scope of the programme, by providing a framework for assessing activities and determining their relevance to the programme. This includes identifying exclusions, or things that are considered outside of the programme scope (but which might commonly be thought of as being inside or associated with the programme).
- Record programme constraints and assumptions, including known boundaries in which the programme must operate, and areas of uncertainty in which assumptions are made due to timing or limited available information.
- Identify the key interfaces and dependencies the programme has with other key pieces of work and note how these might affect the programme now or into the future.
- Describe key risks and issues related to the programme, and outline roles, responsibilities, and arrangements for managing and mitigating risk.
- Describe the overall approach, including the methodology that will be used to deliver the programme, and how the Dynamic Adaptive Planning Pathways (DAPP) framework will be applied. This will also outline the programme structure, phases of work and key milestones, including a high-level programme schedule.
- Provide a high-level breakdown of the work that is expected to be undertaken as part of the programme. This includes a range of questions that need to be answered, and associated programme actions or activities that are planned to provide the necessary information or outputs. Programme action descriptions for the activities/outputs provide additional detail about what will be delivered and conditions of acceptance.

- Outline the programme structure, including key roles and responsibilities, and how these roles interact in the governance, management, and delivery of the programme. This includes summarising how the programme will be controlled, and how performance will be measured.
- Provides a reference for the Programme Manager, and Programme Management Team, to use when managing the delivery of the programme.

3. PROGRAMME DEFINITION

This section sets out to define the programme. It is important to have a clear and common understanding of what constitutes the programme. A best practice definition of a programme is:

“a temporary, flexible organisation created to coordinate, direct and oversee the implementation of a set of related projects and activities in order to deliver outcomes and benefits related to the organisation’s strategic objectives” – Managing Successful Programmes (MSP®), AXELOS Ltd, 2013.

The South Dunedin Future programme could be described as an *emergent* programme, which has evolved from separate initiatives that have developed in different parts of the organisations; and which is currently *transitory*, becoming a fully planned programme when its vision, context and direction have been defined and established.¹

An ongoing focus is firming up the programme vision, objectives, outcomes, and overall approach to enable more effective coordination of the constituent projects.

3.1 Executive Summary

The South Dunedin Future programme provides a framework for developing climate change adaptation options for South Dunedin. Adaptation means adjusting to the actual or expected climate and its effects, to reduce harm and take advantage of new opportunities. This should be done in a way that enhances resilience, and improves social, cultural, economic, and environmental wellbeing.

The focus is on developing options for adapting to the locked-in impacts of climate change, and better understanding the risks presented by our changing climate, so we can better plan for the future. Successful delivery of the programme will require ongoing coordination of detailed technical work and extensive engagement with mana whenua partners, affected communities, and other stakeholders. The aim is to develop and deliver an adaptation strategy for South Dunedin that is viable, affordable, and backed by the community.

The programme is characterised by complexity and uncertainty. This includes the nature of the current physical environment in South Dunedin, the uncertain impacts of a changing climate on that environment, and the timeframes in which this will occur. It extends to the diverse social, cultural, and economic fabric of the communities in South Dunedin, and the uncertainties about how each community might be impacted by change or respond to it. The eventual adaptation options and pathways chosen for South Dunedin will need to account for these factors and respond over the short, medium, and long terms.

The programme will not provide immediate answers. Rather, it creates a framework for navigating complexity and resolving many (but not all) uncertainties. Answers will appear gradually, and issues may need to be revisited as new information appears. The programme will be implemented using a Dynamic Adaptive Pathways Planning (DAPP) approach, a best practice methodology for identifying

¹ Managing Successful Programmes (MSP®), AXELOS Ltd, 2013.

ways forward (pathways) despite uncertainty, while remaining responsive to change should this be needed (dynamic).

This programme plan seeks to outline how this DAPP approach will be applied in South Dunedin. This will include developing a more detailed understanding of the physical environment, including natural hazards, and how these might be affected by a changing climate. It involves identifying and connecting with partners and stakeholders most likely to be impacted by these changes and any adaptation to them, and developing a detailed understanding of their socioeconomic characteristics, and well as their collective views, values, and aspirations for South Dunedin.

Climate change and natural hazard risk assessments will assess levels of hazard, exposure, and vulnerability, helping to identify the people, places, and assets most at risk in South Dunedin. Potential adaptation options will be developed, based on local context, but informed by national and international experience. Layering these various assessments on top of one another will enable comparisons between hazard and climate risk, community characteristics and priorities, and options for adapting to anticipated changes in the fairest, most cost-effective and ordered manner possible.

Through extensive technical assessment and community engagement, potential adaptation options will be narrowed to preferred options that are most likely to achieve desired objectives. These preferred options and pathways will form a climate change adaptation strategy for South Dunedin. This strategy will need to be integrated into the core functions of both councils, shaping wider strategy, policy, planning, budget, and operational decisions. It will also inform wider public and private sector investment and decision-making relating to South Dunedin.

This will need to be an evolving process. Adaptation decisions are being made every day through current policy, planning, and operational processes. By adopting a staged DAPP-based approach, the programme will be able to provide high-level guidance to inform council decisions in the short-term, while developing more specific and detailed guidance over the medium- to long-term, as the programme progresses. This should help avoid maladaptation, where decisions or investments made now have unintended consequences, such as locking in unwanted cost and risk for later.

The intent is that the land use, infrastructure, and urban form of South Dunedin will change in a gradual, organised manner in response to the changing climate and natural hazard risks, and reflecting the characteristics and priorities of affected communities.

This ongoing adaptation should seek to stay ahead of the changing physical environment, and its effects, without getting ahead of support from the community. In doing so, it should balance natural hazard risk with the need to carefully manage the impact of change on affected communities. Over time, the process should (re)generate a more sustainable natural and urban form for South Dunedin. A place where climate change and natural hazards risks are managed effectively, where the community is more resilient, and enjoys improved social, cultural, economic, and environmental wellbeing.

This programme plan seeks to outline a process for realising that future for South Dunedin.

3.2 Programme Background

Background

South Dunedin is a large, diverse community of 12,000 residents. Historically, much of the area was a wetland system which mana whenua utilised for food gathering and other activities before the location transformed into an industrial manufacturing and service area for Dunedin. It remains important for light industry and has also evolved into a destination retail area. It is central, flat, conveniently located, and home to 700 businesses, schools and popular amenities such as the St

Clair and St Kilda beaches. South Dunedin, and other low-lying areas such as Harbourside, host a range of essential infrastructure and DCC assets, which support services for wider Dunedin.

Operating context

South Dunedin comprises a large area of flat land close to the city centre, key transport networks and a range of important city services and amenities. As such, it plays a key role in the functioning of the wider city and will feature prominently in considerations of future growth and development.

South Dunedin is, however, exposed to a range of natural hazards, due to being a low-lying area built on a former coastal wetland. Potential hazards include coastal inundation from storm surge or tsunami; runoff flooding exacerbated by a high groundwater table; and seismic hazards such as liquefaction. Climate change will likely increase most of these hazards over time through rising sea level, rising ground water, and increased frequency and severity of storm events. Land subsidence may also increase both the impact of these hazards and the rate of onset.

While much work has been undertaken to enhance environmental monitoring and better understand natural hazards, there remain gaps in our knowledge of the natural coastal and ground water processes. How these complex natural processes interact with the built environment in and around South Dunedin, and the impact of climate change on these and other processes, also remains uncertain.

Local identity, social and economic indicators, and levels of resilience are highly varied across South Dunedin. Residents and non-residents have deep historical, cultural, and personal connections to the area. The flat geography hosts core DCC infrastructure, and enables access to housing, community services, and economic opportunities found largely in South Dunedin. Most census statistical areas in South Dunedin register as 8-10 on the socioeconomic deprivation index (10 being the most deprived), meaning much of the community has low household income levels. However, certain areas of South Dunedin are among the wealthiest in the city.

This diversity impacts potential adaptation options as the views, needs and interests of stakeholders are wide-ranging. South Dunedin's exposure to natural hazards, legacy infrastructure that is ill-suited to servicing future needs, and the community's varied capacity to adapt, potentially make it vulnerable to the negative effects of climate change. The complexity of the issues, and many unknowns, also create unavoidable uncertainty. It is not possible, practical, or sensible to wait until all uncertainties are resolved before making decisions. Long lead-in times for many potential adaptation options require decisions to be made on evolving understandings of the potential impacts of climate change.

South Dunedin Future (SDF) Programme

To date, the focus of the programme has included three core workstreams: (i) community engagement; (ii) environmental investigations and monitoring, and identification of the risk posed by sudden onset hazards; and (iii) interventions to help mitigate short-term flood risk.

This work has involved extensive community engagement, including more than 80 meetings and hui since the beginning of 2020 to build trust, relationships, and awareness of key issues. This has been supported by a range of communications activities, including proactive media engagement and the establishment of South Dunedin Future webpages, designed to increase access to information about local climate change adaptation issues in South Dunedin. The webpages include the history of post European settlement of 'The Flat' area now known as South Dunedin.

An enhanced programme of environmental research and monitoring, led by the Otago Regional Council with support from external agencies such as GNS Science, Te Pū Ao, continues to build knowledge of rainfall, ground water, and coastal processes, including through rainfall monitoring, bore drilling, and modelling storm surge and tsunami risk. This is complemented by geological hazard work looking at fault lines, vertical land movement, liquefaction and lateral spreading.

Physical infrastructure work since 2015 has included upgrading the Portobello Road pumping station and Forbury aqueduct; improved inspection, cleaning and maintenance of 1,500 mud tanks; replacing old and leaking pipes to reduce groundwater infiltration; and fitting new backflow prevention valves to help stop wastewater getting inside homes most at risk. Investigations have been undertaken into upgrading Green Island wastewater treatment plant and redirecting wastewater from the Kaikorai Valley to an existing treatment plant in Green Island. Extensive computer modelling work is underway to evaluate the current performance of the network, identify problem areas and model potential improvements. Work continues to strengthen emergency management procedures during heavy rainfall events.

The DCC's 10-Year Plan (2021-31) allocates \$36 million for flood prevention works in South Dunedin, with two projects currently underway to develop an integrated catchment model and a flood alleviation plan for the area.

The St Clair-St Kilda Coastal Plan Project, Whakahekerau – Rakiātea Rautaki Tai, approved in February 2022, seeks to inform how this coast is managed and how it will need to adapt, in time, to the effects of coastal hazards and climate change.

Other related work

In addition to climate adaptation-related activities, the DCC has committed \$12 million to the design and construction of a new South Dunedin Library and Community facility, as a strategic investment and community asset for the area. A range of other relevant work is either planned or underway, which is currently not formally associated with the programme, but which will have an impact on the outcomes in South Dunedin. For example, open and green spaces will be a central factor in managing climate change impacts in the future. The DCC is currently developing an Open Spaces Plan for Dunedin and is undertaking a Sports Facility Needs Assessment. The DCC's Transport Asset Management Plan is also investigating road maintenance options that are better suited to the ground conditions in South Dunedin or that could help flood mitigation.

In 2018, ORC joined the NZ SeaRise research programme, which in April 2022 released localised sea-level rise projections for New Zealand to help better anticipate and manage impacts such as flooding, rising groundwater levels, and coastal erosion. South Dunedin is also the focus of a regional case study of a low-lying urban area impacted by sea level rise. The case study outcome will be used to develop planning and risk assessment toolkits for sea level rise adaptation.

3.3 Programme objectives and desired outcomes

The programme seeks to achieve an evolving vision, purpose, and set of strategic objectives. This strategic intent will be developed and refined as the programme progresses, noting that success will be dependent on many factors, both within the programme and outside of its influence or control. Successful adaptation will require significant collaborative efforts from central government, local government, iwi/Māori, private sector and communities.

Programme Vision

Vision: Improved community wellbeing and resilience through sustainable urban regeneration of South Dunedin

Programme Purpose

Purpose: To enable South Dunedin to prepare for and adapt to the impacts of climate change.

Programme Strategic Objectives

- Reduced risk from flooding (and other natural hazards): Successful adaptation will ultimately be defined by our ability to manage the presence of, and our relationship with, water – particularly in the form of flooding and rising groundwater. The increasing presence of water in and around South Dunedin will shape other natural hazards.
- Increased social and economic resilience: To adapt effectively to the effects of climate change, all partners and stakeholders will need the knowledge, tools, and support to cope with and navigate extensive social and economic change.
- Environmental and cultural restoration: By adapting in ways that better balance human and environmental systems, we can help restore lost natural environments and reenergise cultural connections to places of significance.
- Climate change impacts are fair ('just transition'): We need to adapt in ways that ensure the risks, costs and opportunities are shared equitably across all partners and stakeholders, and that no one is left behind.
- Community ownership of process and outcomes: Adaptation will require many difficult decisions and trade-offs, so we need to support partners and stakeholders to commit to the process and take ownership of the outcomes.
- Improved urban form in South Dunedin: Adaptation is not only a process for managing risk and threats to the status quo, but also an opportunity to imagine and create a better South Dunedin. This includes reshaping the urban form of South Dunedin both to adapt it to a changing climate, and to make South Dunedin a better place to live.

Programme Operational Objectives

Within the wider strategic intent, and supporting these strategic objectives, the programme will seek to achieve five operational objectives. These focus on delivering a specific output (an adaptation strategy) and doing it in a way that builds trust and confidence amongst partners and stakeholders.

- Lead and coordinate development of a climate change adaptation strategy ("adaptation strategy") for South Dunedin: The adaptation strategy should embed climate change adaptation into the core functions of the councils by shaping organisational strategy, policy, planning, budgeting and operational decision-making.
- Community buy-in through inclusive engagement: Ensure widespread and substantive engagement, including with mana whenua partners, affected communities, and other stakeholders, to develop an adaptation strategy that is representative and enjoys strong community support.
- Run a robust, transparent, and inclusive process: Ensure the programme is robust, transparent, and inclusive for all partners and stakeholders, so that as many as possible have ownership of the process, irrespective of the outcome.
- Alignment with council strategies and policies: Ensure alignment between the adaptation strategy, the organisational strategies of each council, the projects and activities that constitute the programme; and
- Integration with business-as-usual functions: Integrate programme activities, projects and outputs into the business-as-usual operations of both councils, both during, and at the conclusion of the programme.

The programme strategic intent is summarised in **Figure 1** below (Note Programme Actions and Cross-Council Adaptation Work are described more fully in **Section 4 – Programme Approach**).

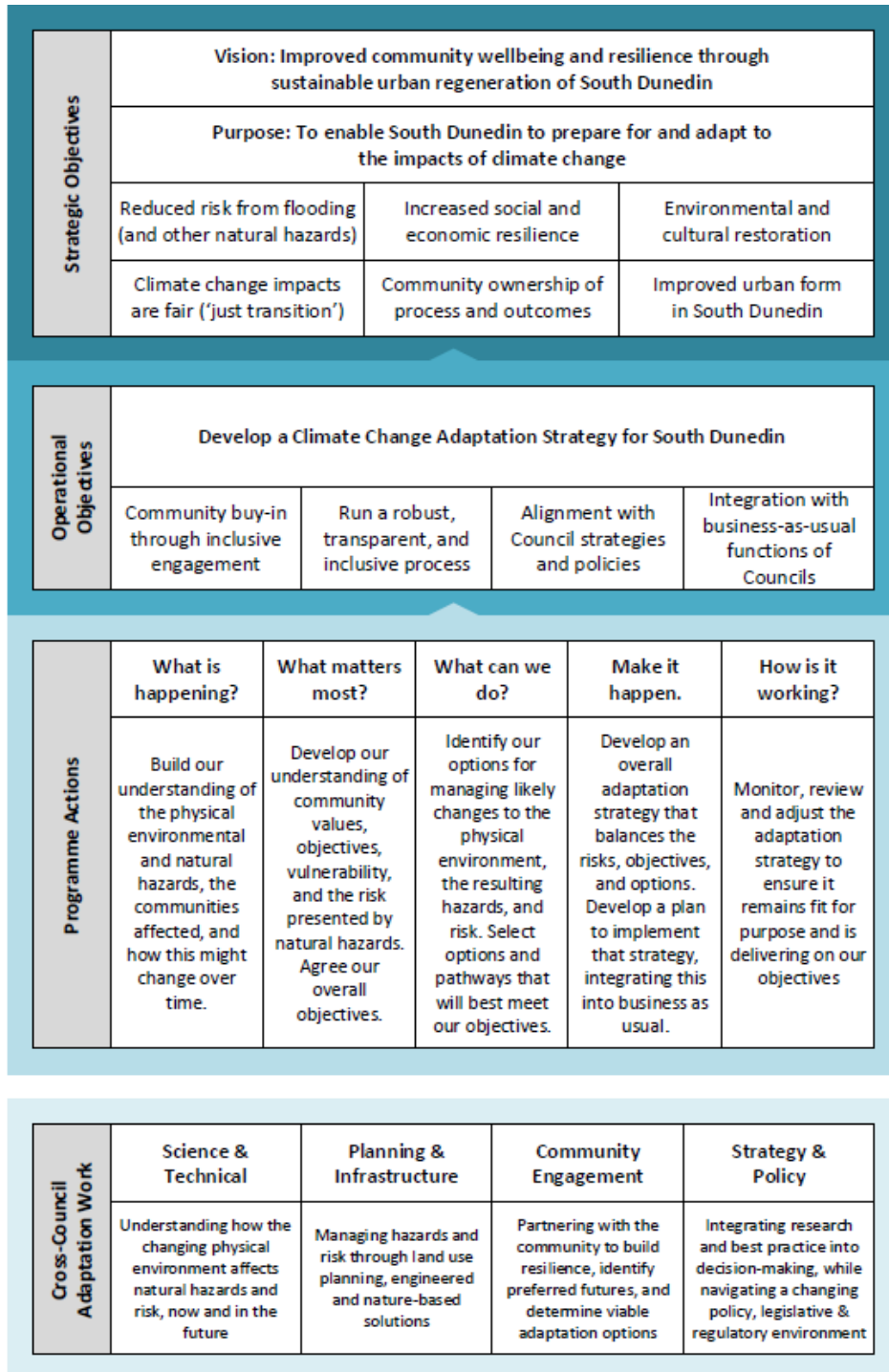


Figure 1: SDF Programme Strategic Intent

3.4 Alignment with Strategy

The programme is a horizontal initiative, working across a range of vertical strategies, groups, and budgets in both DCC and ORC. This horizontal focus is intended to drive greater strategic coherence across councils’ strategies and operations regarding South Dunedin, particularly those with a direct climate change dimension. As such, the programme has links to a wide range of strategic objectives, the most important of which are shown in **Table 1** (covering both DCC and ORC). The programme similarly contributes to a wide range of DCC community outcomes, shown in **Table 2**.

Objective	Contribution	Programme focus
DCC Social Wellbeing Strategy		
<u>Connected people</u> : making people feel connected and involved in community and city affairs	Yes	Community engagement
<u>Vibrant and cohesive communities</u> : building better communities both at a local/geographic level and communities of interest	Yes	Place making
<u>Healthy and safe people</u> : promoting good health and ensuring people feel safe, and are safe	Yes	Hazard risk mitigation
DCC Three Waters Strategy		
<u>Meet water needs</u> : utilising existing water sources for the safe and quality water needs of the city for the next 50 years	Yes	Long term focus
<u>Adaptable supply</u> : adaptable water supply to a variety of future climate change and population scenarios	Yes	Adapting to changing climate
<u>Maintain service levels</u> : maintaining, and where practicable, improving key service levels into the future	Yes	Flood risk mitigation
<u>Kaitiakitaka</u> : an integrated approach to management of the three waters which embraces the concept of kaitiakitaka (guardianship)	Yes	Systems focus
DCC Spatial Plan		
<u>Liveable city</u> : a healthy and safe environment; quality air and water; a connected community; recreation, leisure and learning opportunities; health care, and warm housing	Yes	Community wellbeing
<u>Environmentally sustainable and resilient city</u> : resilient ecosystems and communities; actively responding to climate change; reducing dependence on non-renewable resources; seismic-strengthened heritage buildings	Yes	Social and environmental resilience
DCC Integrated Transport Strategy		
<u>Resilient network</u> : integrating land use and transport to reduce demand for vehicle travel and increasing the resilience of the transport network	Yes	Adapting transport network to a changing climate
DCC Te Ao Tūroa Environmental Strategy		
<u>Resilient and carbon zero</u> : planning for and adapting to climate change and impacting positively on global environment and managing resources sustainably	Yes	Environmental sustainability and resilience
<u>Healthy environment</u> : sustaining ecosystem services, increasing indigenous biodiversity and restoring areas of ecological value	Yes	Ecosystem protection
<u>Caring for the natural world/Tiakitaka</u> : enjoying, connecting to, and celebrating the natural environment	Yes	Sustainable behaviours
DCC Parks & Recreation Strategy		
<u>Open spaces and facilities</u> : our parks and facilities are meeting the changing needs of our communities and are increasingly used	Yes	Utilising green and natural spaces to manage risk

Objective	Contribution	Programme focus
<u>Treasured parks, natural landscapes, flora and fauna:</u> understanding, protecting and restoring our ecosystems and biodiversity, and our parks and landscapes bringing people together to celebrate our cultures and heritage	Yes	Sustainable behaviours
ORC Strategic Directions & Community Outcomes		
<u>Communities that connect with, and care for, Otago’s environment</u>	Yes	Education and awareness
<u>Communities that are resilient in the face of natural hazards, climate change and other risks</u>	Yes	Environmental sustainability and resilience
<u>An environment that supports healthy people and ecosystems</u>	Yes	Social and environmental resilience
<u>Te Ao Māori and Mātauranga Kāi Tahu are embedded in Otago communities</u>	Yes	Whakamana 'E tipu, e rea', honour the Treaty
<u>A sustainable way of life for everyone in Otago</u>	Yes	Sustainable behaviours

Table 1: Alignment with wider strategic objectives

DCC Community Outcomes	Contribution	Comment
A sustainable and resilient city	Yes	Primary
A supportive community	Yes	Primary
A valued and protected natural environment	Yes	Primary
A safe and healthy city	Yes	Primary
A distinctive built environment	Yes	Primary
A thriving and diverse economy	Yes	Secondary
A connected community	Yes	Secondary
A vibrant and creative city	Yes	Secondary
A city of learning	Yes	Secondary
An active city	Yes	Secondary

Table 2: Community outcomes

Links to Future Development Strategy

The DCC and ORC are jointly developing a Future Development Strategy (FDS) for Dunedin. The purpose is to promote long-term strategic planning by setting out how councils intend to achieve a well-functioning urban environment in Dunedin’s existing and future urban area, and to provide sufficient residential and commercial development capacity over the next 30 years to meet expected demand. A ‘well-functioning urban environment’ (as defined in the National Policy Statement on Urban Development) is characterised by a range of features, including cities being ‘resilient to the likely current and future effects of climate change’. Development capacity to meet future needs must be plan enabled, infrastructure ready, and feasible (could reasonably expect to be realised).

Most urban areas of Dunedin are not likely to suffer significant adverse effects of environmental change or natural hazards that would threaten their long-term development capacity. Infrastructure investments that enable development capacity in such areas presume the development will effectively be permanent. However, parts of South Dunedin are likely to be vulnerable to future environmental change and natural hazards that could shorten the lifespan of new development or supporting infrastructure. The District Plan currently includes rules that require new homes to be ‘relocatable’. Minimum floor levels on new homes are managed through the building consent

process. These rules are an initial step towards reducing the risk that climate change poses to building assets.

The FDS is a district-wide strategy and should, therefore, encompass South Dunedin. The FDS will need to respond to the current understanding of the likely future effects of climate change in South Dunedin over timescales relevant to the FDS. This would inform the calculation of how much development capacity can be relied upon in South Dunedin to contribute to meeting wider Dunedin's long-term housing and commercial growth needs. Depending on the current state of knowledge and adaptive planning, it will eventually need to consider where additional development capacity may be required elsewhere in the district to offset any losses due to areas potentially identified for development 'holds' (no further development) and/or managed retreat.

There is a clear strategic and operational overlap between the objectives of the FDS and the SDF programme, creating opportunities for collaboration (and need to avoid duplication). Ideally, the processes would be combined, however this is not considered practicable, as the extensive technical analysis and community engagement envisaged under the SDF programme will require 4-5 years (to mid-2026), whereas the FDS has a statutory requirement to be completed before mid-2024. It is worth noting that the FDS is anticipated to be a rolling process, reviewed every three years. There is also an expectation regional and local councils will be required by Government to develop 30-year regional spatial strategies (which would replace the FDS). South Dunedin-related work that cannot be incorporated into the current or updated versions of the FDS, could inform development of a regional spatial strategy at a later date.

FDS and SDF programme teams are actively and regularly communicating, undertaking collaborative planning work, coordinating work schedules wherever practicable, and tailoring outputs from the SDF programme to inform the FDS. The close relationship between these two initiatives is reflected in the inclusion of the FDS in the programme flow chart (**Figure 5**, below) and efforts to align schedules are described in **Section 4.4**, and illustrated in **Figure 6**, below.

3.5 Programme Benefits and Disbenefits

Delivering the outcomes of the programme should provide a range of benefits for the councils, partners and stakeholders. A programme benefit can be defined as a measured improvement that results from a programme outcome. It should be perceived as an advantage by one or more stakeholders and contribute towards an organisational objective(s).

For example, a programme output may be improved knowledge of natural hazards affecting South Dunedin, which may lead to increased capability of councils to plan for and adapt to these hazards, thereby leading to an outcome of reduced exposure to and risk from natural hazards. This outcome could have many benefits, such as reduced impact on residents from flood hazards (stakeholder), enabling the design of infrastructure to better avoid or mitigate known hazards (value), or cost savings from adjusting expenditure decisions to account for natural hazard risk (financial).

Conversely, a programme disbenefit can be defined as a measured decline resulting from a programme outcome. It is normally perceived as negative by one or more stakeholders, which detracts from an organisational objective(s). A disbenefit could also be a side effect or unintended consequence of programme outputs or outcomes.

For example, improved knowledge of natural hazards, increased capability to make planning, infrastructure and investment decisions based on that knowledge, could lead to reduced investment in hazard-prone areas. Although the long-term community benefits are positive in terms of reduced exposure to hazards, this could generate disbenefits for particular communities in those areas.

Understanding the relationship between programme outputs, outcomes and benefits is critical to programme success – specifically, in maximising benefits and minimising disbenefits over different timeframes.

At this stage of the programme, the benefits it is expected to deliver include:

- **Confidence** – The primary output of the programme is an adaptation strategy for South Dunedin. Production of this strategy should have the broader benefits of reducing uncertainty and enabling more informed, coherent, and high-quality decision-making. This should increase confidence across all stakeholders that decisions made are both in their best interests and the right decisions in the circumstances, based on available information.
- **Stakeholder** – Engagement, with mana whenua partners, affected communities, and other stakeholders will be central to the programme. This engagement should help ensure that, on balance, programme outputs and outcomes reflect what partners and stakeholders want and value. Adopting an open, transparent, and inclusive approach to engagement should help ensure the widest possible selection of views and interests are considered.
- **Reduced risk** – Identifying natural hazard risks, acting to both mitigate current risk and manage or avoid future risk, should have the benefit of significantly reducing the overall risk profile for South Dunedin (including against the backdrop of increasing natural hazard risk due to climate change). Reducing risk should produce a range of social, cultural, economic and environmental benefits.
- **Effectiveness** – Improved knowledge of natural hazards, coupled with development of a collective vision for the future of South Dunedin, will enable more informed planning and more targeted investment. This new knowledge and capability should enable councils, partners, and stakeholders to make better quality investment decisions, with higher likelihood of success.
- **Efficiency** – A primary focus of the programme is coordination across a range of vertical work streams between and within DCC and ORC councils. This enhanced coordination, across strategy, policy, planning and operational functions should reduce duplication of effort, help resolve previously intractable issues, and enable a range of efficiencies in terms of staff time, operating, and capital expenditure. In short, it should enable councils to do more, with less.

As the programme progresses, more work will need to be undertaken to identify the range of benefits expected from each of the programme actions, projects or activities. A benefits management plan will be developed to support tracking and managing of programme benefits.

3.6 Programme scope and exclusions

Developing an adaptation strategy that will deliver *“improved community wellbeing and resilience through sustainable urban regeneration of South Dunedin”*, is a significant undertaking. Achieving this goal would likely require extensive social, economic, and environmental change over an extended period (e.g., decades). The focus of the programme therefore needs to be strategic, societal, and long term. The programme will also need to adopt a systems focus.

The many interrelated, and long-term processes involved are not necessarily controllable or predictable. As such, the programme will likely be characterised by a high level of complexity, uncertainty, and risk (to property, people, and relationships).

This means there will be a wide range of activities that have varying degrees of direct and indirect connection to, have impact on, or be impacted by the programme. To account for this, a flexible and nuanced scope will need to be adopted for the programme.

It may not be possible (nor necessarily advisable) to delineate a clear scope for the programme based on factors such as absolute geographic boundaries, specific teams, functions, or projects.

For example, natural hazards, land use planning, and three waters infrastructure in South Dunedin are interdependent parts of a complex system, are influenced by multiple internal and external factors, independently and collectively influence risk and vulnerability, and are managed by different parts of different organisations. Such complexity needs to be taken into consideration.

Nonetheless, there is value in seeking to define a scope for the programme, to the extent this is possible and practicable. This scope will need to be monitored regularly, and adjusted as ambiguities are clarified, or as the results of various programme actions or activities (and external factors) become known over time. The scope will therefore need to be flexible to remain fit for purpose.

A focus on climate change adaption (but mitigation is still relevant)

The programme has a focus on climate change adaptation, defined as adjusting to the actual or expected climate and its effects, to reduce harm and take advantage of new opportunities. However, the other critical element of climate change is mitigation, which is a human intervention to reduce emissions or enhance the sinks of greenhouse gases².

Effective climate policy aimed at reducing the risks of climate change to natural and human systems involves a portfolio of diverse adaptation *and* mitigation actions³. Adaptation and mitigation actions can have multiple consequences (intended or unintended), and this can involve both trade-offs and synergies. For example, nature-based adaptation actions such as creation of wetlands to reduce flood risk, could have co-benefits of creating a carbon sink. Conversely, adaptation actions that have high embed carbon or carbon intensive operations, such as infrastructure that is concrete-based or runs on fossil-fuel energy sources, could create additional otherwise avoidable emissions.

While the programme will focus on adaptation, this work will occur within the wider systemic context of climate change. It will therefore need to consider climate mitigation at appropriate points, to ensure coherence across councils' climate change policy, practice, and communications.

3.7 Programme Scope

At this stage of the work, where much of the programme is still being fully defined, the proposed approach is to adopt a *graduated scope*, where relevant programme components are assigned to one of four layers:

- core programme,
- inside the programme,
- outside but programme-related, or
- outside the programme;

and grouped in the following three segments:

- sector/team
- organisation/stakeholder
- geography

This graduated scope can also be used as a framework for grouping, organising, and coordinating actions or activities that have (or are perceived to have) some form of association with the programme, whether direct or indirect. The proposed graduated scope of the programme, using this framework, is outlined in the **Figure 2** below.

² IPCC, 2018: Annex I: Glossary [Matthews, J.B.R. (ed.)]. In: *Global Warming of 1.5°C*.

³ Klein, R.J.T., S. Huq, F. Denton, T.E. Downing, R.G. Richels, J.B. Robinson, F.L. Toth, 2007: Inter-relationships between adaptation and mitigation. *Climate Change 2007: Impacts, Adaptation and Vulnerability*

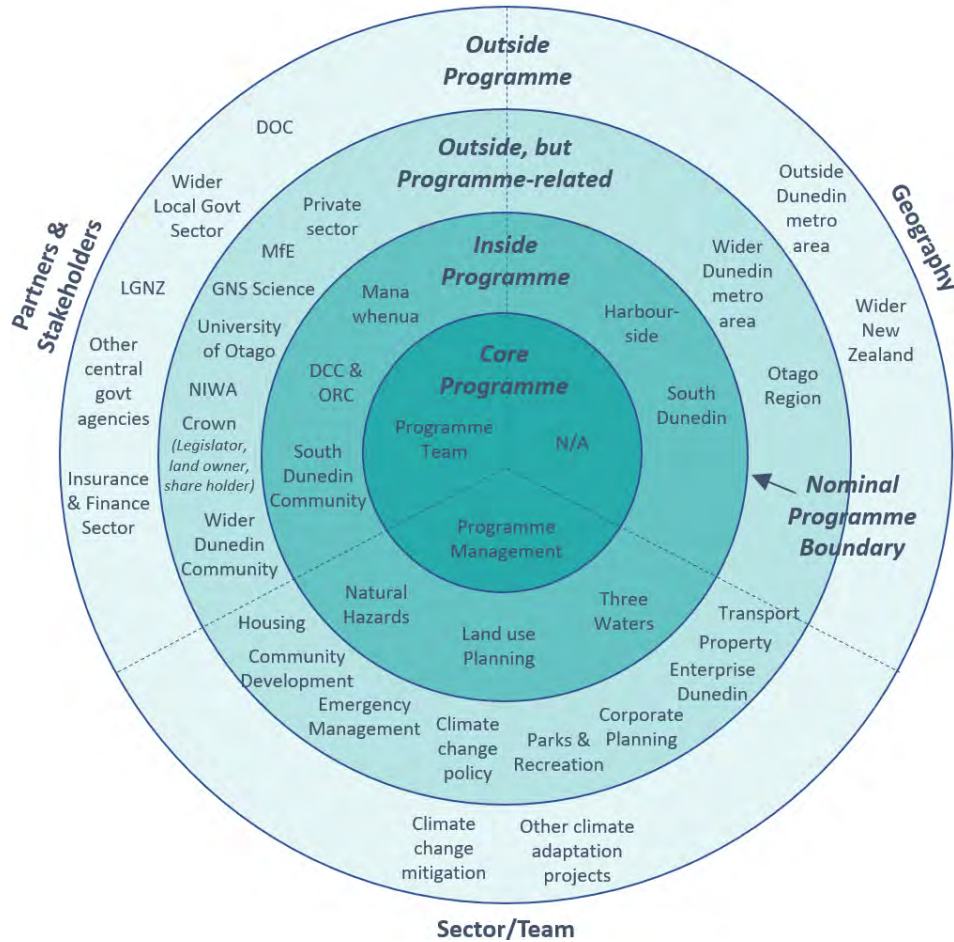


Figure 2: South Dunedin Future Programme – Graduated Scope

Geographic focus area

The current geographic focus of the programme is on the flat area commonly known as ‘South Dunedin and Harbourside’, which incorporates the suburbs of St Clair, St Kilda, Tainui, South Dunedin, Kensington, Caversham and Forbury. This area is similar (flat, low-lying, hazard exposed), but distinct (zoning and land use, socio-economic profile, flood history) from the Harbourside area encompassing the central business district, waterfront and Logan Park areas.

Therefore, the proposed geographic focus area for the programme is recommended as comprising the flat area of the South Dunedin rainfall catchment, proposed as:

- North: South Road / Strathallan Street / Portsmouth Drive
- South: St Clair Beach/ Middle Beach / St Kilda Beach
- East: Lawyers Head / Tainui Road / Bayfield
- West: David Street / Forbury Road / Norfolk Street

The proposed geographic focus area is shown in **Figure 3** below. It is important to note that the geographic boundaries are indicative, not absolute. What happens within this area, whether that be rainfall, flooding, transport, 3W infrastructure, community resilience, etc., is influenced by what happens elsewhere in and around Dunedin. The 'South Dunedin and Harbourside' area is part of a wider system, has many dependencies across the city, and should always be thought of as such.

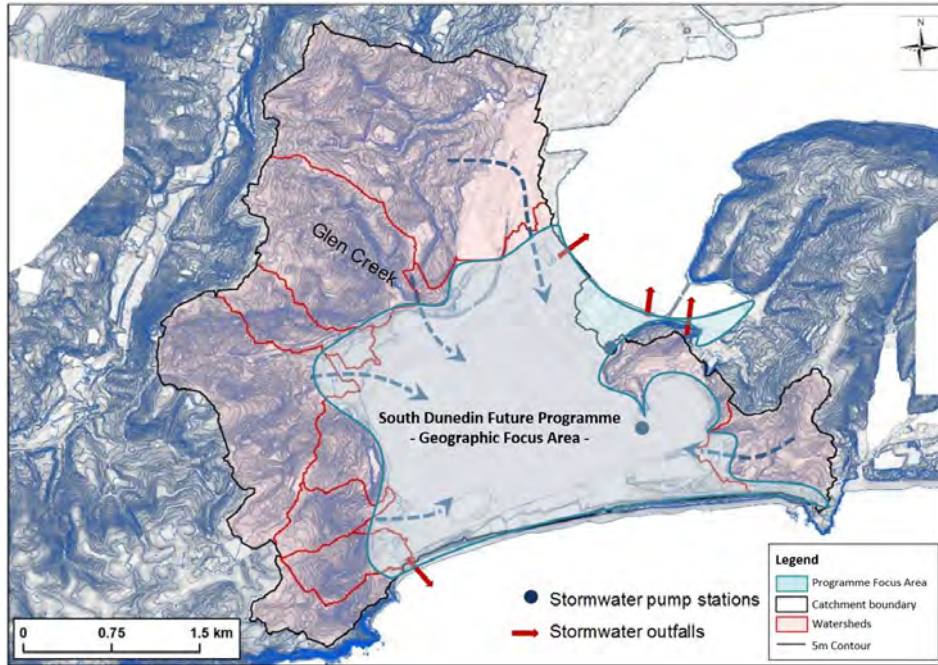


Figure 3: Geographic focus area of South Dunedin Future programme

Sectors and teams

There are three primary sectors involved in directly managing the natural hazard risk posed by climate change, including natural hazards, land use planning and 3 waters. However, there are many other secondary sectors that will also have interest in, and influence over, the development of a climate change adaptation strategy for South Dunedin. These include, but are not limited to, parks and recreation, transport, property, housing, community development, economic development, and emergency management.

Partners and stakeholders

A wide range of partners and stakeholders will have an interest in, or influence over, climate adaptation options for South Dunedin. The primary partners are DCC, ORC and mana whenua. The primary stakeholders are the South Dunedin community, councils and mana whenua. A range of secondary stakeholders include, but are not limited to, wider Dunedin community, Crown (as a legislator, landowner, and shareholder), Crown Research Institutes (NIWA, GNS Science), Ministry for the Environment, Local Government New Zealand (LGNZ), the wider local government, and other relevant agencies (Earthquake Commission, Climate Change Commission).

Each of these partners and stakeholders has a unique set of views, values and interests in the programme. Detailed stakeholder profiles will be developed as part of programme management

activities (see **Table 5**, below) to help ensure engagement with partners and stakeholders is tailored accordingly.

Mana whenua engagement

The central component of the programme is engagement with partners and stakeholders. Critical to this will be ensuring that the Treaty of Waitangi, and Crown’s partnership with Māori, is accurately represented and integrated into the programme. This is currently envisaged to include four lenses:

- establishing and operating Treaty-based governance arrangements, through which mana whenua can formally and actively participate in governance of the programme;
- seeking to align the strategic intent of the programme with Te Ao Māori and mana whenua aspirations;
- providing meaningful opportunities for all Māori to input their views and values into ongoing programme activity, including through targeted engagement; and
- identifying and agreeing Māori-specific programme outputs (e.g., cultural narratives, adaptation options for Māori land in Ōtepoti, adaption for cultural taonga, mana whenua design inputs, etc).

Initial conversations have been had with mana whenua representatives on Council Committees, as well as with Aukaha Ltd, with further work planned (see **Table 8** and **ANNEX 3**).

Programme activity scope, accountabilities, and exclusions

The framework for determining the graduated scope can also be used to organise programme actions, activities and projects into categories that correspond to the four layers of the programme. This is outlined in the **Table 3** below:

Scope layer	Aligns to:	Programme activity category
Core programme	↔	Programme management activities and programme actions
Inside programme	↔	Programme activities & projects
Outside, but related to the programme	↔	Programme-related activities
Outside the programme	↔	Unrelated activities or exclusions

Table 3: Scope layers and Programme activity categories

Moreover, the framework can be used to assess the relationship an action, activity or project might have with the programme, and therefore which programme activity category it should be assigned to. This assessment can be made using the following set of criteria:

- Delivery - who is responsible for delivery of the activity?
- Reporting - who is responsible for reporting on the activity?
- Accountability - who is accountable for activity performance?
- Outcomes/outputs - how are the activity’s outcomes or outputs determined?
- Control/influence - who has control or influence?
- Governance - how is the activity governed?

Table 4 below illustrates how each set of criteria is applied to each of the four programme layers and four programme activity categories.

	Core Programme / Programme management actions	Inside Programme / Programme activities or projects	Outside, but Programme-related / Programme-related activities	Outside Programme / Unrelated activities or exclusions
Delivery <i>Who is responsible for delivery of the service or output</i>	Action is delivered by the programme team	Activity is delivered by DCC/ORC teams; or third party		
Reporting <i>Who is responsible for reporting on the service or output</i>	Programme team reports on the action or activity	Programme team reports on the activity (in coordination with delivery entity)	Delivery entity or third-party reports on the activity	Delivery entity or third-party reports on the activity
Accountability <i>Who is accountable for performance?</i>	Programme team is accountable for these actions and activity	DCC/ORC Manager is accountable for these activities; or third party		Delivery entity or third party is accountable for these activities
Outcomes/outputs <i>How are the outcomes and outputs determined?</i>	Outcomes and outputs (actions) are derived from Programme Plan	Outcomes and outputs are either derived from, or consistent with, the Programme Plan	Outcomes and outputs are broadly consistent with or complementary to the Programme Plan	Outcomes our outputs may have some relation to the Programme Plan (actual or perceived)
Control/influence <i>Who has control or influence?</i>	Programme team has control over programme management activities and programme actions	Delivery entity has control over activities; Programme team has high influence	Delivery entity has control over activities; Programme has moderate influence	Delivery entity has control over activities; Programme has limited/negligible influence
Governance <i>How is the service or output governed?</i>	Programme management activities or programme actions are governed through Programme mechanisms		Activities are governed through mechanisms separate from the Programme	

Table 4: Programme activity category criteria

Table 5 below provides a fuller narrative about each programme activity category and provides examples of activities or projects that match the corresponding criteria. This is intended to illustrate where activities sit in relation to the programme, by whom they will be managed, and how.

	Programme Activity Category	Examples
Core / central	Programme management actions	<ul style="list-style-type: none"> • Programme Strategy • Programme Definition • Stakeholder profiles • Programme Activity Matrix • Programme Risk Register • Programme Comms & Reporting • Monitoring & Evaluation • Community Engagement
	<i>These actions are delivered by the programme team for the purpose of coordinating the organisation, direction and implementation of a dossier of projects (i.e., the programme). The programme team reports on and is accountable for these actions. Activity outcomes and outputs are derived from Programme Plan. Programme team has control over the actions, which are governed through Programme governance mechanisms.</i>	

	Programme Activity Category	Examples
Within programme	<p>Programme actions/activities/projects</p> <p><i>These activities or projects are delivered by DCC/ORC teams or by a third party outside of Councils. The programme team reports on the activities (in coordination with delivery entity), although accountability for their delivery sits with the relevant DCC/ORC Manager or third party. Activity outcomes and outputs are either derived from, or consistent with, the Programme Plan. The delivery entity has control over activities; however, the programme team has a high level of influence. These activities are governed through Programme governance mechanisms.</i></p>	<ul style="list-style-type: none"> • Consolidated natural hazard scape information • Components of the Future Development Strategy (FDS) • Climate change and hazards risk assessment • Long list, short-list and preferred adaptation options • South Dunedin Adaptation Strategy • South Dunedin Implementation Plan
Outside, but related	<p>Programme-related activities</p> <p><i>These activities are delivered by DCC/ORC teams; or by a third party. The delivery entity reports on the activity and accountability for delivery sits with the responsible DCC/ORC Manager or third party. Activity outcomes and outputs are broadly consistent with or complementary to the Programme Plan. The delivery entity has control over activities; however, the programme has a moderate level of influence. Activities are governed through mechanisms separate from the Programme.</i></p>	<ul style="list-style-type: none"> • Parks and Recreation <ul style="list-style-type: none"> • Open Spaces Plan • St Clair-St Kilda Coastal Plan • Coastal Hazard Risk Assessment • Sports Facilities Plan • Housing <ul style="list-style-type: none"> • Housing Action Plan • Transport <ul style="list-style-type: none"> • Network repairs and maintenance • Property <ul style="list-style-type: none"> • South Dunedin Library Project • Tar Well Rehabilitation Project • Community Development <ul style="list-style-type: none"> • Community Resilience Plan • Land use planning <ul style="list-style-type: none"> • Future Development Strategy • 3 Waters <ul style="list-style-type: none"> • Integrated Catchment Model • South Dunedin Flood Alleviation Projects
Outside	<p>Exclusions</p> <p><i>These activities are typically delivered by DCC/ORC teams; or by third parties. The delivery entity reports on the activity and is accountable for performance. Activity outcomes or outputs may have some relation to the Programme Plan (actual or perceived). The delivery entity has control over the activities, and the programme team has limited/negligible influence. Activities are governed through mechanisms separate from the Programme.</i></p>	<ul style="list-style-type: none"> • Climate change mitigation strategy and policy • Wider Dunedin City climate change adaptation strategy and policy • Climate change adaptation projects outside of Dunedin city metropolitan area

Table 5: Programme activity category narrative and examples

3.8 Programme constraints and assumptions

A programme may include immovable deadlines or external factors that act as constraints, where activities or outputs might need to be adjusted to account for these boundaries or excluded from the programme altogether. Similarly, the programme will always be working with imperfect information, and assumptions will need to be made where facts are not yet known. Certain assumptions will need to be taken as being true for the purposes of planning, but these could change later. There is a risk these assumptions will be incorrect. **Table 6** below summarises some key constraints and assumptions relevant for the programme at this time.

Item	Constraint	Assumption
Time	Corporate Planning timeframes for DCC and ORC require triennial planning and budget setting processes for the development and resourcing of rolling Long Term Plans. This is complemented by annual planning processes (on an exceptions basis). The current Long Term Plan cycle ends in June 2024.	Programme, and programme-related, activities will need to be planned, resourced, and delivered in accordance with corporate planning timeframes and cycles (which may not align with optimal programme time frames). The quality, cost, or scope of programme activities may need to be adjusted to fit the timeframes.
Cost	The core SDF programme budget is \$550,000 per annum. All programme management activities, and selected programme actions/activities/projects, are funded from this budget. Selected programme-related activities will require separate, dedicated funding (from business as usual or project funding) and are therefore subject to competing priorities and interests across the breadth of DCC/ORC corporate planning and budgeting processes.	The programme will retain dedicated resourcing at a level required to undertake the programme management functions. DCC/ORC teams with responsibility for delivering programme activities or projects will incorporate programme-relevant outcomes and outputs into their annual planning and budgeting processes and provide resources (personnel and consumables) required for delivery.
Scope	The current legislative and policy framework, including provisions in the Local Government Act, does not provide local government with the tools or mandate to effectively respond to the full breadth of climate change adaptation challenges (particularly managed retreat).	The Resource Management Act reform process will significantly alter the legislative framework, specifically passing of a Climate Change Adaptation Act (CCA) in 2023. The CAA, together with the National Climate Change Risk Assessment and National Adaptation Plan (to be finalised in August 2022) is assumed to provide the necessary legislative and policy framework to enable local government to effectively respond to climate change adaptation challenges (including managed retreat).
	Local government reform, including three waters reform, will create uncertainty about the scope of DCC/ORC's mandate and constrain their ability to plan for the medium and long term. The outcome of the reform processes is unknown.	It is assumed that local government mandate and processes will continue as status quo until 1 July 2024. After 1 July 2024, it is assumed that responsibility for governance and management of 3W infrastructure assets, and funding and delivery of 3W infrastructure investments, will transfer to a third party.
Risk / uncertainty	There is a large degree of uncertainty about future emissions pathways and associated climate impacts. Decision-makers face unavoidable uncertainty about ongoing sea level rise. The effects of climate change, including sea-level rise, are localised and highly variable.	The programme will seek to balance these uncertainties with the need to make decisions. This will be done using a best practice climate change adaptation approach called <i>dynamic adaptive pathways planning</i> (DAPP). The DAPP approach will be used to identify ways

Item	Constraint	Assumption
	However, it is usually not possible, practical, or sensible for them to wait until uncertainties are reduced before making decisions.	forward (pathways) despite uncertainty, while remaining responsive to change should this be needed (dynamic).

Table 6: Programme constraints and assumptions

3.9 Programme interfaces and dependencies

Delivering the outcomes and realising the benefits of the programme will likely require extensive social, economic, and environmental change over an extended period (e.g., decades). The programme will seek to account for this by adopting a systems focus, however these outcomes will be affected by a range of interrelated and long-term processes that are not necessarily controllable or predictable.

This generates a myriad of dependencies, meaning many programme activities, outputs or decisions will be pre- or co-requisites for delivering other aspects of the programme. Some primary examples are described in the **Table 7** below, with a wider web of linkages and dependencies also mapped **ANNEX 1** in the document ‘SDF Programme Matrix’.

Item	Dependency	Description
Internal Dependencies <i>Managed within programme boundary (e.g., how programme activities depend on each other).</i>	Programme coordination	A key component of a successful programme will be effective coordination (strategic, operational, day-to-day) of the portfolio of programme activities/projects and a myriad of other related issues and initiatives. This will need to occur across and within councils and seek to integrate with external agencies and initiatives. Central to this will be leadership, ensuring that consistent direction and messaging cascades from Councils through to staff, and that this are reflected in programme activities.
	Natural hazards	Understanding climate change impacts, particularly natural hazards, is essential for developing adaptation options. Ongoing work by ORC and other technical agencies to investigate and model geological, hydrological, and coastal hazards, as well as monitor hazards such as sea-level rise, tides, ground water, erosion, subsidence, and rainfall, are critical inputs into the programme. Natural hazard and risk information will inform land use planning decisions and infrastructure investment, along with a range of other programme activities and engagement processes.
	Land use planning	Climate change adaptation in South Dunedin will very likely require extensive land use change over time. These changes are yet to be determined and will be informed by a range of programme-related issues, including natural hazards and infrastructure investment. Planning rules and tools will play a central role in preparing for, and adaptation to, a changing climate, as such, these will be critical for delivering many programme outcomes, such as reduced flood

Item	Dependency	Description
	Three waters	risk, and realising broader objectives and benefits, such as enhancing community resilience and wellbeing. Infrastructure investment, particularly in regard to 3 Waters, will be central to adapting the physical and built environment in South Dunedin to a changing climate. Appropriate and value-for-money 3W/infrastructure investment decisions will need to be informed by <i>inter alia</i> natural hazard and climate information, and land use planning strategies and rules.
Intra-dependencies <i>External to the programme, but within DCC/ORC span of control (e.g. other related-programmes of work)</i>	Land use planning	Effective adaptation responses will likely require councils to develop a consistent and coherent approach to managing natural hazard risk, including in regard to existing uses and developments, and proposed ones. This is particularly relevant in development of a Future Development Strategy (FDS) for Dunedin, which will focus on ensuring there is enough housing and business land capacity available, that the necessary infrastructure to support growth is planned, funded, and integrated with growth; and that growth delivers a 'well-functioning urban environment'. The joint-DCC/ORC process to develop the FDS will need to consider land use tools as a medium for managing climate change impacts, natural hazard risk, and developing associated adaptation options.
	Infrastructure	Infrastructure will play a critical role in developing effective adaptation options for South Dunedin. However, even new or innovative infrastructure decisions for South Dunedin will occur within the context of the wider system of city infrastructure management. The DCC has an infrastructure strategy for managing drinking water, wastewater and stormwater (3 waters) and transport infrastructure for the next 50 years. This strategy is being reviewed and will be updated by the end of 2023, and infrastructure options for South Dunedin will be in part dependent on the outcome of this process.
	Corporate Planning	Delivering outcomes and realising the benefits of the programme will require appropriate planning, resourcing and delivery across councils. This will depend on the effective integration of programme outcomes and outputs into the corporate planning processes of the council groups/teams/individuals responsible for their delivery. The programme budget will support and assist with coordination of this process, but is insufficient to deliver programme outcomes alone.
	Programme / programme-related activities	Delivering outcomes and realising the benefits of the programme will require outputs from a wide range of programme activities and projects, as well as outputs

Item	Dependency	Description
		from activity from outside the programme (i.e., the enabling environment). The programme team will seek to identify and manage associated dependencies, however, many of these are likely to be unknown, uncertain or uncontrollable, and will therefore need to be managed as risks.
External dependencies <i>Outside programme boundaries (e.g., other organisations or dynamics such as legislation)</i>	Community perspectives / engagement	Identifying a preferred adaptation option(s) for South Dunedin will require extensive community engagement, particularly regarding long term options and managed retreat (see Climate Change Adaptation Act dependency below). Development of options, identification of pathways and triggers will be dependent on community perspectives and their willingness/ability to engage in this process. Timeframes will likely also be subject to community comfort with the speed and direction of the process.
	Mana whenua	Incorporating the views, interests and aspirations of mana whenua, and other interested Māori, will be a central element of developing an effective climate change adaptation strategy for South Dunedin. Programme objectives, processes, and timeframes will need to be developed/adapted to enable co-development of this work in partnership with mana whenua.
	Legislative change, including the Climate Change Adaptation Act	Identifying a preferred long term adaptation option(s) for South Dunedin will likely require extensive community engagement on the issue of managed retreat (in areas and over timeframes yet to be determined). This will be dependent on changes to the statutory framework around climate change adaptation. The Resource Management Act (RMA) reform process, specifically development of a Climate Change Adaptation Act (CCA) is expected to provide a national framework for managed retreat.

Table 7: Interfaces and dependencies

3.10 Programme Risks

The programme is characterised by a large degree of uncertainty, including in terms of natural hazards and their impacts, how these will be affected by climate change, the options available for adapting, how partners and stakeholders will respond to these options, and the capability and capacity of councils (and others) to deliver equitable outcomes. These factors rest against the backdrop of extensive Government reform, including Resource Management Act, 3 Waters, and Local Government reform, the outcomes and impacts of which remain uncertain at this time.

All of this, in various ways, presents risk for the programme. A risk being an uncertain event(s) which, should it occur, will have an impact (usually negative) on achievement of programme objectives. A risk, when it occurs, becomes an issue to be managed.

It will not be possible to control all risks and issues affecting the programme – indeed many, such as global emissions and sea level rise, are outside of our control. In many instances, it will only be possible to monitor and plan for the impact of these risks.

Programme risk work is in development to support improved awareness and understanding of risks, issues and their potential impact on the programme and its objectives.

Initial risk work has identified several risks and issues affecting the programme, which will need to be monitored and managed as the programme progresses. These risks and issues can generally be organised into five categories:

- external influences (e.g., government reforms, changing legislation, etc.)
- navigating governance (e.g., evolving roles and responsibilities of local government in climate change adaptation)
- managing relationships (e.g., balancing interests across internal and external partners and stakeholders)
- managing complexity (e.g., coordination, collaboration, dependencies, trade-offs, etc.)
- managing resources (e.g., juggling resources requirements across many different areas and timeframes).

Further work will be undertaken on risk management as part of the next phase of the programme, as more information becomes available and as new risks or issues present. This work will be further developed in the programme risk register, which is supplementary to this programme plan, and will detail roles, responsibilities, and arrangements for managing and mitigating risk.

4. PROGRAMME APPROACH

4.1 Dynamic Adaptive Pathways Planning (DAPP)

The programme will be implemented using a *Dynamic Adaptive Pathways Planning (DAPP)* approach, a best practice methodology for making decisions to respond to the deep uncertainty of climate change impacts and responding to the challenges and opportunities in South Dunedin. It is anticipated that this process will involve five interdependent phases, which will seek to:

- What is happening? Build our understanding of the physical environmental and natural hazards, the communities affected, and how this might change over time.
- What matters most? Develop our understanding of community values, objectives, vulnerability, and the risk presented by natural hazards. Agree our overall objectives.
- What can we do? Identify what our options are for managing likely changes to the physical environment, the resulting hazards, and risk. Then select preferred options and pathways that will best meet our objectives.
- Make it happen. Develop an overall adaptation strategy that balances the risks, objectives, and options. Develop a plan to implement that strategy.
- How is it working? Monitor, review and adjust the adaptation strategy to ensure it remains fit for purpose and is delivering on our objectives.

These five phases / questions and 10 steps of the DAPP process are represented in **Figure 4** below:

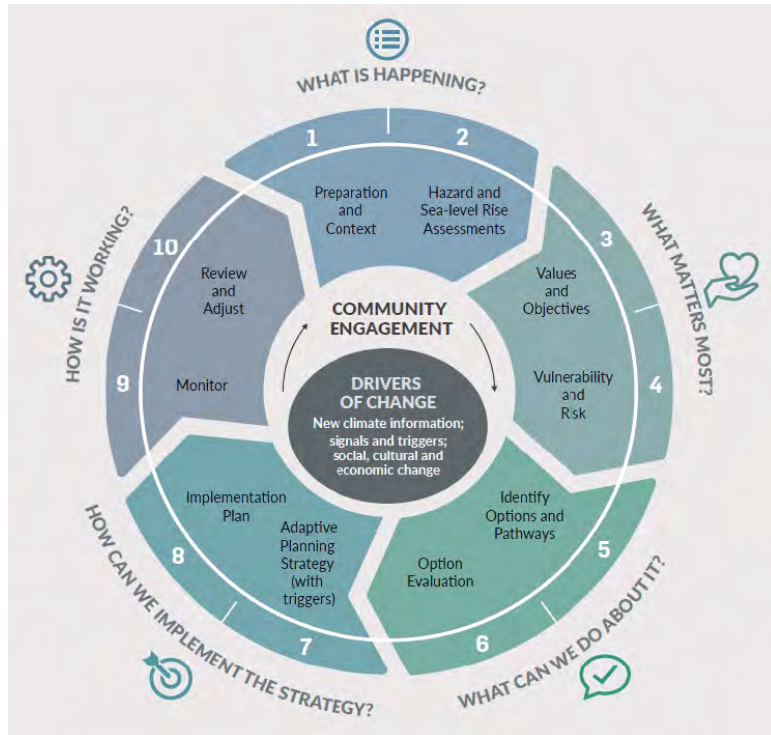


Figure 4: Dynamic Adaptive Pathways Planning (DAPP) ⁴

⁴ *Preparing for coastal change: A summary of coastal hazards and climate change guidance for local government*, Ministry for the Environment, 2017.

It is important to note that DAAP is a circular process, in which each phase feeds back into previous phases, phases and steps can be progressed in parallel, and where the whole process repeats in a circular motion (as represented the 'DAAP Wheel' in **Figure 4**).

In the interests of simplicity and clarity, the DAAP Wheel has been 'unrolled' from this point of the document forward, with the process being represented in a more linear fashion (left to right, in tabular form). This is intended to illustrate what the programme will do and in what sequence. It does however overlook some of the nuance and interlinkages between different programme actions and activities, so this should be considered.

4.2 Programme phasing and key milestones

The five phases of the programme described in **Section 4.1**, above can be further broken down into several key milestones. These milestones are essentially 'decision gates', at which point it is assessed that Council endorsement would be necessary to proceed. These decision gates typically relate to a major programme or policy decision (e.g., strategic intent of the programme) or precede community engagement on substantive new material or issues (e.g., at different stages of options development). The decision gates are included in **Table 8**, below. It is anticipated that periodic programme update reports would also be provided to Councillors, to cover any intervening periods between for decision gates in the programme.

4.3 Programme work breakdown structure

Programme work breakdown structure

The following **Table 8** illustrates the planned high-level Work Breakdown Structure (WBS) for the programme. The table structures the work against the five phases of the DAPP approach and notes summary descriptions of what is involved. This is further broken down into programme actions, and the table includes a summary explanation of each action, what it is seeking to achieve, what this would involve, who would lead or undertake the work, and who would be involved.

This high level WBS will be refined and developed to include additional programme actions and activities as required as the programme progresses. More detail is provided for the initial stages, reflecting the greater certainty about the actions and resources required for delivery. Additional detail will be added in subsequent phases, as objectives, parameters and approaches are developed or better understood (i.e., we do not have all the answers now but will need to work through a process to get them).

Programme flow chart

The programme actions noted in **Table 8** are also displayed visually in the flow chart in **Figure 5**, below. This flow chart is intended to illustrate the general sequencing of programme actions, the linkages between actions, and how these could be expected to inform, or be informed by, other relevant activities occurring outside of the programme. Again, this is a simplified, linear representation of the programme so does not capture the complexity and nuance but is nonetheless a general representation how the programme is expected to roll out over time.

The flow chart also seeks to emphasis the porous nature of the programme, in the sense that it will continually be informed by business-as-usual activities across and outside of the councils. The programme will also regularly inform council processes, meaning each stage of the programme will produce valuable information, which other parts of DCC and ORC could use to inform strategy, policy, planning, budgeting and decision-making processes (i.e., there is no requirement to wait until the final programme output, the adaptation strategy and implementation plans).

Programme Phase	Programme Action	Purpose	Who would lead/do this work?	Who would be involved?
What is happening? <i>Build our understanding of the physical environmental and natural hazards, the communities affected, and how this might change over time.</i>	Identify and connect with partners and stakeholders	Identify and connect with affected communities	SDF Programme Team	Partners and stakeholders
	Initial engagement on community views, values and objectives	Build initial understanding of community interests	SDF Programme Team	Selected partners and stakeholders
	Monitor physical environment and natural hazards	Build general understanding of natural environment	ORC Natural Hazards Team	GNS, NIWA, other technical agencies
	Investigate natural hazards affecting South Dunedin	Developing detailed understanding of specific issues	ORC Natural Hazards Team	GNS, NIWA, other technical agencies
	Identify likely future changes to physical environment	Predict future changes to inform planning / decisions	ORC Natural Hazards Team	GNS, NIWA, other technical agencies
	Consolidated natural hazards information management	Streamline management of / access to hazards info.	SDF Programme Team	ORC Natural Hazards, Project Delivery Teams
	- Decision Gate – Natural hazards information management	Formally agree how to manage natural hazards information	SDF Programme Team	Council Executive Teams, Councillors
	Communicate climate change and hazard info to community	Build community understanding of changing hazards	SDF Programme Team	DCC/ORC Communications Teams
	New or additional investigation & monitoring of natural hazards	Respond to new/changing hazard info as required	ORC Natural Hazards Team	GNS, NIWA, other technical agencies
	What matters most? <i>Develop our understanding of community values, objectives, vulnerability, and the risk presented by natural hazards. Agree our overall objectives.</i>	Engagement with mana whenua	Integrate Te Ao Māori & Treaty principles into programme	SDF Programme Team, Aukaha Ltd,
Confirm strategic and operational intent of SDF programme		Establish clear goal posts for the programme	SDF Programme Team	Council staff, Councillors
- Decision Gate – Programme strategic and operational intent		Formally approve programme strategic and operational objectives	SDF Programme Team	Council Executive Teams, Councillors
Develop initial signals, triggers and thresholds for changing from status quo		Understand when status quo no longer acceptable	SDF Programme Team	Partners and stakeholders
Detailed engagement on community views, values and objectives		Build detailed understanding of community interests	SDF Programme Team	Partners and stakeholders
Develop spatial view of community characteristics and priorities		Develop detailed spatial understanding of community	Contractor(s), SDF Programme Team	Partners and stakeholders
Initial climate change and natural hazards risk assessment for Dunedin		Formally assess climate change/hazard risk in Dunedin	Contractor(s), SDF Programme Team	ORC Natural Hazards Team, other (tbc)
Climate change and natural hazard vulnerability assessment for South Dunedin		Formally assess vulnerability in South Dunedin	Contractor(s), SDF Programme Team	ORC Natural Hazards Team, other (tbc)
Detailed climate change and natural hazard risk assessment for South Dunedin		Formally assess climate/hazard risk in South Dunedin	Contractor(s), SDF Programme Team	ORC Natural Hazards Team, other (tbc)
What can we do? <i>Identify our options for managing likely changes to the physical environment, the resulting hazards, and risk. Select options and pathways that will best meet our objectives.</i>		Detailed review of national and international adaptation options	Identify best practice adaptation relevant to South Dunedin	Contractor(s)
	Develop long list of generic adaptation options	Understand what adaptation options are on the table	Contractor(s)	SDF Programme Team, Project Delivery Teams
	- Decision Gate – Long list of generic adaptation options	Formally endorse options before engaging community	SDF Programme Team	Council Executive Teams, Councillors
	Engage community on long list of generic adaptation options	Engage community in assessment of long list options	SDF Programme Team	Partners and stakeholders
	Develop spatial longlist of adaptation options	Identify where particular options might be deployed	Contractor(s), SDF Programme Team	ORC Natural Hazards, Project Delivery Teams
	- Decision Gate – Spatial long list of adaptation options	Formally endorse options before engaging community	SDF Programme Team	Council Executive Teams, Councillors
	Engage community on spatial longlist of adaptation options	Engage community in assessment of spatial long list	SDF Programme Team	Partners and stakeholders
	Develop spatial shortlist of adaptation options	Narrow down the options to a shortlist	Contractor(s), SDF Programme Team	Project Delivery Teams
	- Decision Gate – Spatial short list of adaptation options	Formally endorse options before engaging community	SDF Programme Team	Council Executive Teams, Councillors
	Engage community on spatial short list of adaptation options	Engage community in assessment of short list	SDF Programme Team	Partners and stakeholders
	Develop preferred adaptation options, triggers and pathways	Finalise combinations of options for each area	Contractor(s), SDF Programme Team	Project Delivery Teams
	- Decision Gate – Preferred adaptation options, triggers and pathways	Formally endorse options before engaging community	SDF Programme Team	Council Executive Teams, Councillors
	Engage community on preferred options, triggers and pathways	Engage community in finalising preferred options	SDF Programme Team	Partners and stakeholders
	- Decision Gate – Agree preferred of adaptation options, triggers and pathways	Formally approve preferred options and pathways	SDF Programme Team	Council Executive Teams, Councillors
Make it happen. <i>Develop an overall adaptation strategy that balances the risks, objectives, and options. Develop a plan to implement that strategy, integrating this into business as usual.</i>	Develop draft climate change adaptation strategy	Capture everything in a single document	SDF Programme Team	Project Delivery Teams
	Consult draft adaptation strategy across Councils & Govt	Align strategy with Council and Government work	SDF Programme Team	Councils, selected central Government agencies
	Finalise climate change adaptation strategy	Formalise climate change adaptation strategy	SDF Programme Team	Project Delivery Teams
	- Decision Gate – Climate change adaptation strategy	Formally approve adaptation strategy	SDF Programme Team	Council Executive Teams, Councillors
	Co-develop implementation plan with partners & stakeholders	Determine how the strategy will be delivered	SDF Programme Team	Partners and stakeholders
	Finalise implementation plan with Councils	Seek formal approval of the implementation plan	SDF Programme Team	Project Delivery Teams
	- Decision Gate – Implementation plan	Formally approve implementation plan	SDF Programme Team	Council Executive Teams, Councillors
	Integrate strategy & plan into Council corporate planning processes	Embed the strategy and implementation plan in BAU	SDF Programme Team	All DCC and ORC
How is it working? <i>Monitor, review and adjust the adaptation strategy to ensure it remains fit for purpose and is delivering on our objectives.</i>	Develop systems to monitor and review adaptation strategy & plan	Agree how to track progress and measure success	Contractor(s), SDF Programme Team	Project Delivery Teams, partners & stakeholders
	Monitor signals and triggers; review and evaluate progress	Monitor developments so we know when to change	SDF Programme Team	To be confirmed
	- Decision Gate – Adjust strategy or implementation plan	Formally approve adjustment or revision	SDF Programme Team	Council Executive Teams, Councillors
	Adjust strategy & plan to account for monitoring & review findings	Make sure the strategy and plan remain fit for purpose	SDF Programme Team, Contractor(s)	To be confirmed
	Recommend shifting between adaptation options and pathways	Time changes to minimise risk, maximise opportunity	SDF Programme Team	Project Delivery Teams
	- Decision Gate – Shift between options and pathways	Formally approve shift	SDF Programme Team	Council Executive Teams, Councillors
	Implement shift between options and pathways	Adapt before risks become intolerable or costs unaffordable	SDF Programme Team	To be confirmed

Table 8: High-Level Work Breakdown Structure

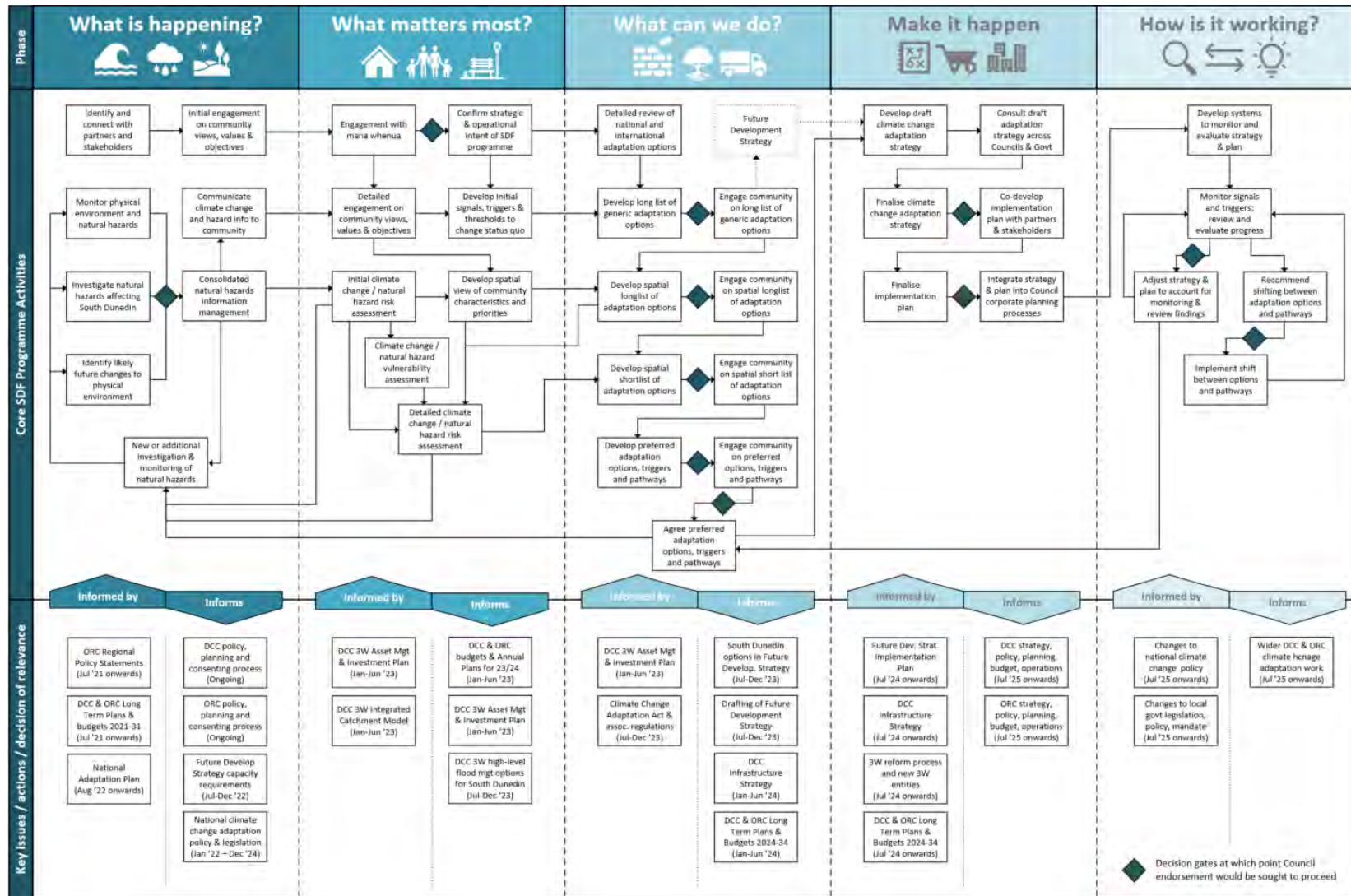


Figure 5: SDF Programme Flow Chart

Programme Communications & Engagement

Successful delivery of the programme and achievement of its objectives will depend on being able to effectively communicate a series of complex social, environmental, and economic information to a wide and diverse audience. It will also require the programme to effectively engage with all partners and stakeholders to ensure, to the greatest extent possible, they understand the issues, are able to make informed decisions, and have an opportunity to input their views into the process.

This will involve developing a communications and engagement strategy for the programme. This will build off existing relationships with stakeholders, draw on stakeholder analysis and profile information, and seek to align with programme objectives. This intention is to develop a set of communications approaches tailored to effectively communicating programme-related issues (such as strategic intent, natural hazard information, impacts of climate change, adaptation options, etc.) to partners and stakeholders. This will likely involve a utilising range of communications methods and channels (e.g., website, social media, print media, face-to-face, etc) to communicate a wide variety of information (scientific, technical, and engagement) to a many different partners and stakeholders (local government, central government, mana whenua, local communities, Dunedin residents and ratepayers, and other stakeholders).

A range of engagement tools and approaches will also need to be deployed to canvas the views of partners and stakeholders, who are likely to have very different interests, expectations, values and world views. Navigating any lack of consensus will be important for the programme, and effective engagement will play a key role by ensuring the process is robust, transparent, and inclusive.

Developing Adaptation Options

As the programme works through the 37 steps and five phases shown in **Table 8** and **Figure 5** above, all partners and stakeholders will play a role in narrowing in on preferred adaptation options and pathways. This is expected to follow a cycle of technical work – community engagement – Council decision, which repeats several times until preferred options and pathways are identified and these are captured in a climate change adaptation strategy and implementation plan for South Dunedin. The planned steps in this process could be adjusted, merged or split depending on the requirements of the programme. These possibilities will be explored as the programme progresses.

Programme Performance & Reporting

Following further development and Council approval of the strategic intent, a performance reporting framework will be developed to periodically update Councillors, partners and stakeholders on the progress made towards achieving programme objectives.

It is envisaged that this will be undertaken in two parts, initially focussing on the operational objectives of the programme, and at a later stage evolving to capture the programme's contributions to achieving specified strategic objectives (which will be also be affected by a range of factors outside of the programme).

This will initially include identifying a change logic detailing how programme actions, activities and projects will deliver specified outputs, how these outputs will lead to desired outcomes, and realisation of these outcomes will contribute to achieving the programme's operational and strategic objectives. This will require identifying baselines, agreeing targets and indicators, and establishing a process of monitoring and reporting on findings.

The reporting schedule is still to be determined but is expected to be regular (e.g., monthly to Steering Group, six-monthly to Council Committees or Councils), and to punctuate the intervening periods between when Councils will be asked to make formal decisions (e.g., adaptation options assessment process).

Cross-Council Adaptation Work

There is a wide range of climate change adaptation-related work occurring across DCC and ORC, with varying degrees of association with South Dunedin or the programme. Adaptation decisions are being made by the councils all the time – investing in infrastructure, approving a plan, or issuing a consent for example, are all adaptation decisions because they lock in a particular approach for a period of time. An objective of the programme is to embed best practice adaptation into day-to-day decision-making within DCC and ORC, particularly where this relates to South Dunedin.

More specifically, there is a large amount of adaptation-focussed work occurring across both councils, that sits outside the programme – for example, coastal hazard assessments, minimum floor level policy, design of the new South Dunedin library and community facility, etc. This work can be classified into the four categories noted below and the programme will seek to increasingly coordinate, shape, and support this work in an effort to drive greater overall coherence in adaptation work, particularly as it relates to South Dunedin.

- **Science & Technical** – Understand how the changing physical environment affects natural hazards and risk, now and in the future.
- **Planning & Infrastructure** - Manage hazards and risk through land use planning, engineered and nature-based solutions.
- **Community Engagement** – Partner with the community to build resilience, identify preferred futures, and determine viable adaptation options.
- **Strategy & Policy** – Integrate research and best practice into decision-making, while navigating a changing policy, legislative and regulatory environment.

This work is included in the programme strategic intent (**Figure 1**, above). A more comprehensive (but not necessarily exhaustive) list of cross council adaptation work is included in **ANNEX 2**.

4.4 Programme Schedule

Developing a schedule

The uncertainty and complexity associated with the programme, along with the circular nature of the DAPP process, creates challenges for accurately determining the time it will take to progress each of the programme actions identified above and to move through the five phases and 37 actions. The various constraints, assumptions and dependencies noted in **Sections 3.8 and 3.9** above also have a bearing on the programme schedule.

The programme schedule has been developed in a way that seeks to balance a range of factors, while presenting an ambitious yet realistic forecast of the time it is likely to take to deliver the programme as described in this programme plan. The primary factors considered in developing the high-level programme schedule include:

- informed estimates of the likely time required (e.g., based on previous or similar practice)
- the time available due to programme constraints (e.g., corporate planning cycles)
- internal programme dependencies (e.g., timing of pre-requisites, programme sequencing)
- to align with wider council work (e.g., inform Future Development Strategy)
- assumptions about external factors (e.g., anticipated timing of key legislation)
- assessments of stakeholder expectations (e.g., balancing cost, scope, quality and speed)
- anticipated programme resourcing (e.g., having sufficient staff and budget to do the work)

The time allocated to completing programme actions can also be broken down into preparation, direct programme activity, and ongoing activity. The focus of the programme will be on preparation

and direct programme activity, whereas ongoing work is likely to be undertaken by other teams across DCC and ORC. The current high-level programme schedule is included below in **Figure 6**.

Aligning the schedule with the Future Development Strategy

The FDS must inform development of the next DCC and ORC 10-Year Plans (2024-34) and must therefore be completed no later than June 2024.

The FDS is a 30-year strategy, but the lifespan for new development and infrastructure spans significantly beyond 30 years. For example, a developer would expect a new home to last at least 50 years. Therefore, any residential development provided during the 30-year period of the FDS (2024-54) ought to have a viable 50-year lifespan (i.e., through to 2074-2104). Similarly, the cost of new and upgraded development infrastructure should be recouped from the beneficiaries of the infrastructure (either from development contributions where the beneficiary is new development or through rates where the beneficiary is existing users). It would be more challenging to justify development infrastructure investments where the lifespan of the investment is truncated by the effects of environmental change (due to the high cost-to-benefit ratio).

Some types of infrastructure investments, such as improvements to drainage schemes, are likely to directly affect the longevity of the continued use of land in a business-as-usual sense. Therefore, decisions about extraordinary infrastructure investments that mitigate the effects of environmental change directly affect decisions about investment in standard development infrastructure and the provision of new development. The FDS for South Dunedin should, therefore, reflect the likely decisions about the delivery of key strategic extraordinary infrastructure that would prolong the lifespan of (parts of) South Dunedin. These decisions should be informed by the SDF programme.

As noted in **Section 3.4** above, the FDS is anticipated to be a three-year rolling process. Any South Dunedin-related work that cannot be incorporated into the current FDS, could inform future iterations of the FDS or any regional spatial strategy.

At this stage the following SDF programme actions are expected to directly inform the FDS:

- Consolidated natural hazards information management
- Engagement with mana whenua
- Develop initial signals, triggers and thresholds for changing from status quo
- Initial climate change and natural hazards risk assessment for Dunedin
- Climate change and natural hazard vulnerability assessment for South Dunedin
- Detailed review of national and international adaptation options
- Develop long list of generic adaptation options
- Engage community on long list of generic adaptation options
- Inform South Dunedin Options for Future Development Strategy
- Inform Draft Future Development Strategy
- Develop spatial longlist of adaptation options

These actions are included in the 'informs/informed by' section of the SDF Programme Flow Chart, **Figure 5**, above; and are noted on the high-level programme schedule, **Figure 6**, below.

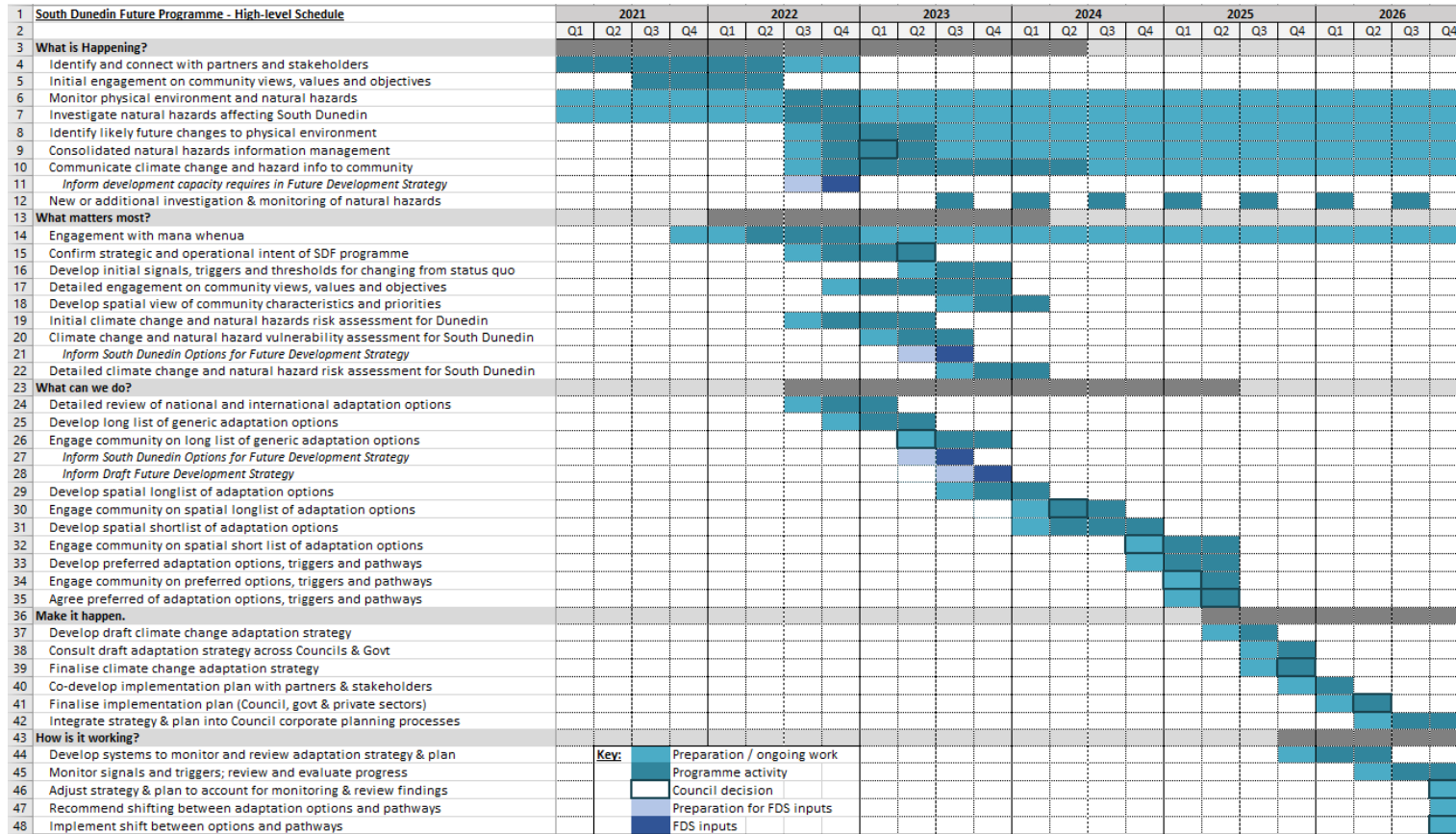


Figure 6: High-level Programme Schedule

5. PROGRAMME ACTIVITY DESCRIPTION

Delivery of the programme will involve the following 37 programme actions (also in **Table 8**, above):

Phase: What is happening?

1. Identify and connect with partners and stakeholders
2. Initial engagement on community views, values and objectives
3. Monitor physical environment and natural hazards
4. Investigate natural hazards affecting South Dunedin
5. Identify likely future changes to physical environment
6. Consolidated natural hazards information management
7. Communicate climate change and hazard info to community
8. New or additional investigation and monitoring of natural hazards

Phase: What matters most?

9. Engagement with mana whenua
10. Confirm strategic and operational intent of SDF programme
11. Develop initial signals, triggers and thresholds for changing from status quo
12. Detailed engagement on community views, values and objectives
13. Develop spatial view of community characteristics and priorities
14. Initial climate change and natural hazards risk assessment for Dunedin
15. Climate change and natural hazard vulnerability assessment for South Dunedin
16. Detailed climate change and natural hazard risk assessment for South Dunedin

Phase: What can we do?

17. Detailed review of national and international adaptation options
18. Develop long list of generic adaptation options
19. Engage community on long list of generic adaptation options
20. Develop spatial longlist of adaptation options
21. Engage community on spatial longlist of adaptation options
22. Develop spatial shortlist of adaptation options
23. Engage community on spatial short list of adaptation options
24. Develop preferred adaptation options, triggers and pathways
25. Engage community on preferred options, triggers and pathways
26. Agree preferred adaptation options, triggers and pathways

Phase: Make it happen.

27. Develop draft climate change adaptation strategy
28. Consult draft adaptation strategy across councils & Govt
29. Finalise climate change adaptation strategy
30. Co-develop implementation plan with partners & stakeholders
31. Finalise implementation plan with Councils
32. Integrate strategy and plan into councils corporate planning processes

Phase: How is it working?

33. Develop systems to monitor and review adaptation strategy & plan
34. Monitor signals and triggers; review and evaluate progress
35. Adjust strategy and plan to account for monitoring & review findings
36. Recommend shifting between adaptation options and pathways
37. Implement shift between options and pathways

A fuller description of each programme action, including anticipated timing, linkages to other actions, who would lead, and support this work is detailed in **ANNEX 3**.

5.1 Programme budget

The core programme budget, meaning dedicated funding that supports programme management overheads and is the primary source of funding for the 37 programme actions (summarised in **Table 8**, above and detailed in **ANNEX 3**, below) can be quantified, and is shown in **Table 9**, below.

Source	Category	21/22 FY	22/23 FY	Outyears
DCC	Personnel	200,000	200,000	200,000
Funding	Consumables	300,000	300,000	300,000
ORC	Personnel	50,000	50,000	50,000
Funding	Supplies & Services	370,000	370,000	370,000
Subtotal	Personnel	250,000	250,000	250,000
	Consumables, supplies & services	670,000	670,000	670,000
Total		920,000	920,000	920,000

Table 9: Programme budget (core programme management overheads and programme actions)

ORC funding for natural hazards work

The three programme actions relating to monitoring, investigating and identifying future natural hazard impacts are funded from existing ORC budgets, with an estimated annual cost of 370,000 per annum (excluding personnel costs). This work is specific to the South Dunedin area and is a direct contribution to the core programme budget. Funding for new or additional natural hazards investigation and monitoring work required to achieve programme objectives would require new or additional sources of funding.

Comments on programme budget

The characteristics of the programme, including the wide scope and systemic nature of the issues involved, coupled with the horizontal interaction with a range of vertical functions (and budgets) across councils, create challenges for determining an accurate or meaningful 'overall' budget (i.e., one that incorporates both programme management actions *and* programme activities and projects). Tracking an overall programme budget is not recommended at this time, given the resource required, and challenges quantifying meaningful figures.

A recommended focus is on the core programme management budget only (see **Table 9**, above), and to treat programme activities or projects separately – as these will typically be managed and delivered using business-as-usual resourcing. Rather than building up a separate programme budget, which could support programme activities and projects by supplementing business-as-usual funding, it is likely more efficient and effective to focus on ensuring there are sufficient programme management resources to deliver the 37 programme actions, and using these to shape and influence planning and budgeting across DCC and ORC (with the intention of ensuring sufficient resourcing of programme activities and projects is built into business-as-usual budgets).

If additional resources are required by DCC and ORC teams to deliver programme-related activities or projects, then these resources should be sourced through normal council budgeting processes (i.e., re-prioritisation within existing resources, or bids for new resources via annual plan or long-term plan processes). This would have the benefits of avoiding the need to create an unnecessarily large programme budget running in parallel (and potentially competing with) with normal budget processes and would also help embed the associated adaptation activities and projects into business-as-usual processes, making the procedure more sustainable in the long term.

6. PROGRAMME ORGANISATION

The programme will be delivered as a temporary, flexible organisation of work with bespoke governance and management arrangements (though these will seek to utilise existing structures where possible or appropriate). The programme structure, governance, and management arrangements are summarised below.

6.1 Programme Structure

This section describes the current programme structure, where the governance and management of the programme will move from interim arrangements during the programme definition phase, to more formal and enduring arrangements as the programme is delivered over coming years. These arrangements could be summarised in **Table 10**, and are outlined in more detail in **Annex 3**.

Group/Role	Summary Role Function/Responsibility
DCC & ORC Councils	Define the strategic direction of councils Approve strategic objectives of the programme Endorse operational objectives of the programme Approve programme budgets Consider/approve specific programme milestones
DCC & ORC Committees (incl. mana whenua representatives)	Consider/approve periodic programme updates (for noting) Provide strategic guidance to the programme
DCC & ORC Chief Executives	Review/endorse programme-related Council papers Approve programme resourcing
Programme Steering Group (PSG)	Determining acceptable programme risk and performance Ensuring programme delivers within agreed boundaries Ensuring effectiveness and performance of the programme Securing investment necessary to establish / run programme Resolving strategic and directional issues Providing assurance an operational stability Review programme documentation
Senior Responsible Owner (SRO)	Championing the agreed programme vision Providing programme leadership and direction
Programme Manager	Day-to-day programme management Planning and designing the programme Managing programme risks and issues Managing the programme budget Managing communication and engagement with stakeholders Reporting programme progress to SRO and PSG
Programme Coordination Group (PCG)	Coordination and communication with areas of responsibility Advising on and supporting resolution of operational issues
Business Change Managers	Contributing to design programme activities and projects Managing programme activities and projects Preparing work areas for change resulting from the programme Leading implementation of change resulting from programme
Programme Management Team (PMT)	Supporting Programme Manager Design and delivery of programme management activities
Project Managers	Management of delivery of programme activities and projects
Programme Advisory Group (PAG)	Advising on stakeholder interests relevant to the programme Sounding board for Programme Manager/Management Team Not a substitute for partner or stakeholder engagement

Table 10: Programme Roles, Functions and Responsibilities

The individuals currently occupying those roles and their respective organisations, are noted below:

Role	Name	Organisation
Chief Executive	Sandy Graham	DCC
	Pim Borren (Interim)	ORC
Senior Responsible Owner	Jeanette Wikaira, Māori, Policy & Partnerships	DCC
General Managers	Anita Dawe, Policy & Science	ORC
	Gavin Palmer, Operations	ORC
	Simon Drew, Infrastructure & Development	DCC
Programme Manager	Jonathan Rowe	DCC
Business Change Managers (for three primary sectors)	Jean-Luc Payan (Manager, Natural Hazards)	ORC
	David Ward (Group Manager, 3 Waters)	DCC
	Anna Johnson (Manager, City Development)	DCC
	Others to be confirmed	TBC
Programme Management Team	Ian Telfer (Senior Comms & Engagement)	DCC
	Other roles to be confirmed	TBC
Project Manager(s)	Various. Recorded in project-level documentation	TBC

Table 11: Key roles and individuals

The proposed programme governance and management structure is represented in **Figure 7**, below.

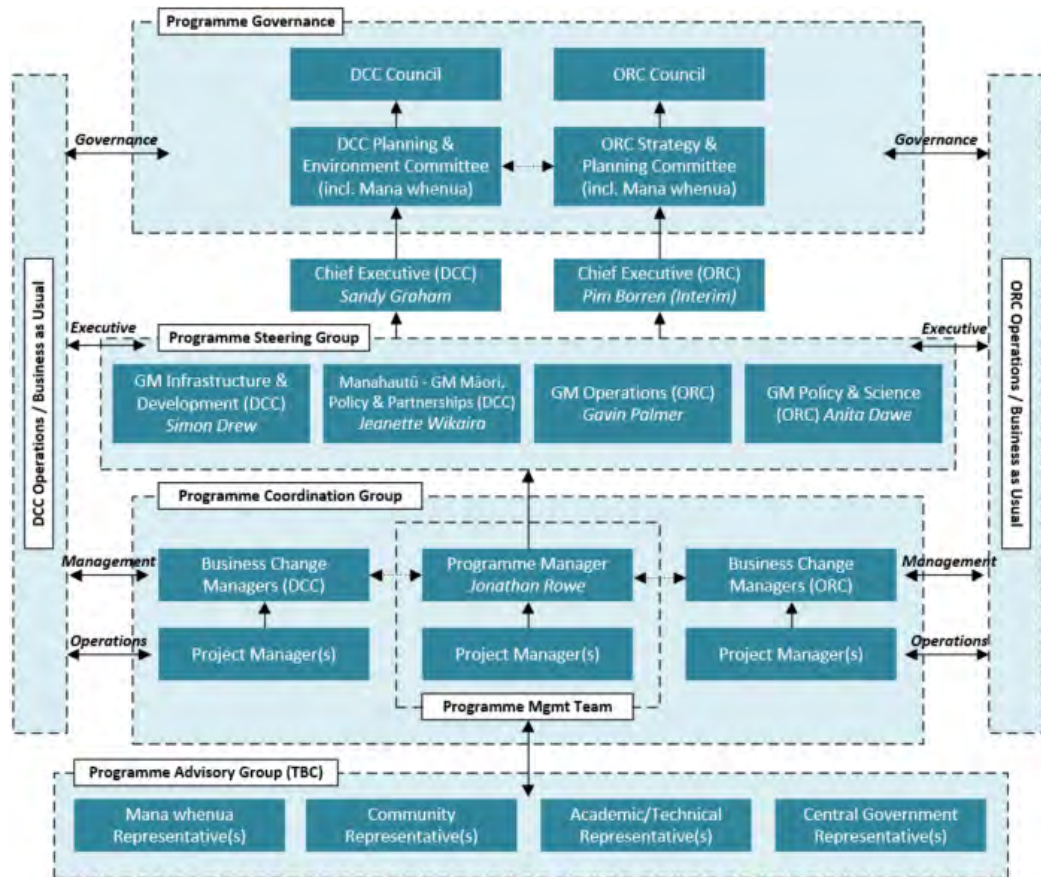


Figure 7: Proposed Programme Governance & Management Structure

Programme Governance

The programme governance function is performed by DCC and ORC Councils. This includes through meetings of the Councils or respective Committees (as outlined in **Figure 7**, above). This primarily involves defining the overall strategic direction for respective councils, approving the strategic objectives of the programme (*what* the programme is seeking to achieve), endorsing the operational objectives (*how* this should be done), approving programme budgets, and considering a range of programme reporting (for noting or decision).

Programme Steering Group

The Programme Steering Group (PSG) provides executive-level strategic and operational guidance to the programme, determining risk and performance parameters, and ensuring the programme stays within the agreed boundaries. In practice, the PSG makes a range of strategic and operational decisions, which provide assurance on *how* the programme is seeking to deliver the strategic objectives set by the Councils. The joint nature of the PSG promotes coordination and collaboration across DCC and ORC, supporting more effective and efficient delivery of the programme.

Programme Coordination Group

The Programme Coordination Group (PCG) is a temporary collection of council staff focussed on supporting programme coordination and communication with their areas of responsibility and advising on and supporting resolution of operational-level programme issues. The PSG is essentially where those promoting change (Programme Management Team) work with those designing, preparing for, and implementing that change (Business Change Managers and their teams).

Programme Management Team

The Programme Management Team (PMT) drives the programme at a day-to-day level, with a focus on design, delivery, coordination, communications and engagement. The PMT currently consists of a mix of dedicated staff (1.8 FTE), a number of DCC and ORC staff providing periodic input, and an external contractor (NIWA). To date there has been no other outsourcing to external contractors. This approach draws more heavily on internal resources, and is dependent on capacity and capability available internally. As the programme progresses, the scope, volume and technical complexity of the programme management activities and actions will grow. The capacity and capability of the PMT will likely need to change in response, through in-house resource and by supplementing with external contractors (as certain technical or specialist expertise will not be available internally).

Programme Advisory Group

A Programme Advisory Group (PAG) currently operates on an informal, ad hoc basis where a range of representatives (mana whenua, community, academic, technical and central government) provide periodic but regular advice to the programme on many issues of relevance to the programme. It is proposed that this valuable sounding board and source of informed advice for the programme be formalised, to support more effective and efficient implementation.

Formal establishment of a PAG would be subject to stakeholder feedback. It is important to note a PAG would *not* be a substitute or proxy for partner or stakeholder engagement, rather it would be a forum for sense-checking issues before wider community engagement and an opportunity for programme partners and stakeholders to hear directly from one another.

Business as usual operations

The programme is intended to continually inform, and be informed by, the day-to-day operations and business as usual activities of both councils. In this regard, it is anticipated that each layer of the programme structure will act as an intermediary between the programme and other work of councils. This can occur at all levels, governance, executive, management and operational (as illustrated in **Figure 7**), which should help integrate the programme into business as usual – which is one of the operational objectives.

ANNEX 1: SDF PROGRAMME MATRIX

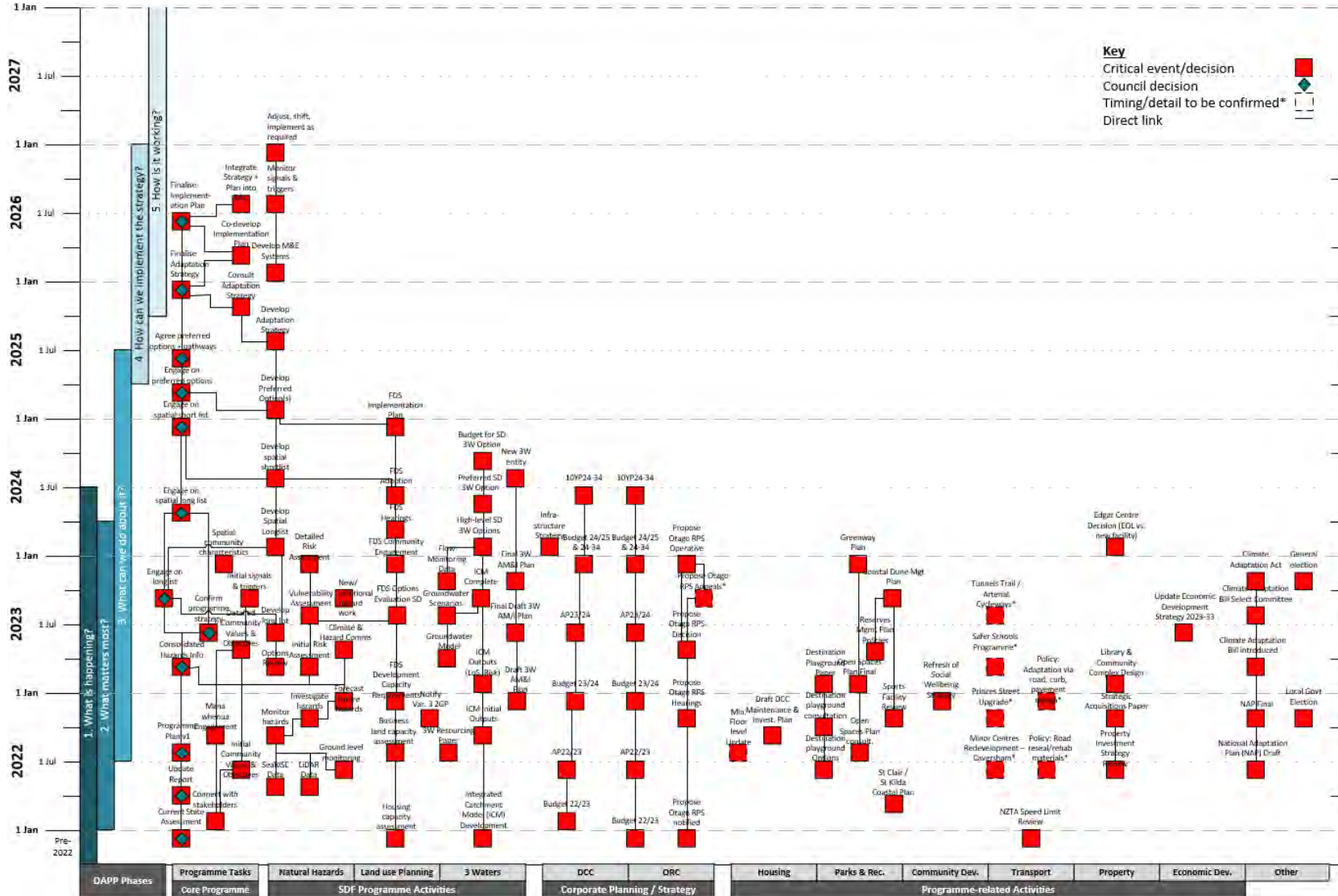
ANNEX 2: CROSS-COUNCIL ADAPTION WORK

ANNEX 3: PROGRAMME ACTION DESCRIPTIONS

ANNEX 4: DETAILED ROLE DESCRIPTIONS

ANNEX 5: GLOSSARY

ANNEX 1 – SDF PROGRAMME MATRIX



ANNEX 2 – CROSS-COUNCIL ADAPTATION WORK

The table below seeks to illustrate examples of climate change adaptation-related work occurring across DCC and ORC, which has direct or indirect links to the South Dunedin Future programme (planned activities in *italics*)

Science & Technical <i>Understanding how the changing physical environment affects natural hazards and risk, now and in the future</i>	Planning & Infrastructure <i>Managing hazards and risk through land use planning, engineered and nature-based solutions</i>
<ul style="list-style-type: none"> Enhanced groundwater monitoring programme Local sea level monitoring and projections (with NZ SeaRise) Storm surge and tsunami assessment and mapping Ground conditions assessment (liquefaction and lateral spreading) Hydrogeological drilling programme; update of geological 3D model Active fault identification study Vertical land movement study <i>Sports Facility Needs Assessment</i> Detailed topographical data capture (LiDAR) Ongoing geotechnical assessments and transfer of information to NZ Geotechnical database Infrastructure monitoring programme Communication, education and engagement activities across multiple hazards 	<ul style="list-style-type: none"> St Clair – St Kilda Coastal Plan Coastal process studies, contamination assessment (Kettle Park), remediation works (St Clair Seawall) Improved rainfall catchment monitoring <i>Coastal dynamics modelling and options assessment</i> <i>Ocean Beach Reserve Management Plan</i> <i>St Kilda Dune Management Plan</i> <i>Kettle Park landfill remediation</i> <i>Dunedin Open Spaces Plan</i> Upgraded screens at Portobello stormwater pumping station Improved stormwater network maintenance (e.g. mud tanks) Updating hydraulic models Integrated Catchment Model & South Dunedin Flood Alleviation Plan Transport Asset Management Plan DCC Infrastructure Strategy DCC 3 Waters Strategic Direction Statement (2010-60) Shaping Future Dunedin Transport Programme Minor centres redevelopment - Caversham 3 Waters System Planning Project Updating hydraulic models Minimum floor levels Future Development Strategy <i>District Plan changes</i> <i>St Clair sea wall risk assessment</i> <i>Climate adaptation through sustainable asset management</i>
Community & Engagement <i>Partnering with the community to build resilience, identify preferred futures, and determine viable adaptation options</i>	Strategy & Policy <i>Integrating research and best practice into decision-making, while navigating a changing policy, legislative and regulatory environment</i>
<ul style="list-style-type: none"> ORC Natural Hazards portal ORC WaterInfo, dedicated webpage on ORC website and NZ Geotechnical database Communication, education and engagement sessions, groundwater display with Otago Museum, information videos, natural hazards reports and brochures Presentations to community hui and groups (>80 over meetings since 2020) <i>New programme website with integrated GIS web portal</i> Community engagement activities to increase public awareness of flood risk; flood hazard maps Community engagement on the St Clair- St Kilda Coastal Plan SDF web page on DCC website Coastal Plan webpage Community grants schemes (events, support, environment) Community development and resilience projects Community preparedness and emergency response Community and stakeholder involvement in SDF programme governance <i>Community consultation and stakeholder engagement on network maintenance and flood alleviation plan DCC</i> <i>Social Wellbeing Strategy Refresh</i> 	<ul style="list-style-type: none"> ORC Proposed Otago Regional Policy Statement 2021 ORC Otago Regional Climate Change Risk Assessment Housing Action Plan Early-stage analysis to inform strategic approaches to community resilience RMA reform process (Natural & Built Environments Act, Strategic Planning Act, Climate Change Adaptation Act) Future of Local Government Process 3 Waters reform (service delivery and regulatory) Global Covenant of Mayors for Climate & Energy (GCoM) adaptation compliance activities Academic Reference Forums DCC Strategic Framework Refresh Project DCC Māori Strategic Framework Initiative National Adaptation Plan (NAP) consultations National-to-local climate change risk assessments

ANNEX 3: DETAILED ROLE DESCRIPTIONS***Manahautū - General Manager (the “Senior Responsible Owner”)***

The Manahautū - General Manager (M-GM) is **accountable** for the Programme, ensuring that it meets its objectives and realises the expected benefits.

The M-GM’s key responsibilities include:

- Creating and communicating the vision for the Programme
- Providing clear leadership and direction throughout the Programme’s lifecycle
- Ensuring that the Programme delivers its strategic outcomes and realises its benefits
- Establishing the programme governance arrangements and ensuring appropriate assurance is in place
- Maintaining the interface with key senior stakeholders; keeping them engaged and informed
- Monitoring the key strategic risks facing the Programme
- Maintaining alignment of the Programme with key strategic objectives from the 10YP and strategic direction
- Commissioning assurance and audit reviews
- Ensuring the effectiveness and performance of the Programme organisation
- Delivering on the priorities set by the Council.

South Dunedin Future Programme Manager (the “Programme Manager”)

The South Dunedin Future Programme Manager is **responsible** for leading and managing the Programme from identification through to closure.

The Programme Manager’s key responsibilities include:

- Day-to-day management of the Programme
- Being the day-to-day agent on behalf of the Chief Executive; ensuring successful delivery of outcomes and realisation of benefits
- Planning and designing the Programme and proactively managing its overall progress, resolving issues and initiating corrective action where appropriate
- Developing and implementing the programme governance framework
- Effective co-ordination of the projects and their interdependencies
- Managing and resolving any risks and other issues that may arise
- Maintaining overall integrity and coherence of the Programme, and developing and maintaining the programme environment to support each individual within it
- Managing the budget, expenditure and costs against benefits as the Programme progresses
- Facilitating the appointment of individuals to the project delivery teams
- Ensuring that the delivery of outputs from the projects meet programme requirements in line with the programme business case and is delivered to the appropriate quality, time and budget
- Managing the performance of the Programme team
- Maximising the efficient allocation of resources and skills within the Programme
- Managing internal and external suppliers to the Programme
- Managing communications with stakeholders
- Initiating extra activities and other management interventions wherever gaps in the Programme are identified or issues arise
- Identify Business Change Managers in affected areas of the organisation; work with them to facilitate efficient asset handover
- Reporting progress of the Programme at regular intervals to the Chief Executive.

Business Change Manager(s) (the “BCM”)

Whilst the Programme Manager is responsible for delivering the outputs and outcomes in satisfaction of the desired benefits and objectives, the Business Change Manager(s), as ultimate asset owner, is **responsible** for managing the operational assets and realising the resultant benefits.

As the Programme is delivering projects that will generate operational assets across different parts of the organisation, there will be one BCM for each area (e.g. natural hazards, land use planning and three waters).

The BCM’s key responsibilities include:

- Supporting the PMT to define the benefits
- Maintaining the focus on realising beneficial change
- Contributing to the development of the Benefits Management Strategy
- Identifying organisational change that is happening outside of the boundary of the Programme which may affect benefit realisation
- Preparing their respective business area for change
- Identifying opportunities and realising benefits that arise during the Programme (not originally profiled)
- Ensuring effective communication with all areas of the business they represent
- Implementing the mechanisms by which benefits can be realised and measured
- Reporting to the responsible General Manager on the operational readiness of new assets delivered by the Programme; achievement of outcomes and realisation of benefits (once the assets are in service)
- Advising the Programme Manager whether the work of the Programme and each project covers the necessary aspects required to deliver the outputs and outcomes necessary to deliver the desired benefits
- Ensuring that there is no double-counting of benefits for which they are responsible.

Programme Management Team (the “PMT”)

The Programme Management Team (PMT) provides support and guidance to the projects, activities, and internal assurance of the programme.

The PMT’s key responsibilities include:

- **Delivery:** Programme-related coordination, communications and engagement activities, both internal and external
- **Reporting:** Tracking measures, reporting progress against baseline plans
- **Information Management:** Manage, secure and assure data and information assets.
- **Budget and Cost Management:** Assisting the Programme Manager with budget control for the Programme, maintaining status reports on all projects in the Programme
- **Risk and Issues:** including analysing interfaces and critical dependencies between projects and recommending appropriate actions to the Programme Manager
- **Quality and Assurance:** Establishing consistent practices and standards, adhering to the Programme governance arrangements. Carrying out health checks and advising on solutions during the lifetime of the Programme and individual projects. For example facilitating workshops involving project teams, stakeholders and members of the Programme team.
- **Baseline and Change Control:** Registering changes for subsequent investigation and resolution, monitoring items identified as requiring action, prompting timely actions and reporting on whether required actions have been completed
- **Capability Building:** Providing consultancy-style services to project delivery teams at initiation and throughout the lifecycle of the Programme, ensuring that a common approach is adopted and good practice is shared

- **Procurement:** Providing support to the project teams including advice on procurement strategies and forms of contract
- **Document Management:** Holding master copies of all programme and project documentation, generating all necessary programme governance and assurance management documentation, maintaining, controlling and updating programme documentation.

Project Manager(s)

The Project Manager(s) is responsible for each project's success and is the key decision maker on delivering the outputs associated with any particular project in accordance with specified requirements.

The Project Manager's prime responsibility is to ensure that the project produces the required outputs within the specified tolerances of time, cost, quality, scope, risk and benefits. The Project Manager is also responsible for the project producing a result capable of achieving the benefits identified in the Business Case.

The Project Manager's key responsibilities include:

Directing

- Oversee the development of the Project Brief and the Strategic Assessment, ensuring that the project is aligned with corporate strategies (and presenting the Strategic Assessment to the Programme for approval where required)
- Oversee development of the Indicative, Detailed and Implementation Business Cases
- Hold the Senior Supplier to account for the quality and integrity of the specialist approach and specialist outputs created for the project
- Hold the Senior User to account for realising the benefits defined in the Business Case, ensuring that benefits reviews take place to monitor the extent to which the Business Case benefits are on track to be delivered
- Transfer responsibility for post-project benefits reviews to the Programme.
- Monitor and control the progress of the project at a strategic level, in particular reviewing the Business case regularly
- Escalate issues and risks to the Programme if tolerances are exceeded
- Ensure that risks associated with the business case are identified, analysed and controlled
- Organise and Chair PCG reviews

Managing

- Prepare the following baseline artefacts, and agree them with the Programme
 - Project Work Breakdown Structure
 - Master Project Schedule
 - Risk Register
 - Budget Profile
- Maintain the following registers
 - Risk & Issues register
 - Conflict register
 - Quality register
 - Decisions register
 - Lessons learned register
 - Communications register
- Liaise with the Programme to ensure that work is neither overlooked nor duplicated by interfacing projects

- Lead and motivate the project management team
- Ensure that behavioural expectations of project team members are established
- Manage the production of the required outputs, taking responsibility for overall progress and use of resources and initiating corrective action where necessary
- Manage the project's procedures (as defined by the Programme) – risk and issues, budget and cost, schedule, baseline, communications
- Authorise Work Packages
- Advise the Programme of any deviations from plan and seek approval for an update to the baseline plan if thresholds are breached
- Ensure that DCC/ORC Health and Safety requirements are appropriately and adequately represented in any procurement activity
- Undertake regular reviews of the audits undertaken by the Contract Manager, including participation in such audits
- Ensure all audit results are provided to the DCC/ORC Health and Safety Team

ANNEX 4 – PROGRAMME ACTION DESCRIPTIONS**PHASE: WHAT IS HAPPENING?****Identify and connect with partners and stakeholders**

Purpose: Identify and connect with affected communities
Timeframe: 2020 onwards
Status: Ongoing
Lead: SDF Programme Team
Support: Various

Understanding and effectively engaging with all stakeholders will be a central component of programme success. Over 70 community meetings have been undertaken in 2020-22, to build trust, relationships and awareness of key issues relating to the programme. Initial work has involved identifying and establishing connections with mana whenua partners, affected communities, and other stakeholders. This work is focussed on fostering positive working relationships.

Future work will focus on undertaking more in-depth stakeholder analysis, including developing and maintaining detailed stakeholder profiles. These profiles will seek to outline the interests, attitudes and influence of different stakeholders, and their respective importance and authority relative to the programme. This information will inform development of a stakeholder engagement strategy, supporting a range of partner and stakeholder engagements over the duration of the programme.

Initial engagement on community views, values and objectives

Purpose: Build initial understanding of community interests
Timeframe: 2021-22
Status: Complete
Lead: SDF Programme Team
Support: N/A

A critical element of community engagement will be understanding the views of affected communities, developing a sense of what they value most, and what they hope to achieve from a climate change adaptation process in South Dunedin. Initial engagement work was undertaken with selected community stakeholder umbrella groups between March-May 2022, which has provided valuable insights, which have and will be used to refine the strategic intent of the programme, inform design of for engagement work, and shape overall programme design. More in-depth engagement is planned with a wider group of stakeholders in subsequent stages of the programme (see below). It is anticipated that the programme will include seeking regular input from, and provide regular feedback to, stakeholders and affected communities.

Monitor physical environment and natural hazards

Purpose: Build general understanding of natural environment
Timeframe: Ongoing
Status: Underway
Lead: ORC Natural Hazards
Support: GNS Science

A wide range of work is underway to better understand how the current physical environment generates hazards and risk for South Dunedin, and how changes to this environment (due to climate change and other factors), may affect hazards and risk in the future. This includes projects to monitor sea-level, tidal movements, ground water levels, coastal erosion, land subsidence and rainfall – all of which are contributing factors to flood risk for South Dunedin. This work remains on-going and continues to build a clearer picture of the current and future physical environment, which informs planning and decision-making elsewhere in the programme.

Investigate natural hazards affecting South Dunedin

Purpose: Developing detailed understanding of specific issues
Timeframe: Ongoing
Status: Underway
Lead: ORC Natural Hazards
Support: GNS Science

Complementing the ongoing monitoring regime, specific and targeted investigations are being undertaken into specific natural hazards affecting South Dunedin. These include geological hazards (earthquake, subsidence, liquefaction, landslide), hydrological hazards (rainfall, flooding, ground water), and coastal hazards (sea level rise, storm surge, tsunami, erosion). The complexity and interconnectedness of these natural hazards, and the interaction with the built environment in South Dunedin (3 waters network, impermeable surfaces, land reclamation), means that ongoing work is required to build a better understanding of how these systems operate. This knowledge will be a critical input into understanding how potential adaptation options might affect this system over long-time horizons.

Identify likely future changes to physical environment

Purpose: Predict future changes to inform planning / decisions
Timeframe: Ongoing
Status: Underway
Lead: ORC Natural Hazards
Support: GNS Science

Building on the monitoring and investigation of natural hazards, a third workstream seeks to model how future predicted changes to the natural environment could impact on natural hazards and the associated risk they present for South Dunedin. This information, for example predicted sea-level rise, will be integral to developing potential adaptation options and pathways, and for assessing these against anticipated physical environment, hazards, and risk over various time frames. The intention is to ensure that selection of adaptation options, and broader decision making, is informed by a better understanding of natural hazards and risk.

Consolidated natural hazards information management

Purpose: Streamline management of / access to hazards info.
Timeframe: 2022/23 onwards
Status: Proposed
Lead: ORC Natural Hazards
Support: SDF Programme Team

There is an extensive and growing collection of research, data, and information on the physical environment and natural hazards affecting South Dunedin. However, this information is collected by multiple agencies, stored in a range of locations, has varying levels of accessibility and utility, and does not appear to be utilised in a consistent or standardised manner by councils. There is merit in reviewing whether a more consistent and consolidated approach to management of natural hazard information would provide value to the programme (and councils, ratepayers, and other stakeholders). This would include reviewing the collection, storage, organisation, status, accessibility, and presentation of the natural hazard information. There would be benefit in improving access and useability, clarifying the status, and effectively communicating relevant hazard information to affected communities (see below).

Communicate climate change and hazard information to the community

Purpose: Build community understanding of changing hazards
Timeframe: 2022-24
Status: Planned
Lead: SDF Programme Team
Support: DCC/ORC Comms

This work will involve developing a communications strategy and plan for the wider programme. This will build off existing relationships with stakeholders, draw on stakeholder analysis and profile information, and seek to

align with programme objectives. This intention is to develop a set of communications approaches tailored to effectively communicating programme-related issues (such as programme overview and objectives, natural hazard information, impacts of climate change, adaptation options, etc.) to partners and stakeholders. This will likely involve a utilising range of communications methods and channels (e.g. website, social media, print media, face-to-face, etc) to communicate a wide variety of information (scientific, technical, and engagement) to a many different partners and stakeholders (local government, central government, mana whenua, local communities, Dunedin residents and ratepayers, and other stakeholders).

New or additional investigation & monitoring of natural hazards

Purpose: Respond to new/changing hazard info as required **Lead:** ORC Natural Hazards
Timeframe: As required **Status:** Planned **Support:** TBC (as required)

While a comprehensive cache of natural hazards information exists for South Dunedin, there remain gaps in our understanding of the natural environment, the systems that contribute to natural hazards, and the changes to these systems over time ('known unknowns'). Similarly, as monitoring, investigation and modelling work progresses, new areas of interest are identified for further study, or issues appear that were not previously considered ('unknown unknowns'). In such instances, new or additional investigation and monitoring of natural hazards might be required. This work could also be generated by other elements of the programme, such as the risk and vulnerability assessment, developing of adaptation options, or as a result of monitoring and review processes. This reflects the various feedback loops in the Dynamic Adaptive Planning Pathways (DAPP) process.

PHASE: WHAT MATTERS MOST?

Engagement with mana whenua

Purpose: Integrate Te Ao Māori & Treaty principles into programme **Lead:** SDF Programme Team
Timeframe: 2021/22 onwards **Status:** Planned **Support:** Aukaha Ltd (TBC)

The central component of the SDF programme is engagement with partners and stakeholders. Critical to this will be ensuring that the Treaty of Waitangi, and the Crown's partnership with Māori, is accurately represented and integrated into the programme. This is currently envisaged to include agreeing appropriate Treaty-based governance arrangements, seeking to align programme strategic objectives with Te Ao Māori and mana whenua aspirations; providing meaningful opportunities for all Māori to input their views and values; and identifying and agreeing Māori-specific programme outputs (e.g. cultural narratives, adaptation options for Māori land in Ōtepoti, adaptation for cultural taonga, mana whenua design inputs, etc.). It is anticipated that this work will substantively impact the strategic intent and overall programme approach, in addition to shaping design of engagement, communications, risk assessment and options development. There may also be opportunities to utilise similar approaches towards engagement with Mata waka communities.

Confirm strategic and operational intent of SDF programme

Purpose: Establish clear goal posts for the SDF programme **Lead:** SDF Programme Team
Timeframe: 2022/23 **Status:** Planned **Support:** N/A

A critical success factor of any programme is alignment with the corporate or organisational strategy. A draft strategic framework has been developed for the programme based on review of existing DCC and ORC strategic material, interactions with DCC and ORC staff on the purpose and intent of their work, and initial engagement

with mana whenua partners, affected communities, and other stakeholders on their views, values and objectives. Finalising this draft strategic framework, following some more focussed engagement with mana whenua and alignment with broader strategy work being undertaken by both councils, will put the programme on a firmer strategic footing (noting the strategy will likely need to be adapted, as new information becomes available). This will be important for informing programme design, including key programme activities, engagement, communications and measuring success (through regular monitoring and evaluation) and for establishing a periodic reporting regime to Councils so they can monitor progress. It will also support greater alignment with corporate planning processes of both councils, enabling more effective integration of programme work into business-as-usual functions, increasing the likelihood of success.

Develop initial signals, triggers and thresholds for changing from status quo

Purpose: Understand when status quo no longer acceptable **Lead:** SDF Programme Team
Timeframe: 2023 **Status:** Planned **Support:** TBC

One of the first decisions that partners and stakeholders will need to make is at which point would the risk presented by natural hazards become intolerable. This is likely to vary across partners and stakeholders, as views, circumstances, tolerances to different types of risk, and objectives will also vary. The objective would be to develop a sense of the red lines – what would partners and stakeholders not accept – and then to identify what signals may be used to determine when these lines might be getting close, what preparations would need to be undertaken when on the threshold, and what would trigger a specific action (e.g. a change to a new adaptation option or pathway). This information would help inform development of adaptation options.

Detailed engagement on community views, values and objectives

Purpose: Build detailed understanding of community interests **Lead:** SDF Programme Team
Timeframe: 2023 **Status:** Planned **Support:** TBC

Building on initial engagement work undertaken in 2020-22, and utilising the stakeholder analysis, consolidated natural hazard information, and communications strategy (see above), the programme would seek to expand to directly engage with a wider set of stakeholders. The intention is to develop more larger, more robust data set, and more comprehensive picture of the views, values and aspirations of affected communities, and wider stakeholders. This may involve different methods of engagement, designed to reach larger numbers of stakeholders (e.g. surveys, letter drops, visual media). The specifics of the approach will be developed as part of the broader engagement strategy for the programme, working on the principle of reaching as many stakeholders as possible, including those that are hard to reach or may not have been engaged to date.

Develop spatial view of community characteristics and priorities

Purpose: Develop detailed spatial understanding of community **Lead:** SDF Programme Team
Timeframe: 2023/24 **Status:** Planned **Support:** TBC

Engagement work is expected to generate a large amount of data from the community. The intention is to not only develop a clear sense of community views, values and aspirations, but to also pair this with social-economic data, and to represent it spatially across the study area. Layering community data, with natural hazards information, risk assessments, and other relevant information would create a dynamic picture of the study area. It would also potentially enable differentiation across different parts of South Dunedin, allowing a more tailored approach, perhaps by identifying logical cells (or not, depending on what the data shows).

The programme has engaged the Centre for Sustainability at the University of Otago to undertake targeted research into climate change adaptation topics of relevance to the programme and to produce policy-ready research products aligned to programme phases. It is anticipated that this will include research into best practice for utilising spatial mapping of community socio-economic data for adaptation purposes.

Initial climate change and natural hazards risk assessment for Dunedin

Purpose: Formally assess climate change/hazard risk in Dunedin **Lead:** Contractor (TBC)
Timeframe: 2022/23 **Status:** Planned **Support:** SDF Programme Team

Risk is typically assessed as a combination of the likelihood of an impact occurring, and the consequences of that impact. In this case we are assessing the exposure and vulnerability of people and assets to a range of natural hazards affecting South Dunedin. Initially, and cascading from the National Climate Change Risk Assessment (NCCRA) and Otago Climate Change Risk Assessment (OCCRA), the intention is to undertake an initial risk screening ('first pass') on the wider Dunedin city area, likely as a desktop exercise. This will be followed by a 'second pass' standard risk assessment, focussing specifically on how climate change might compound existing risks of present new ones. These initial risk assessments will primarily be informed by consolidated natural hazards information and existing data on community characteristics, and views, values and aspirations.

Climate change and natural hazard vulnerability assessment for South Dunedin

Purpose: Formally assess vulnerability in South Dunedin **Lead:** Contractor (TBC)
Timeframe: 2023 **Status:** Planned **Support:** SDF Programme Team

Vulnerability assessments are used to assess the broader impacts and implications of changes to the physical environment and communities resulting from climate change. They assess the potential harm and loss to a community or environment caused by a range of natural hazards, considering the ability of the community or environment to cope and adapt to change. This helps to identify and prioritise exposed areas. This work would focus specifically on South Dunedin, and include sensitivity analysis (the degree to which varying changes to the physical environment have corresponding impacts on communities), and assessments of adaptive capacity (the ability of natural and human systems to accommodate change). This work will be informed by the consolidated natural hazards information, initial risk assessment, data on existing data on community characteristics, and views, values and aspirations, and risk workshops.

Detailed climate change and natural hazard risk assessment for South Dunedin

Purpose: Formally assess climate/hazard risk in South Dunedin **Lead:** Contractor (TBC)
Timeframe: 2023/24 **Status:** Planned **Support:** Programme Team

A 'third pass' or detailed risk assessment would focus specifically on South Dunedin, enabling further investigation of particular areas of risks, and prioritisation and testing of potential strategies and actions in conjunction with the vulnerability assessments. This detailed assessment would be informed by consolidated hazards information, spatial information on community characteristics and priorities, and the spatial long list of potential adaptation options.

PHASE: WHAT CAN WE DO?

Detailed review of national and international adaptation options

Purpose: Identify best practice adaptation relevant to South Dunedin **Lead:** Contractor (TBC)
Timeframe: 2022/23 **Status:** Planned **Support:** Programme Team

Climate change adaptation is an emerging, and rapidly evolving discipline. There is a wide range of research, analysis, and best practice being undertaken nationally and internationally. There are also mistakes being made and lessons to learn. Adaptation is highly localised, in that solutions applied in one place may not necessarily transfer to others. While there is value in reviewing what is happening elsewhere, it will not necessarily provide a blueprint for South Dunedin. It will be important to incorporate as much of this knowledge and learning into the programme so that it can inform development of the best possible climate change adaptation options for South Dunedin. Building the research undertaken in 2014 (Assessment of Options for Protecting Harbourside and South City from Direct Impacts of Sea Level Rise, Beca), and 2017 (Protection Options for Managing Rising Groundwater in South Dunedin, Golder) and informed by knowledge gained and programme structures established since, this work would seek to undertake a more detailed review of national and international adaptation practices of relevance to South Dunedin. The specific purpose of the review would be to inform development of the long list of adaptation options.

Develop long list of generic adaptation options

Purpose: Understand what adaptation options are on the table **Lead:** SDF Programme Team
Timeframe: 2022/23 **Status:** Planned **Support:** Various

This first stage of work to develop a long list of generic adaptation options would be informed by the consolidated natural hazards information, and detailed review of national and international adaptation options. It is anticipated that the list of options would straddle the spectrum of 'fight to flight', grouped into four categories: (i) accommodate: adjust existing assets by using measures that anticipate hazard risk; (ii) protect: hold the line using natural buffers, like dunes, or hard structures, like seawalls; (iii) retreat: move existing people and assets away from the risk areas in a managed way over time; (iv) avoid: stop putting people and assets in harm's way, primarily using land-use planning measures. Council approval would be sought before engaging the community on the long list of adaptation options.

Engage community on long list of generic adaptation options

Purpose: Engage community in assessment of long list options **Lead:** SDF Programme Team
Timeframe: 2023 **Status:** Planned **Support:** TBC

One of the findings from community engagement to date is a community desire to shift the conversation from what is happening to what we could do about it. Responding to that signal, this work seeks to introduce the community to a wide range of potential adaptation options which could potentially be deployed in response to the natural hazards affecting South Dunedin now and in the future. The intention would be to engage the community on the hazards, and potential adaptation options, without getting into specific details around locations, timeframes, or combinations of options – which would come at a later stage. It is anticipated that this process would need to incorporate best practice science communication approaches, seeking to reach to widest possible cross section of the community, through a range of methods (e.g. visuals, video, infographics, etc). The intention is to build understanding of hazards and options, creating a foundation for future discussions about narrowing the range of options, and identifying preferred approaches.

Develop spatial longlist of adaptation options

Purpose: Identify where particular options might be deployed **Lead:** SDF Programme Team
Timeframe: 2023/24 **Status:** Planned **Support:** TBC

The second stage of the adaptation options work would seek to incorporate findings from community engagement on the long list, as well as the spatial analysis of community characteristics and priorities, to identify where particular options might be deployed in South Dunedin. By adding these spatial layers, it would be possible to illustrate where and how adaptation options might meet a range of programme objectives (e.g. reducing hazard risk, ensuring equitable outcomes, improving urban form, etc) if deployed in particular parts of South Dunedin. It is anticipated that this would illustrate how risks, objectives, and potential adaptation options may vary across South Dunedin (i.e. single option or one-size-fits-all solution may not meet programme objectives). Council approval would be sought before engaging the community on the spatial long list.

Engage community on spatial longlist of adaptation options

Purpose: Engage community in assessment of spatial long list **Lead:** SDF Programme Team
Timeframe: 2023/24 **Status:** Planned **Support:** TBC

The introduction of a spatial component, specifically identifying where particular hazards are present and where corresponding adaptation options could potentially be deployed, would provide partners and stakeholders with a more complex picture of the adaptation challenge in South Dunedin. By introducing other spatial information, such as community views and values, socio-economic information, and findings of the initial climate change risk assessment, the community would be in a position to consider the respective merits, and range of potential trade-offs, associated with each adaptation option. The engagement is intended to identify community reactions to the spatial long list and to use this to inform development of the short list.

Develop spatial short list of adaptation options

Purpose: Narrow down the options to a shortlist **Lead:** SDF Programme Team
Timeframe: 2024 **Status:** Planned **Support:** TBC

The third stage of the adaptation options process would seek to narrow the long list of options to a spatial short list, incorporating the findings of the detailed climate change and natural hazards risk assessment, vulnerability assessment, and community engagement on the spatial long list. This process would involve additional technical work to more fully investigate options as well as some form of business casing process to interrogate the relative merits of each option against a set of agreed criteria (e.g. impact, efficiency, effectiveness, value for money, sustainability, etc). This process would also need to identify how different options, in different cells within South Dunedin, could combine over varying timeframes to present a coherent and viable adaptation response (or set of responses). Council approval would be sought before engaging the community on the spatial short list.

Engage community on spatial short list of adaptation options

Purpose: Engage community in assessment of short list **Lead:** SDF Programme Team
Timeframe: 2024/25 **Status:** Planned **Support:** TBC

Engaging the community on a spatial short list of adaption options would likely seek to focus discussion on one or two options, or combinations of options, per cell. It would also seek to take the community through the complexities of stitching each cell together, to form a coherent adaptation response for wider South Dunedin (i.e. particular options may be required, or avoided, in particular cells to make the larger picture work). The intention would be to enable the community to substantively input into the assessment of remaining options, for each cell and for the wider South Dunedin, creating a hierarchy according to agree criteria or objectives.

Develop preferred adaption options, triggers and pathways

Purpose: Finalise combinations of options for each area **Lead:** SDF Programme Team
Timeframe: 2024/25 **Status:** Planned **Support:** TBC

This work would seek to develop a final set of adaptation options, across different time periods, for each cell and the entire programme area of South Dunedin. Informed by technical information and findings from community engagement, it would also seek to determine at what point a switch between particular options would be triggered (e.g. sea-level rise or ground water reaches X, a particular piece of infrastructure reaches end of life, X number of new houses have been developed, etc.). The options and triggers would be combined into pathways, and aggregated across cells, to form a suite of options and pathways for South Dunedin. This would provide an outline for how South Dunedin might change over time in adapting to climate change. Council approval would be sought before engaging the community on preferred options, triggers and pathways.

Engage community on preferred options, triggers and pathways

Purpose: Engage community in finalising preferred options **Lead:** SDF Programme Team
Timeframe: 2024/25 **Status:** Planned **Support:** TBC

This engagement would likely focus on working with the community to fine-tune how different options, triggers and pathways would fit together to form a coherent whole, and to meet programme objectives. This engagement would not seek to re-litigate options, unless new information has become available (e.g. new hazard information not previously considered, new options not previously available, etc) that would have a material impact on preferred options.

Agree preferred options, triggers and pathways

Purpose: Formally adopt preferred options and pathways **Lead:** SDF Programme Team
Timeframe: 2025 **Status:** Planned **Support:** TBC

This stage would seek to incorporate findings of the community engagement on options, triggers and pathways, make final adjustments, and seek Council approval.

PHASE: MAKE IT HAPPEN.**Develop draft climate change adaptation strategy**

Purpose: Capture everything in a single document
Timeframe: 2025
Status: Planned
Lead: SDF Programme Team
Support: TBC

This action would involve consolidating the entire work programme into a strategy, which may need to take the form of several documents, in order for it to be accessible and digestible for a wide range of stakeholders, while also capturing the complexity (process undertaken, options considered, decisions made, supporting technical information and rationale) that was involved.

Consult draft adaptation strategy across Councils and Government

Purpose: Align strategy with Council and Government work
Timeframe: 2025
Status: Planned
Lead: SDF Programme Team
Support: TBC

The adaptation strategy would need to guide strategy, policy, planning, budgeting and decision making across DCC and ORC, so would require consultation to ensure it was fit for purpose and appropriately aligned to corporate processes. The expectation is that the programme would have engaged extensively with internal stakeholders throughout the process, nonetheless a dedicated consultation process would likely have merit. Similarly, the strategy should also guide central government activity in South Dunedin, so relevant agencies would also be consulted at this stage.

Finalise Climate Change Adaptation Strategy

Purpose: Formalise climate change adaptation strategy
Timeframe: 2025
Status: Planned
Lead: SDF Programme Team
Support: TBC

Following consultation of the draft strategy with Councils and central government stakeholders, a final adaptation strategy would be presented to Councils for approval. This would include an indication of next steps, including developing an implementation plan.

Co-develop implementation plan with partners and stakeholders

Purpose: Determine how the strategy will be delivered
Timeframe: 2025/26
Status: Planned
Lead: SDF Programme Team
Support: TBC

Following approval of the adaption strategy, a further series of engagements with partners and stakeholders would be required to develop an implementation plan. This would essentially focus on how best to integrate the key elements of the strategy into the business-as-usual functions of central government, councils, mana whenua, private sector and other stakeholders.

Finalise implementation plan with Councils

Purpose: Seek formal approval of the implementation plan
Timeframe: 2026
Status: Planned
Lead: SDF Programme Team
Support: TBC

This would involve seeking Council approval for the final implementation plan. At this stage it is not envisaged that the implementation plan would require substantive additional resourcing, rather the plan would focus on how the adaptation strategy would be operationalised through existing structures and mechanisms (i.e. through council corporate planning processes, such as long term plans, annual plans, strategic and operational planning and budgeting). This should limit the transaction cost for implementing entities.

Integrate strategy and implementation plan into Council corporate planning processes

Purpose: Embed the strategy and implementation plan in BAU
Timeframe: 2026
Status: Planned
Lead: SDF Programme Team
Support: TBC

This process would essentially involve different teams and departments within DCC and ORC incorporating the adaptation strategy into their respective corporate planning processes, so that it becomes fully integrated into business-as-usual operations (without necessarily requiring new systems, projects or budgets). For example, this process might involve the property team using the adaptation strategy as a guide for making strategic land purchases, transport teams might use it to inform transport network design, and three waters renewal and replacement programmes might be adapted to reflect changing pressures to the network. Over time, such practice should embed adaptation into all decision making across council.

PHASE: HOW IS IT WORKING?**Develop systems to monitor and evaluate adaptation strategy and implementation plan**

Purpose: Agree how to track progress and measure success
Timeframe: 2025/26
Status: Planned
Lead: SDF Programme Team
Support: TBC

Monitoring and evaluation (M&E) is a combination of data collection and analysis (monitoring) and assessing to what extent a program or intervention has, or has not, met its objectives (evaluation). This contributes to an understanding of changing risks over time, and helps with timely responses to anticipated future levels of risk. This stage will involve determining processes for monitoring specific signals (e.g. increasing frequency of flood events, rising insurance premiums, etc.) and triggers (e.g. flood event reaching X height, insurance withdrawal, etc.); and for monitoring, evaluating and reporting on the success of the adaptation strategy (e.g. are the options and pathways enabling us to stay ahead of the risks, while also avoiding making changes prematurely, or causing unnecessary disruption?).

Monitor signals and triggers; review and evaluate progress

Purpose: Monitor developments so we know when to change
Timeframe: 2026
Status: Planned
Lead: Programme Team
Support: TBC

Regular monitoring would be undertaken to build an understanding of the changing risks over time, to determine if and where signals and triggers are presenting, and to assess the extent to which the adaptation strategy and plan are effectively responding.

Adjust strategy and implementation plan to account for monitoring and review findings

Purpose: Make sure the strategy and plan remain fit for purpose Lead: Programme Team
Timeframe: 2026 onwards Status: Planned Support: TBC

Regular monitoring of the effectiveness of the current adaptation options and pathways against agreed objectives and new information (e.g., on hazards, global emissions, rates of sea-level rises, etc) or in response to social, cultural and economic changes, may lead to adjustments to the adaptation strategy or implementation plan to ensure it remains fit for purpose. Changes to the implementation strategy or plan would require approval of Council.

Recommend shifting between adaptation options and pathways

Purpose: Time changes to minimise risk, maximise opportunity Lead: Programme Team
Timeframe: 2026 onwards Status: Planned Support: TBC

Where monitoring systems determine that a change is required, for example from one adaptation option or pathway to another in response to an agreed signal or trigger, a recommendation would be made to Councils to formally endorse this change.

Implement shift between options and pathways

Purpose: Adapt before risks become intolerable or costs unaffordable Lead: Programme Team
Timeframe: 2026 onwards Status: Planned Support: TBC

Implementation of shifts between adaptation options or pathways would most likely require changes to be actioned via council corporate planning processes (for example, shifts in budgets from one department to another, reflecting a change in emphasis or approach). At this stage it is envisaged this would be processed through existing corporate planning mechanisms (e.g. annual planning and budgeting processes and long term strategy planning, noting options, pathways and triggers should have been signalled in advance so will have been a factor in longer term planning).

ANNEX 5 – GLOSSARY

Activity means a specific initiative (project, piece of work, etc.) that is over and above business as usual and which is intended to produce an output or product relevant for the programme.

Adaptation (to climate change) in *human systems*, is the process of adjustment to the actual or expected climate and its effects, to reduce harm and take advantage of new opportunities. In *natural systems*, adaptation is the process of adjustment to actual climate and its effects.

Adaptation options are the array of strategies, approaches and measures that are available and appropriate for addressing adaptation.

Adaptation pathways are a series of adaptation choices involving trade-offs between short-term and long-term goals and values. These are processes to identify solutions that are meaningful to people in the context of their daily lives and to avoid potential maladaptation.

Assumption is a statement that is taken to be true for the purposes of planning, but which could change or turn out to be untrue at a later stage.

A programme **benefit** is a measured improvement that results from a programme outcome. It should be perceived as an advantage by one or more stakeholders and contribute towards an organisational objective(s).

Business-as-usual describes when something is working or continuing in the normal or usual way. For councils, it means day-to-day work that is planned and budgeted for in normal corporate planning processes and delivered with existing resources.

Communications is the imparting or exchanging of information by speaking, writing, or using some other medium. It is predominantly a one-way process.

Community refers to a group of people living in the same place or having a particular characteristic in common. In the context of the programme, it means those living in South Dunedin or those who have a direct interest in South Dunedin. **Affected communities** refers to communities that are or will be directly affected by the natural hazards and changing physical environment impacting South Dunedin, and those who are or will be directly affected by any adaptation undertaken in response.

Core functions refers to the roles and functions of councils as required under the Local Government Act 2002, including but not limited to, strategy, policy, planning and operational functions ([link](#)).

Climate change refers to a change in the state of the climate that can be identified (e.g., by using statistical tests) by changes in the mean and/or the variability of its properties and that persists for an extended period, typically decades or longer. Climate change may be due to natural internal processes or external forcing such as variations of the solar cycles, volcanic eruptions, and persistent anthropogenic changes in the composition of the atmosphere or in land use.

Climate change mitigation is a human intervention to reduce greenhouse gas emissions or enhance the absorption of greenhouse gases in sinks.

A programme **dis-benefit** is a measured decline resulting from a programme outcome. It is normally perceived as negative by one or more stakeholders, which detracts from an organisational objective(s). A disbenefit could also be a side effect or unintended consequence of programme outputs or outcomes.

Dynamic adaptive planning pathways (DAPP) is an approach that identifies ways forward (pathways) despite uncertainty, while remaining responsive to change should this be needed (dynamic).

Engagement (also 'community engagement') is a process for making decisions that incorporates the interests and concerns of all affected stakeholders and meet the needs of the decision-making body. Engagement is a two-way process, where community inputs shape decision-making.

Equity is the principle of fairness in burden sharing and is a basis for understanding how the impacts and responses to climate change, including costs and benefits, are distributed in and by society. This includes who participates and controls the processes of decision-making.

Issue is a relevant event that has occurred, or is occurring, that was unwanted or unplanned and requires management.

Just transition is an approach to adapting to the effects of climate change in a way that is fair, locally led, and where the impacts and opportunities that may arise from the transition are more evenly distributed. Transitions have traditionally disadvantaged some groups more than others. In a *Just Transition*, this is acknowledged and incorporated into planning to make the transition more fair, equitable and inclusive.

Maladaptation involves actions that may lead to increased risk of adverse climate-related outcomes, including via increased greenhouse gas emissions, increased vulnerability to climate change, or diminished welfare, now or in the future. Maladaptation is usually an unintended consequence.

Objective is a thing aimed at or sought, such as a goal. In the context of the programme, there are both strategic objectives and operational objectives.

Operational objectives are attainable, action-oriented, shorter term statements or goals of the programme. They address both what will be delivered and *how*, describing the desired way in which the programme will move from a current to future state.

Outcome is the result of change, such as an effect on status quo behaviours or circumstances. An outcome can be the result of one or more outputs.

Output is a tangible or intangible product resulting from a planned activity.

Programme is a temporary, flexible organisation created to coordinate, direct and oversee the implementation of a set of related projects and activities in order to deliver outcomes and benefits related to the organisation's strategic objectives.

Programme Action refers to the specific activities to be undertaken by the programme to deliver the outputs and outcomes necessary to achieve the programme's strategic intent. These are generally over and above what would commonly be considered business-as-usual activity of Councils.

Programme Plan is a document that consolidates and summarises the wide range of information that has been used to define, and will be used to control and track progress of the programme

Project is a temporary initiative created to deliver an output or set of outputs in order to achieve a specific objective.

Partner in the context of the programme refers to the Dunedin City Council (DCC), Otago Regional Council (ORC), or mana whenua (collectively "the partners").

Partnership refers to the relationship between the Dunedin City Council (DCC), Otago Regional Council (ORC) and mana whenua.

Risk is an uncertain event or set of events that, should it occur, will have an effect (usually negative) on the achievement of objectives. A risk, should it occur, becomes an issue.

South Dunedin, in the context of the programme, refers to an area of predominantly flat land within the rainfall catchment that drains into southern Dunedin city area. It is acknowledged that there will be many different definitions and interpretations of what constitutes 'South Dunedin', in both a geographical and social sense.

South Dunedin Future Programme is the collection of work intended to support development, and facilitated delivery of, climate change adaptation options for South Dunedin.

Stakeholder is any individual, group or organisation that can affect, be affected, or perceives itself to be affected by the South Dunedin Future programme.

Strategic intent refers to the collection of strategic and operational objectives of the programme, as well as the key work streams within or related to the programme that are expected to contribute.

Strategic objectives are broad statements that describe the high-level and big-picture goals of the programme. They primarily address *what* will be achieved and are intended to provide a bridge from a current state to a desired future state.

Sustainability means adopting practices or approaches that have the quality of being able to continue over an extended period of time (generally, without negative effects). Sustainable development is defined as meeting the needs of the present, without compromising the ability of future generations to meet their own needs (e.g. intergenerational equity).

7.4. Water Services Entities Bill

Prepared for:	Strategy and Planning Committee
Report No.	SPS2231
Activity:	Governance Report
Author:	Warren Hanley, Senior Resource Planner Liaison
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] To provide the Committee with an overview of the Water Services Entities Bill (the Bill) which will be considered by the Government's Finance and Expenditure Committee, and the initial comments of Otago Regional Council (ORC) staff as to how the Bill may impact ORC.

EXECUTIVE SUMMARY

- [2] As part of the Government's '3-Waters' infrastructural review, publicly owned water services entities (WSE) are intended to be created and, over time take over the management of water supply, wastewater, and storm water services, and related infrastructure, that until now has been undertaken directly by territorial authorities.
- [3] The Bill identifies the ownership, governance, and accountability arrangements for the WSE, who are set to commence delivery of services from 1 July 2024.
- [4] Given ORC's functions under the Resource Management Act 1991 (the RMA) in relation to freshwater in 2021 ORC submitted to the Department of Internal Affairs on the Water Service Bill. ORC's position supported the intent and aims of the Water Services Bill, that being to:
- Clarify and improve the performance of water supply from a safety and system perspective; and
 - Improve the environmental performance of wastewater and stormwater systems.

These are aligned with the intent of the wider Resource Management Reforms programme that signals a prioritisation of improving environmental outcomes.

- [5] ORC's submission did not take a position on the three waters services structural reforms, which is what this Bill is concerned with.
- [6] Since the release of the Bill, ORC staff have undertaken an initial review of the proposal, and identified potential issues and concerns with its drafting that we consider are relevant to ORC.

- [7] This report identifies and discusses:
- The Bill makes no reference to Regional Councils;
 - It is unclear how WSE will integrate the regional context and strategies into its decision making; and
 - The Bill is light on how WSE provide for the impacts of Climate Change.
 - Submission points for a staff submission (due to timeframe constraints)
- [8] The period for submissions on the Bill closes 22 July 2022.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Notes** that staff will make a staff submission, lodged under delegation by the Chief Executive, and report back at the 24 August 2022 Council meeting.

BACKGROUND

- [9] In part as a response to the findings of the Havelock North Drinking Water Inquiry, the Government launched the Three Waters Reform Programme (the reforms) in July 2020. The aim of the reforms is to address weaknesses in the country's three water services in a manner that is efficient and affordable for all communities.
- [10] The appended 'summary of proposal' report '*Transforming the System for delivering three waters services*' gives a detailed overview of the reforms history and process to date. To support the reforms, the Water Services Act commenced on 15 November 2021 and Taumata Arowai was created as a crown entity who took over from the Ministry of Health as the dedicated new drinking water regulator.
- [11] Taumata Arowai's role is to:
- Enforce current drinking water standards; and
 - Alongside the Regional Council regulators:
 - i. provide national oversight of environmental performance of wastewater and stormwater networks.
 - ii. monitor compliance with environmental regulations at a national level and drive greater focus on the performance of wastewater and stormwater networks.
- [12] The next stage of the reforms involves a suite of legislation, of which the first component being progressed is the Water Services Entities Bill.
- [13] This Bill establishes four publicly owned water services that will come into effect over a transitional period and be charged with providing water services, in place of territorial authorities.
- [14] WSE will be co-owned by the territorial authorities within the WSE area through a 'shares' structure that is based on population numbers. Figure 1 shows the proposed four WSE, of which Otago is part of Entity D along with most of the South Island:

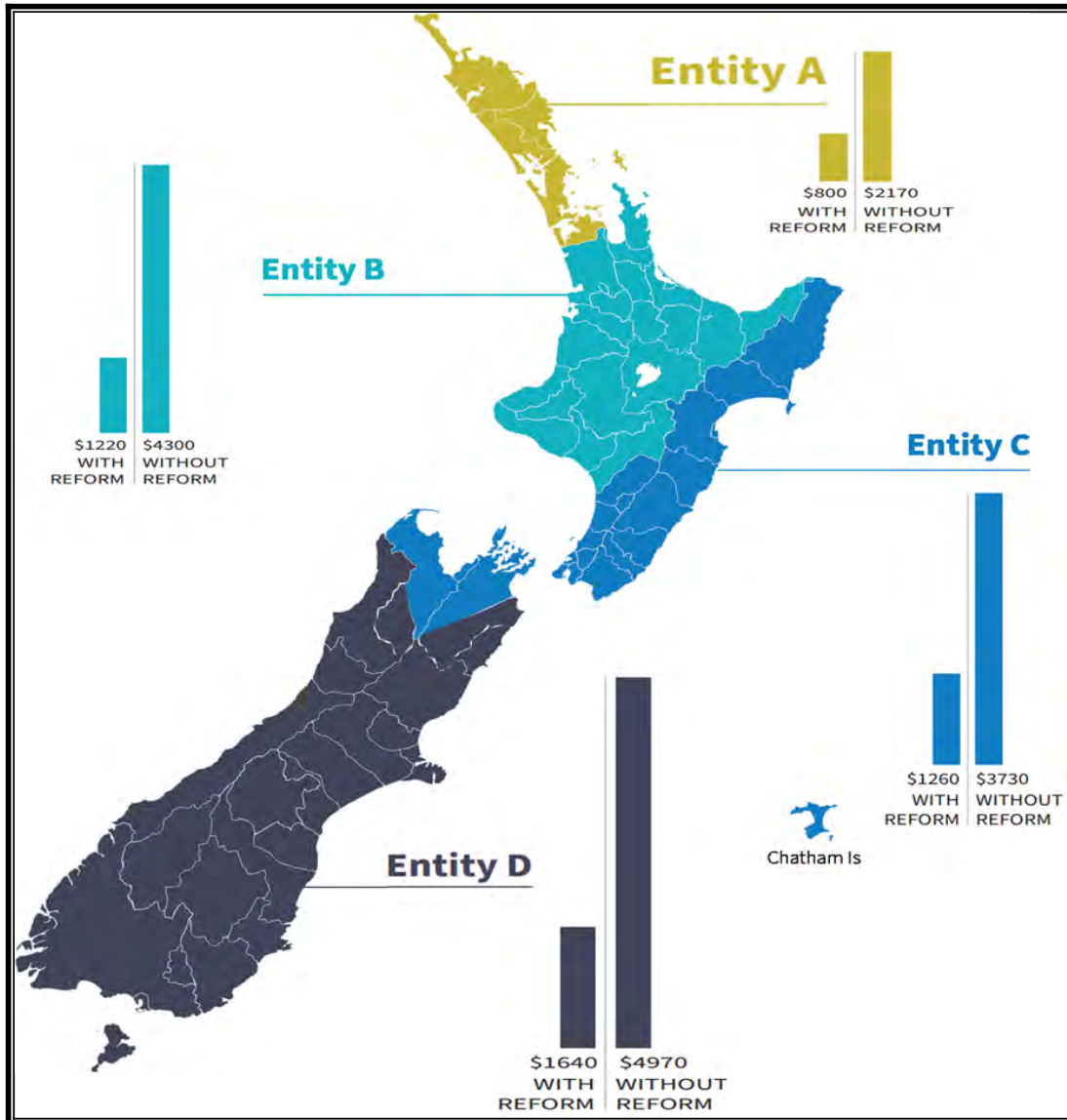


Figure 1: Proposed Water Entities Map (source: www.dia.govt.nz)

- [15] The allocation of shares in WSE is set out in Section 16 of the Bill as follows:
- (1) Shares in a water services entity are, on each relevant date, allocated or reallocated to each territorial authority owner based on the population of its district or part district.
 - (2) The allocation or reallocation is as follows:
 - (a) if that population is not more than 50,000 people, 1 share.
 - (b) if that population is more than 50,000 people:
 - (i) 1 share for every 50,000 people in that district or part district; and
 - (ii) 1 share for a group of fewer than 50,000 people, additional to those 1 or more multiples of 50,000 people, in that district or part district.

- [16] 'Entity D', comprising most of the South Island, is made up of 32 shareholdings (shown in Table 1¹ below). Otago's seven shareholdings are highlighted and represent an almost 22% shareholding.

Council	Population	Shareholding	Council	Population	Shareholding
Ashburton District Council	35,900	1	Kaikoura District Council	4,260	1
Buller District Council	9,660	1	Mackenzie District Council	5,480	1
Central Otago District Council	24,800	1	Queenstown-Lakes District Council	48,300	1
Christchurch City Council	392,100	8	Selwyn District Council	73,600	2
Clutha District Council	18,500	1	Southland District Council	32,700	1
Dunedin City Council	133,300	3	Timaru District Council	46,296	1
Gore District Council	13,050	1	Waimakariri District Council	66,300	2
Grey District Council	14,100	1	Waimate District Council	8,290	1
Hurunui District Council	13,450	1	Waitaki District Council	23,800	1
Invercargill City Council	57,000	2	Westland District Council	8,910	1

DISCUSSION

Regional Council relationship with WSE

- [17] The Bill does not reference Regional Councils which means there is no clarity on how the WSE's will interact with Regional Councils.
- [18] The objectives of a WSE are set out in section 11 of the Bill are to:
- deliver water services and related infrastructure in an efficient and financially sustainable manner;*
 - protect and promote public health and the environment;*
 - support and enable housing and urban development;*
 - operate in accordance with best commercial and business practices;*
 - act in the best interests of present and future consumers and communities; and*
 - deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.*
- [19] With the aim of improving integrated management and environmental outcomes, Government legislation of recent years has increased the strategic and operational responsibilities of Regional Councils, and Territorial Authorities, across a broad set of issues such as urban growth and development, freshwater management, land use change, indigenous biodiversity, natural hazard and risk management, and climate change adaptation and mitigation. All these issues affect, or are affected by, freshwater management.
- [20] To achieve integrated management, the strategic and functional relationship between regional and territorial councils is legislated not only in the Resource Management Act through sections 30 and 31² and planning instrument requirements, but in national directions, more recently in the National Policy Statement (NPS) Freshwater Management, and NPS Urban Development.
- [21] Section 30(1)(a) – (ba) of the Resource Management Act 1991 (RMA) requires:
- Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:*

¹ Source: www.dia.govt.nz

² Section 30 – Functions of Regionals Councils, section 31 – Functions of territorial authorities

- (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:*
- (b) *the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:*
- (ba) *the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region:*
- [22] Section 30(5) of the RMA clarifies that ‘development capacity’ (as underlined above) includes the provision of adequate development infrastructure to support the development land; and that development infrastructure means network infrastructure for water supply, wastewater and stormwater.
- [23] With WSE to take over a critical service which underpins the sustainability of where and how people choose to live, this severs a significant space in which regional and territorial authorities interface through collaboration and regulatory processes on freshwater management so that regional strategic direction on the issues identified above align with spatial, urban and district planning activities.
- [24] Regional Councils need clarity to understand how they will be able to exercise their functions and support and inform the strategic directions of WSE (particularly the strategic and operation elements required in an annual Statement of Intent)³, as WSE take over responsibility for providing, operating, and maintaining and upgrading services and network infrastructure.

WSE Roles

- [25] It is relevant to look broadly at the structure within WSE, as this will give Regional Council’s context for how and what decision making is to occur. This also identifies where ORC staff see a relationship gap between themselves and WSE.
- [26] WSE will comprise three main oversight bodies:
- Regional Representative Group (RRG)
 - Regional Advisory Panel (RAP)
 - Board of the water services entity (the Board)
- [27] Working in reverse order, the Board’s roles is to govern the WSE and has the authority to exercise the powers and functions of the entity. The Board is appointed by a committee of the RRG, and members of an RRG or RAP, or anyone elected to a Territorial authority are disqualified from being a Board member⁴.
- [28] The Regional Advisory Panel’s role is to provide advice to a RRG as to how that group is performing anywhere within its geographical service area.
- [29] Between 12 and 14 Territorial Authority employees and mana whenua representatives (of equal numbers) are to be appointed to an RRG⁵.

³ Section 145 of the Water Services Entities Bill

⁴ Section 97 Water Services Entities Bill

⁵ Section 27 Water Services Entities Bill

- [30] The RRG role includes participating in the process of setting the entity's strategic direction and performance expectations and it has a collective duty to ensure a WSE delivers:
- Wholly or mostly for the benefit of all communities in the entity's service area;
 - Takes into account the diversity of its communities, and their diverse interests;
 - Takes into account the interests of future communities as well.
- [31] The use of 'regional' in the naming of RRG and RAP is understandable within the WSE, as the appointees are to be drawn from within the region or regional areas that the WSE services. However, it may create some confusion that Regional Councils are included within this representation, which they are not.
- [32] Furthermore, it is unclear how multiregional contexts are to be accounted for in decision making if an WSE services more than one region (such as Entity D). A dispute process for the RRG is provided, however even while considering the 'collective duty⁶' provision of the Bill, an important omission appears to be that the Bill does not address the issue that regional representatives from one region will effectively make decisions for another region's communities – without being elected by those communities, and potentially without an appropriate understanding of the regional strategic and environmental context.
- [33] Therefore, it would seem appropriate that the Regional Representative Group's would have an actual Regional Council representative/s appointed to it to promote a strong Regional Council relationship with the group and support it to align the WSE's strategic planning and outcomes with the regional context and strategic direction. Further drafting of the Bill would be required to enable this appointment, set a framework for achieving its purpose of strategic regional alignment, and to clarify Regional Council representatives have no interest in the network infrastructure ownership.
- [34] In terms of a regulatory interaction with the WSE, ORC's consents team consider that once implemented, it would in practice interact with the WSE in a similar fashion to other stakeholders and this should not significantly alter workloads.

Other Concerns

- [35] The issue of climate change is one which could directly impact the WSE role, yet it is only referenced a few times throughout the Bill, and as a very broadly stated objective.
- [36] Climate change has the potential to adversely affect surety of potable water supplies. Staff consider Regional Council's work programmes and knowledge would assist WSE by informing their strategic decision making so they can ensure the sustainability and surety of water services within the area the WSE is responsible for.
- [37] Provision for the principles of *Te Mana o te Wai* is limited in the Bill to the ability of Mana whenua to provide a *Te Mana o te Wai* statement to the WSE, which the WSE must consider and respond to as to how it will give effect to *Te Mana o te Wai*. There is little detail how any disputes would be resolved.

⁶ Section 29 Water Services Entities Bill

OPTIONS

- [38] ORC could choose to make no submission on the Bill. ORC has no direct responsibility for providing three water services, and further developments in the Resource Management Reforms may address the gaps of concerns raised in this report and provide greater clarity on how Regional Councils and WSE will appropriately be able to support integrated management.
- [39] However, it is the view of staff that the concerns raised in this report are of significant strategic importance to our region's communities and that they should be resolved before the Bill progresses further. The submission period closes 22 July 2022. Due to the timing of this consultation, staff have not had time to both review the Bill and prepare a draft submission for Council approval.
- [40] ORC staff consider the following messages should be taken into account in making a submission:
- ORC remains supportive of the intent and aims of the three waters reform however, to achieve this it will be critical the WSE and regional authorities collaborate effectively.
 - It will be important to amend the framework of the Bill to require and enable WSE to have Regional Council input into its strategic decision making and planning in order to achieve integrated management within the extent of a WSE's duties, functions and power. The level and effectiveness of integrated management to the communities the WSE serves should be a performance measure monitored by the RAP.
 - Clarity within the Bill that the WSE must give effect to the Regional Policy Statement for the Region/s in which it operates and within the context of the duties, functions, and power of a WSE. As Regional Policy Statements must give effect to the principles of *Te Mana o te Wai*, this would also assist the WSE, with the process of *Te Mana o te Wai* statements enabled under the Bill. *It may also be of benefit to mana whenua.*
 - Direction that the WSE must ensure that decision making appropriately accounts for the impacts of climate change on three water services, specifically on providing for water supply security.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [41] ORC's strategic directions commit Council to delivering on sustainable and quality urban development, community resilience to natural hazards, effective response to climate change, and regional Leadership on issues of significance and importance to Otago communities and national direction. These strategic directions include actions to give effective leadership including:
- *Collaborate to integrate urban planning, infrastructure planning and environmental management;*
 - *Engage with people, communities, iwi partners, and other stakeholders to increase understanding of natural hazard risks in the region;*
 - *Communities that are resilient in the face of natural hazards, climate change and other risks;*
 - *Lead a regional approach to climate change and engage communities to increase understanding about climate change and its impacts; and*
 - *A sustainable way of life.*

- [42] Staff consider submitting on the current consultation is consistent with the strategic directions.
- [43] ORC's planning implements national directions for managing freshwater and related activities, including those which impact, or are impacted by three waters activities. It is important both for achieving good environmental outcomes, as well as services level outcomes for our communities that WSE make informed strategic decisions on network investment and operations that align with the regional strategies.

Financial Considerations

- [44] At an operation level, our Consents team expect engagement with WSE will be comparable to that with territorial authorities and not create significant additional time or costs, albeit until such time as the WSE is seeking consents, this won't be fully understood.
- [45] Submitting on national consultation is a funded activity in ORC's Annual Plan.

Significance and Engagement Considerations

- [46] The consideration of the Bill is consistent with He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

- [47] Anticipating the Bill will pass, it will not directly impact ORC's function and operations. Overall ORC is supportive of the objectives of the three waters reform as signalled in ORC's 2021 submission to the Department of Internal Affairs. However, ORC staff feel a lack of clarity exists as to how exactly the WSE model's operation will interface with Regional Councils and align appropriately with the regional strategic and policy framework.
- [48] This concern could result in unintended environmental and service outcomes that fall short of the objectives of the three waters reform and expectations of benefits to Otago's communities.

Climate Change Considerations

- [49] The impacts of climate change are anticipated to affect water supply surety, and therefore need to be factored into infrastructure planning as part of mitigation the risks of climate change and contribute to timely adaptation solutions.

Communications Considerations

- [50] ORC staff will work positively with our territorial authority partners and the WSE through any transitional period as part of the three waters reform.
- [51] Any ORC staff submission will be publicly available via the Government's website.
- [52] ORC's Communications team can consider if there is merit in making the submission more widely available, to communicate ORC's position to a wider audience.

NEXT STEPS

[53] ORC staff will continue working through the review of the consultation material, draft, and lodge a staff submission, and bring the submission to Council for noting, at the 24 August 2022 Council Meeting.

ATTACHMENTS

1. Water Services Entities Bill [7.4.1 - 164 pages]
2. Three waters reform case for change and summary of proposals -15 June 2022 [7.4.2 - 49 pages]

Water Services Entities Bill

Government Bill

Explanatory note

General policy statement

This Bill is a stand-alone Bill that establishes 4 publicly-owned water services entities that will provide safe, reliable, and efficient water services in place of local authorities. The Bill contains the ownership, governance, and accountability arrangements relating to those entities, and provides for transitional arrangements during an establishment period. The entities will commence delivery of services on 1 July 2024.

Introduction

New Zealand faces a significant infrastructure challenge in relation to the drinking water, wastewater, and stormwater services that are currently delivered by territorial authorities. Water services are an essential building block for communities. Public health and well-being, better environmental outcomes, economic growth and job creation, housing and urban development, climate change, resilience to natural hazards, and the rights and interests of iwi and Māori all depend on better outcomes for those services.

The investment needed over the next 30 to 40 years to maintain and upgrade New Zealand's water infrastructure to a standard required to address the infrastructure challenge is unaffordable for most communities under the current arrangements.

By providing for the establishment of 4 water services delivery entities, this Bill paves the way for improved, effective, and efficient management of water services delivery and infrastructure so that New Zealanders will have access to safe, reliable and affordable drinking water, and wastewater and stormwater services that meet their environmental and cultural expectations.

Relationship to other proposed legislation

This Bill is just 1 component of a comprehensive package to reform water services that are currently provided by local authorities. The Bill will need to be followed by further legislation to provide for—

- additional, detailed implementation arrangements for the entities and service delivery, including provisions relating to the transfer of assets, liabilities, and other matters from local authorities to new water services entities:
- specific powers, functions, and responsibilities of the new water services entities, and pricing and charging arrangements:
- economic regulation and consumer protection regimes relating to the new water services system:
- any changes to Treaty settlement legislation that are required to ensure that settlement obligations are carried forward from territorial authorities to the new water services entities:
- detailed changes to the Local Government Act 2002, the Water Services Act 2021, and other legislation to transfer service delivery arrangements to the new water services entities.

Legal form and ownership by territorial authorities

Water services entities are a new public service delivery model. Each entity will be a body corporate, and will be co-owned by the territorial authorities in its service area in shares to provide a tangible expression of ownership that is recognisable by communities and territorial authorities.

The Bill defines the service area for each entity through reference to territorial authority districts, or parts of districts. The service area of the Southern Water Services Entity is the takiwā of Ngāi Tahu, as described in section 5 of Te Runanga o Ngai Tahu Act 1996.

Function, objectives, and operating principles

The function of a water services entity will be to provide safe, reliable, and efficient drinking water, wastewater, and stormwater services in its area. The objectives of an entity will be to—

- deliver water services and related infrastructure in an efficient and financially sustainable manner:
- protect and promote public health and the environment:
- support and enable housing and urban development:
- operate in accordance with best commercial and business practices:
- act in the best interests of present and future consumers and communities:
- deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.

The operating principles of a water services entity will be—

- developing and sharing capability and technical expertise with other water services entities and across the water services sector:
- being innovative in the design and delivery of water services and infrastructure:
- being open and transparent, including in relation to calculation and setting of prices, determining levels of service delivery to consumers and communities, and reporting on performance:
- partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can give effect to Te Mana o te Wai, and understand, support, and enable the exercise of mātauranga, tikanga, and kai-tiakitanga:
- giving effect to Treaty settlement obligations, to the extent that the obligations apply to the duties and functions of an entity:
- partnering and engaging early and meaningfully with territorial authorities and their communities:
- co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector.

Governance arrangements

Water services entities will have a 2-tier governance arrangement comprising—

- a regional representative group, which provides joint oversight of an entity by an equal number of representatives of the territorial authority owners and mana whenua from within the entity's service area; and
- corporate governance by an independent, competency-based, professional board.

Appointments to, and removals from, the board will be made by a board appointment committee that is part of the regional representative group. The board appointment committee is also responsible for preparing and maintaining an appointment and remuneration policy for the board. Board members are accountable to the regional representative group when performing their duties as members.

A water services entity may also have regional advisory panels if it chooses, based on a geographic area in the entity's service area. The role of a regional advisory panel is to provide advice to the regional representative group about how to perform or exercise its duties, functions, and powers.

Constitution

Each water services entity's constitution will set out—

- the composition and internal procedures of its regional representative group, including how it will perform or exercise its functions, duties, and powers:

- the composition and internal procedures of any regional advisory panel, and how it will perform its advisory role to a regional representative group:
- the composition and internal procedures of its board, including how it will perform or exercise its duties, functions, and powers:
- funding and remuneration arrangements for an entity's regional representative group and any regional advisory panels:
- procedures for dispute resolution, and reviewing, amending or replacing the constitution.

A constitution may contain provisions that are not inconsistent with the Act or any other legislation. The constitution of a water services entity has no effect to the extent that it contravenes, or is inconsistent with, the Act or any other legislation.

The first constitution for each water services entity will be set out in regulations after the Minister responsible for the administration of the Act (the **Minister**) engages with the entity's territorial authority owners and mana whenua in its service area.

Conflict of interest

The Bill contains provisions on conflicts of interest. The provisions apply to members of the board, regional representatives, and regional advisory panel members. The provisions include—

- a requirement to keep an interest register:
- the obligation of board members, regional representatives, and regional advisory panel members to disclose relevant interests:
- the consequences of being interested, such as the exclusion of a board member, regional representative, or regional advisory panel member who is interested from participating in decision making relating to the interest.

Statement of strategic and performance expectations

The regional representative group must issue a statement of strategic and performance expectations, covering a 3-year period. The purpose of a statement of strategic and performance expectations is to—

- state the regional representative group's objectives and priorities for the entity:
- inform and guide the decisions of the board.

The regional representative group must annually review its statement of strategic and performance expectations and, following a review, issue a new statement if it chooses.

The board of a water services entity must give effect to the statement of strategic and performance expectations.

Reporting and accountability

The Bill requires the board to prepare and adopt—

- a statement of intent—

- in which the strategic elements must be approved by the entity’s regional representative group; and
- setting out the forecast service performance and budget of the entity:
- an annual report setting out the entity’s actual performance and audited financial statements:
- an asset management plan and funding and pricing plan, which will cover a 10-year period:
- an infrastructure strategy, covering a 30-year period.

Te Tiriti o Waitangi/the Treaty of Waitangi and Te Mana o te Wai

All persons performing or exercising duties, functions, or powers under the legislation—

- must give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
- must give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to those duties, functions, or powers.

A water services entity is therefore required to give effect to Te Mana o te Wai to the extent that it applies to the duties and functions of the entity. This is consistent with the approach across all legislation relating to water services, including the Taumata Arowai—the Water Services Regulator Act 2020, and on those who perform or exercise functions, powers, and duties under the Water Services Act 2021.

Mana whenua whose rohe or takiwā includes a freshwater body in the service area of an entity can make a Te Mana o te Wai statement for water services. The board must respond to the statement within 2 years, and the response must include a plan for how the entity intends to perform its duty to give effect to Te Mana o te Wai.

Relationship to Treaty settlements

To ensure that Treaty settlements are enduring, the Bill provides that,—

- where there is inconsistency between the legislation and a Treaty settlement obligation, the Treaty settlement obligation prevails:
- an operating principle of entities is to give effect to Treaty settlement obligations, to the extent that the obligations apply to the duties and functions of an entity.

Consumer and community engagement

A water services entity must—

- establish 1 or more consumer forums to help gather consumer views and understand consumer needs, expectations, and service requirements:
- prepare an annual consumer stocktake:
- engage with its consumers and communities on its asset management plan, funding and pricing plan, and infrastructure strategy.

In performing those functions, a water services entity must be guided and informed by the following consumer engagement principles:

- communication to consumers should be clear and appropriate, and recognise the different communication needs of consumers:
- the entity should be openly available for consumer feedback and seek a diversity of consumer voices:
- the entity should clearly identify and explain the role of consumers in the engagement process:
- the entity should consider the changing needs of consumers over time, and ensure that engagement will be effective in the future:
- the entity should prioritise the importance of consumer issues to ensure that the entity is engaging with issues that are important to consumers.

Safeguards against privatisation

The Bill sets out strong safeguards against privatisation or loss of control of water services and significant infrastructure. In particular, the Bill provides for—

- collective territorial authority ownership of entities to ensure appropriate oversight and influence on behalf of the communities:
- joint oversight of entities by mana whenua:
- clear legislative protections against loss of ownership or control based on provisions in the Local Government Act 2002, which are that an entity must not use water services assets as security for any purpose, divest its ownership in a water service, or sell or lose control of significant infrastructure.

For a divestment proposal to proceed, the Bill provides that it must receive—

- unanimous support from its territorial authority owners; and
- support from at least 75% of an entity's regional representative group; and
- support from at least 75% of the votes cast by electors in its service area in a poll.

Independence of water services entities

The Bill provides that the Minister, a territorial authority owner, a regional representative, or a regional representative group cannot direct a water services entity or a board member or employee of a water services entity—

- in relation to the performance or exercise of a duty, function, or power under this Act; or
- to require a particular act or result.

The Bill provides for the financial independence of water services entities. A territorial authority owner, a regional representative group, or a regional representative,—

- has no right, title, or interest in the assets, security, debts, or liabilities of a water services entity:

- must not receive any equity return from a water services entity:
- must not give a water services entity any financial support or capital:
- must not lend money or provide credit to a water services entity:
- must not give any guarantee, indemnity, or security in relation to a water services entity.

Government policy statement

The Bill enables the Minister to make a Government policy statement setting out the Government's overall direction and priorities for water services, to inform and guide agencies involved in, and the activities necessary and desirable for, water services. A water services entity must give effect to the statement when performing its functions.

Crown monitoring and intervention

The Bill enables the Minister to appoint a department as a Crown monitor. The role of the monitor is to—

- act as a steward to provide oversight to the water services system from a whole-of-government perspective:
- tender advice to Ministers, and assist the Minister to carry out the Minister's role under the legislation.

The Bill contains a Crown intervention framework, providing the Minister with powers of intervention based on a graduated risk regime, including—

- circumstances where there is a significant or persistent failure by a water services entity to perform 1 or more of its functions or give effect to a Government policy statement:
- a water services entity's failure to demonstrate prudent financial management:
- a state of emergency.

The Minister's powers of intervention are based on existing powers in the Local Government Act 2002 and include the appointment of a Crown review team, a Crown observer, or, as a last resort, a Crown manager.

Transition and establishment arrangements

Schedule 1 of the Bill contains the transition and establishment arrangements, including—

- establishment entities, which will make the preparatory arrangements for full operation:
- the statutory oversight powers of the national transition unit (a business unit based in the Department of Internal Affairs) for the transition period:
- transitional provisions relating to employment of the water services workforce, including employment security by transferring existing employment positions to the relevant water services entity on terms that are no less favourable than existing terms.

Omnibus Bill

The Bill is an omnibus Bill introduced in accordance with Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2022&no=136>

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 30 June 2021 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.dia.govt.nz/three-waters-reform-programme-cabinet-decisions-and-reform-proposals#cabinet-papers-and-minutes>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for when the Bill comes into force. Regulation-making powers, transitional provisions, and other specified provisions of the Bill relating to the establishment of water services entities come into force on the day after Royal assent. The rest of the Bill comes into force by Order in Council no later than 1 July 2024.

Part 1**Preliminary provisions**

Clause 3 sets out the purpose of the Bill. The purpose is to—

- establish 4 water services entities to provide water services in New Zealand;
- provide for their objectives, functions, service delivery areas, and governance arrangements.

Clause 4 requires all persons performing or exercising duties, functions, or powers under the Bill—

- to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
- to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to those duties, functions, or powers.

Clause 5 sets out ways in which the Bill recognises and respects the Crown's responsibility to give effect to te Tiriti o Waitangi/the Treaty of Waitangi.

Clause 6 defines terms that are used in the Bill.

Clause 7 and *Schedule 1* provide transitional, savings, and related provisions, including provisions that provide for—

- the establishment functions and objectives of water services entities;
- the establishment boards of water services entities to be appointed by the Minister;
- the appointment of an establishment chief executive for each water services entity;
- the reporting obligations of the water services entities during the establishment period;
- transitional provisions relating to the employment of employees of local government organisations who primarily undertake functions that are to be transferred from the local government organisations to the water services entities.

Clause 8 states that the Bill binds the Crown.

Clause 9 provides that if there is an inconsistency between a provision of the Bill and a Treaty settlement obligation, the Treaty settlement obligation prevails.

Part 2

Water services entities

Part 2 sets out key matters relating to the governance of water services entities, including—

- the objectives, functions, and operating principles of the water services entities;
- the Minister's role;
- the establishment and role of the regional representative group of each water services entity;
- the board of each water services entity and its members;
- provision for the appointment of a Crown monitor of a water services entity.

A significant number of provisions in *Part 2* are substantially similar to provisions in the Crown Entities Act 2004. However, a water services entity is not a Crown entity under that Act and the board of a water services entity is accountable to the regional representative group of the entity.

Subpart 1—Establishment of water services entities

Clause 10 provides for the establishment of a water services entity for each of the 4 service areas described in *Parts 1 to 4 of Schedule 2*.

Clause 11 sets out the objectives of the water services entities. These include—

- delivering water services and related infrastructure in an efficient and financially sustainable manner:
- protecting and promoting public health and the environment:
- supporting and enabling housing and urban development:
- operating in accordance with best commercial and business practices:
- giving effect to Te Mana o te Wai to the extent that it applies to the duties and functions of the entity:
- delivering water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.

Clause 12 sets out the functions of the water services entities. The general function of each water services entity is to provide safe, reliable, and efficient water services in its service area. The specific functions of the water services entities will be set out in a subsequent Bill.

Clause 13 sets out the operating principles of the water services entities. The operating principles of a water services entity are as follows:

- developing and sharing capability and technical expertise with other water services entities and across the water services sector:
- being innovative in the design and delivery of water services and infrastructure:
- being open and transparent, including in relation to calculation and setting of prices, determining levels of service delivery to consumers and communities, and reporting on performance:
- partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can give effect to Te Mana o te Wai, and understand, support and enable the exercise of mātauranga, tikanga, and kai-tiakitanga:
- giving effect to Treaty settlement obligations to the extent that the obligations apply to the duties and functions of an entity:
- partnering and engaging early and meaningfully with territorial authorities and their communities:
- co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector.

Clause 14 requires a water services entity to provide—

- funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to

mana whenua, for remuneration, expenses, or costs, in accordance with *clause 114(1)*; and

- information to its regional representative group, or a regional advisory panel for that group, in accordance with *clause 114(2)*.

Clauses 15 to 19 set out the status of water services entities and their core powers. In summary,—

- a water services entity is a body corporate (a separate legal entity);
- a water services entity may do anything authorised by legislation. It also may do anything that a natural person of full age and capacity may do (for example, enter into contracts). However, the entity may act only for the purpose of performing its functions.

Clause 15 also provides that a water services entity is co-owned by the territorial authorities in its service area, and in shares allocated and reallocated under *clause 16*, but that it is not a company for the purposes of the Companies Act 1993, or a council organisation, council-controlled organisation, or local government organisation for the purposes of the Local Government Act 2002. *Clause 166* also provides that territorial authority owners do not have any beneficial entitlement to, or beneficial interest in, the security of a water services entity.

Clause 16 ensures that shares in a water services entity are, on each relevant date, allocated or reallocated to each territorial authority owner based on the population of its district or part district. *Clause 16* also defines the terms population and relevant date and requires every allocation or reallocation of shares to be notified and publicised.

Subpart 2—Validity of acts

Subpart 2 provides that—

- an act of a water services entity is invalid if it is an act that is contrary to an Act or is an act that is done otherwise than for the purpose of performing the entity's functions. However, in most cases this does not prevent a person (A) who is dealing with the entity from enforcing a transaction if the entity is doing a thing that a natural person of full age and capacity could do (for example, entering into a contract);
- it is irrelevant to the validity of an act that the act is not in the best interests of the entity;
- the entity may not assert against A that a person held out by the entity to be a board member, an employee, or an agent has not been duly appointed or does not have the authority that a person appointed to that position customarily has.

Subpart 3—Minister’s role

Subpart 3 sets out the Minister’s role in relation to the water services entities. In summary, the Minister’s role is to oversee and manage the Crown’s interests in, and relationship with, the water services entities, and—

- to issue a Government policy statement on water services:
- to appoint a Crown review team, Crown observer, or Crown manager:
- to perform or exercise any other duties, functions, or powers the Minister has, in respect of the entities, under legislation.

Subpart 4—Regional representative groups

Establishment, role, and decision making of regional representative group

Clauses 27 and 28 provide for—

- the establishment of a regional representative group for each water services entity:
- the regional representative group to consist of no fewer than 12, and no more than 14, regional representatives, and an equal number of territorial authority representatives and mana whenua representatives:
- the role of each regional representative group in appointing and removing board members and participating in the setting of the relevant entity’s strategic direction and performance expectations, as well as performing or exercising any other duties, functions, or powers it has under legislation.

Clause 29 provides for a collective duty of the regional representative group.

Clause 30 requires decisions made by a regional representative group of a water services entity to be made—

- by consensus if consensus can be reached by regional representatives taking all reasonably practicable steps to reach consensus in accordance with a procedure, and within a time frame, specified in the constitution; and
- in any other case, by 75% of the regional representatives present and voting.

Clause 31 allows a regional representative group to regulate its own procedure for a matter if this Bill and the constitution do not specify a procedure for the matter.

Appointment of regional representatives

Clauses 32 to 37 provide—

- for territorial authority representatives to be appointed to each entity’s regional representative group by the territorial authority owners of the entity:
- for mana whenua representatives to be appointed to each entity’s regional representative group by mana whenua of the rohe within the service area of the entity:
- for requirements before appointment as a regional representative.

The specific composition and appointment processes of each regional representative group will be provided for in the constitution (*see clause 91*).

Board appointment committee

Clauses 38 to 40 require each regional representative group to appoint a board appointment committee. The main functions of the board appointment committee are to appoint and remove board members and prepare and maintain an appointment and remuneration policy for the board.

Chairperson and deputy chairperson

Clause 41 provides that each regional representative group must elect or appoint, in accordance with the constitution,—

- 1 of its regional representatives as chairperson of the group; and
- 1 of its regional representatives as deputy chairperson of the group.

However, *clause 41* does not apply if the constitution provides for the group to have co-chairpersons and deputy co-chairpersons, in accordance with *clause 42*.

Clause 42 ensures that the constitution may provide that a regional representative group must elect or appoint, in accordance with the constitution,—

- 2 of its regional representatives as co-chairpersons of the group; and
- 2 of its regional representatives as deputy co-chairpersons of the group.

If the constitution provides for, and requires, a regional representative group to elect or appoint co-chairpersons and deputy co-chairpersons of the group,—

- 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the group's territorial authority representatives; and
- one co-chairperson, and one deputy co-chairperson, must be elected or appointed by the group's mana whenua representatives; and
- references in legislation, other than *clause 42*, to the group's chairperson are taken to be references to both of its co-chairpersons; and
- references in legislation, other than *clause 42*, to the group's deputy chairperson are taken to be references to both of its deputy co-chairpersons.

Disputes

Clause 43 provides a process by which disputes are to be resolved if regional representatives disagree on a matter that they are required under the Bill to work together on, jointly develop, or agree.

Official information

Clause 44 applies Part 7 of the Local Government Official Information and Meetings Act 1987 to each regional representative group.

Subpart 5—Regional advisory panels

Establishment, role, and decision making of regional advisory panels

Clauses 45 and 46 provide for—

- the constitution of a water services entity to establish 1 or more regional advisory panels:
- each regional advisory panel to include an equal number of territorial authority panel members and mana whenua panel members:
- the role of each regional advisory panel to be providing advice to a regional representative group about the group’s performance or exercise of its duties, functions, or powers (*see clause 28*) in respect of, or otherwise affecting, a particular geographic area—
 - in the service area of the water services entity; and
 - for which the panel is responsible under the constitution (*see clause 91(f)(ii)*).

Clause 47 provides for a collective duty of a regional advisory group.

Clause 48 requires decisions made by a regional advisory panel to be made—

- by consensus if consensus can be reached by regional advisory panel members taking all reasonably practicable steps to reach consensus in accordance with a procedure, and within a time frame, specified in the constitution; and
- in any other case, by 75% of the regional advisory panel members present and voting.

Clause 49 allows a regional advisory panel to regulate its own procedure for a matter if this Bill and the constitution do not specify a procedure for the matter.

Appointment of regional advisory panel members

Clauses 50 to 52 provide—

- for territorial authority panel members to be appointed to a regional advisory panel by the territorial authority owners of the entity:
- for mana whenua panel members to be appointed to a regional advisory panel by mana whenua of the rohe or takiwā within the service area of the entity:
- for requirements before appointment as a regional advisory panel member.

The specific composition of, and appointment processes for, each regional advisory panel will be provided for in the constitution (*see clause 91(f)*).

Chairperson and deputy chairperson

Clause 53 provides that each regional advisory panel must elect or appoint, in accordance with the constitution,—

- 1 of its regional advisory panel members as chairperson of the panel; and

- 1 of its regional advisory panel members as deputy chairperson of the panel.

However, *clause 53* does not apply if the constitution provides for the panel to have co-chairpersons and deputy co-chairpersons, in accordance with *clause 54*.

Clause 54 ensures that the constitution may provide that a regional advisory panel must elect or appoint, in accordance with the constitution,—

- 2 of its regional advisory panel members as co-chairpersons of the panel; and
- 2 of its regional advisory panel members as deputy co-chairpersons of the panel.

If the constitution provides for, and requires, a regional advisory panel to elect or appoint co-chairpersons and deputy co-chairpersons of the panel,—

- 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the panel's territorial authority panel members; and
- 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the panel's mana whenua panel members; and
- references in legislation, other than *clause 54*, to the panel's chairperson are taken to be references to both of its co-chairpersons; and
- references in legislation, other than *clause 54*, to the panel's deputy chairperson are taken to be references to both of its deputy co-chairpersons.

Official information

Clause 55 applies Part 7 of the Local Government Official Information and Meetings Act 1987 to a regional advisory panel for the regional representative group of a water services entity.

Subpart 6—Boards of water services entities

Role, membership, and accountability

Clauses 56 to 59 provide for—

- the board to be the governing body of the water services entity;
- the board to consist of no fewer than 6, and no more than 10, members;
- the board to have a chairperson and a deputy chairperson appointed by the regional representative group, or by its board appointment committee, in accordance with the constitution;
- board members to be accountable to the regional representative group.

Obligation to hold specified meetings in public

Clause 60 requires the board to hold at least 2 board meetings during each financial year that are open to the public.

Official information

Clause 61 applies Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 to each water services entity.

Appointment, removal, and conditions of board members

Clauses 62 to 72 provide—

- for board members to be appointed by the board appointment committee of the regional representative group:
- that the board appointment committee may only recommend a person who, in the committee’s opinion, has the appropriate knowledge, skills, and experience to assist the entity to achieve its objectives and perform its functions:
- for board members to hold office for up to 5 years and that board members may be reappointed:
- for the board appointment committee to remove a board member from office at any time for just cause:
- for when board members cease to hold office.

Collective duties of board

Clauses 73 and 74 set out the collective duties of the board. The collective duties of the board of a water services entity are to—

- ensure that the entity acts consistently with its objectives, functions, operating principles, and current statement of intent:
- ensure that the entity maintains systems and processes to ensure that, for the purposes of carrying out its functions, it has the capacity and capability to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi and engage with, and understand perspectives of, mana whenua:
- maintain systems and processes for the continuing education of all board members to enable them to gain knowledge of, and experience and expertise in relation to the principles of te Tiriti o Waitangi/the Treaty of Waitangi.

Individual duties of board members

Clauses 75 to 79 impose individual duties on board members, including duties—

- not to contravene, or cause the contravention of, or agree to the entity contravening, relevant legislation:
- to act with honesty and integrity:
- to act in good faith and not at the expense of the entity’s interests:
- to act with reasonable care, diligence, and skill:
- to comply with requirements relating to the disclosure of information.

Effect of non-compliance with duties

Clause 80 and 81 provide that—

- the collective duties of the board are owed to the regional representative group:
- an individual board member is not liable for a breach of a collective duty. However, the board member may be removed from office in certain circumstances (for example, if they failed to take all reasonable steps to prevent the breach).

Clauses 82 and 83 provide that—

- the individual duties of the board members are owed to the regional representative group and the relevant water services entity:
- if a board member breaches an individual duty, the member may be removed from office and the entity may bring an action against them. A board member is otherwise not liable for a breach of an individual duty.

Clause 84 enables the Minister or a regional representative to apply to a court for an order restraining the board or a board member from contravening a statutory requirement.

Delegation

Clauses 85 to 88 allow the board of a water services entity to delegate any of the functions or powers of the entity or the board, either generally or specifically, to certain persons (for example, to the chief executive or another employee of the entity).

Board procedure

Clause 89 allows the board to regulate its own procedure for a matter if this Bill and the constitution do not specify a procedure for the matter.

Subpart 7—Constitutions of water services entities

Clause 90 requires each water services entity to have a constitution.

Clauses 91 to 93 provide for the required and permitted content and effect of the constitution. The constitution must provide for the following matters:

- the composition of the regional representative group, including—
 - whether the group consists of 12 or 14 regional representatives:
 - procedures for appointing territorial authority representatives and mana whenua representatives:
 - the composition of, and procedures for, committees of the regional representative group (including the board appointment committee):
 - the process for removing regional representatives from the regional representative group:
- procedures for the regional representative group, including—
 - how the group will perform or exercise its functions, powers, and duties:

- arrangements and requirements for meetings of the group and of committees (including the board appointment committee) of the group:
- procedures and time frames for making decisions by consensus:
- the composition of a regional advisory panel, including—
 - the particular geographical area for which the panel is responsible:
 - procedures for appointing territorial authority panel members and mana whenua panel members:
 - the composition of, and procedures for, committees of the regional advisory group:
 - the process for removing regional advisory panel members from the regional advisory panel:
- procedures for a regional advisory panel, including—
 - how the panel will perform or exercise its functions, powers, and duties:
 - arrangements and requirements for meetings of the panel, and committees of the panel:
 - procedures and time frames for making decisions by consensus:
- procedures for the entity to perform its duty under *clause 114(1)* to provide funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to mana whenua, for specified remuneration, expenses, or costs:
- the composition of the board, including the procedures for the appointment of board members by the board appointment committee:
- procedures for the board, including—
 - arrangements and requirements for meetings of the board:
 - decision-making procedures, including any requirements relating to voting or consensus decision-making:
- procedures for dispute resolution:
- procedures for reviewing, amending, or replacing the constitution (*see clauses 95 and 96*).

Clause 94 provides that the first constitution of a water services entity is the model constitution for the entity set out in regulations. *Clause 94* also ensures that, when that model constitution is first amended or replaced under *clause 95 or 96*,—

- that model constitution as so amended or replaced must set out all provisions of the entity's constitution (including any unchanged from that model constitution); and
- the regulations setting out the model constitution, for the entity, are revoked.

Clauses 95 and 96 set out the process for amending or replacing the constitution of a water services entity. A proposed amendment to the entity's constitution or a pro-

posed new constitution for the entity must be approved by the Minister before it is effective. The constitution as amended or replaced under *clause 95 or 96* is secondary legislation. The maker must publish it in accordance with the Legislation (Publication) Regulations 2021.

Subpart 8—General provisions relating to regional representatives, regional advisory panel members, and board members

Qualifications

Clause 97 provides for the qualifications of regional representatives, regional advisory panel members, and board members.

Reliance on information and advice

Clause 98 allows regional representatives, regional advisory panel members, and board members to rely on information and advice given by certain persons. They must still act in good faith, make proper inquiries, and have no knowledge that the reliance is unwarranted.

Conflict of interest disclosure rules

Clauses 99 to 112 set out rules that require each of the following to disclose the interest concerned:

- a board member who is interested in a matter relating to a water services entity:
- a regional representative who is interested in a matter relating to a regional representative group:
- a regional advisory panel member who is interested in a matter relating to the panel.

The interests include, for example, where the board member, regional representative, or regional advisory panel member may derive a financial benefit from a matter or has a financial interest in a person to whom the matter relates. In summary,—

- the nature and extent of the interest must be disclosed in an interests register as soon as practicable after the board member, regional representative, or regional advisory panel member (as applicable) becomes aware that they are interested:
- a board member must not vote or take part in any discussion or decision about the matter or otherwise participate in any activity of the entity that relates to the matter (unless the chairperson or a deputy chairperson of the board gives permission to act):
- a regional representative must not vote or take part in any discussion or decision about the matter or otherwise participate in any activity of the regional representative group that relates to the matter (unless the chairperson or deputy chairperson of the group gives permission to act or, if the constitution provides for the group to have co-chairpersons and deputy co-chairpersons, permission

is given in accordance with a procedure specified for the purpose in the constitution):

- a regional advisory panel member must not vote or take part in any discussion or decision about the matter or otherwise participate in any activity of the regional advisory panel that relates to the matter (unless the chairperson or deputy chairperson of the panel gives permission to act or, if the constitution provides for the panel to have co-chairpersons and deputy co-chairpersons, permission is given in accordance with a procedure specified for the purpose in the constitution);
- the entity may avoid certain acts done in breach of the rules. However, the entity may not avoid an act if the entity receives fair value;
- the rights of certain innocent third parties are protected if the entity avoids a matter.

Vacancies in membership

Clause 113 provides that the powers and functions of a water services entity, its regional representative group, or a regional advisory panel for that group are not affected by specified vacancies in their membership.

Duties to provide funding and information

Clause 114(1) imposes a duty on a water services entity to provide funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to mana whenua, for the remuneration, expenses, or costs specified in *clause 91(j)*. *Clause 91(j)* requires the entity's constitution to provide for procedures for the entity to perform that duty.

Clause 114(2) requires a water services entity to provide information that the entity holds if that information is required—

- by the entity's regional representative group or a regional advisory panel for that group; and
- to help the group or panel perform or exercise its duties, functions, or powers.

But personal information within the meaning of the Privacy Act 2020 may be provided under *clause 114(2)* only in accordance with that Act.

Part 3

Operation of water services entities

Independence of water services entities

Clause 115 provides that the Minister, a territorial authority owner, a regional representative, or a regional representative group cannot direct a water services entity, a board member, or an employee of a water services entity—

- in relation to the performance or exercise of a duty, function, or power under the Bill; or
- to require the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons.

Clause 115 applies to all Government policy statements and statements of strategic and performance expectations issued under the Bill.

Clause 115 also prevents a constitution of a water services entity from conferring a power of direction contrary to that clause.

Obligation to maintain ownership and control of water services and significant assets

Clause 116 requires a water services entity to continue to provide water services and maintain its capacity to meet its obligations under the Bill. The obligation on water services entities under this clause is substantially similar to the obligation on local government organisations under section 130 of the Local Government Act 2002.

Contracting out of water services

Clauses 117 and 118 provide for the circumstances in which a water services entity may, despite *clause 116*, enter into—

- a contract for an aspect of the operation of all or part of a water service;
- a joint arrangement with 1 or more other water services entities or other bodies for the purposes of providing water services.

Employees of water services entities

Clause 119 provides for the employment of the chief executive of each water services entity. The chief executive of a water services entity is appointed by the board of the entity.

Clause 120 requires each water services entity to operate a personnel policy that complies with the principle of being a good employer.

Protections from liability

Clause 121 defines terms used in the provisions relating to protections from liability.

Clause 122 protects board members and employees from the liabilities of a water services entity.

Clause 123 provides that—

- a board member of a water services entity is immune from civil liability, in respect of an excluded act or omission, to the entity or any other person unless it is also a breach of an individual duty (*see clauses 75 to 79*);
- an employee is immune from civil liability to any person in respect of an excluded act or omission.

Clause 123(3) provides that the protections do not prevent a court from making certain orders or affect any right to apply for judicial review.

Clauses 124 to 126 provide that a water services entity may only indemnify or effect insurance for a board member or employee in respect of acts or omissions for which the person is protected from liability.

Dealings with third parties

Clause 127 provides for how a water services entity may enter into contracts or other enforceable obligations.

Clause 128 identifies a water services entity's head office as its address for service in New Zealand.

Part 4

Financial and accountability matters

Subpart 1—Government policy statement on water services

Subpart 1 provides for a Government policy statement on water services. The purpose of a Government policy statement is to—

- state the Government's overall direction and priorities for water services;
- inform and guide agencies involved in, and the activities necessary or desirable for, water services.

Clause 131 requires the Minister, when preparing or reviewing a Government policy statement, to—

- be satisfied that it promotes a water services system that contributes to the current and future well-being of New Zealanders; and
- consult—
 - the water services entities; and
 - the regional representative group of each water services entity; and
 - Taumata Arowai—the Water Services Regulator; and
 - other persons, and representative groups of persons, who have an interest in water services in New Zealand.

Clause 132 provides that a water services entity must give effect to the Government policy statement when performing its functions.

Clause 133 provides for the process for amending a Government policy statement.

Clause 134 requires the Minister to present a copy of a Government policy statement to the House of Representatives as soon as practicable after issuing it and requires.

Clause 134(2) requires the department to publish the statement on its website.

Subpart 2—Regional representative group’s statement of strategic and performance expectations

Subpart 2 provides for a statement of strategic and performance expectations to be issued by the regional representative group. The purpose of a statement of strategic and performance expectations for a water services entity is to—

- state the regional representative group’s objectives and priorities for water services in the entity’s service area; and
- inform and guide the decisions and actions of the board of the entity.

Clause 137 provides that the board of a water services entity must give effect to the statement of strategic and performance expectations for the entity when performing its functions.

Clause 138 requires the board of an entity to publish the regional representative group’s statement of strategic and performance expectations on the entity’s website.

Clause 139 requires an entity’s regional representative group to annually review the performance of the entity’s board in giving effect to the statement of strategic and performance expectations.

Subpart 3—Te Mana o te Wai statements for water services

Subpart 3 provides for mana whenua whose rohe or takiwā includes a freshwater body in a water services entity’s service area to be able to provide the entity with Te Mana o te Wai statements for water services. A Te Mana o te Wai statement for water services may—

- be provided by an individual iwi or hapū, or by a group of iwi or hapū;
- relate to 1 freshwater body, or to multiple freshwater bodies.

A water services entity must respond to a Te Mana o te Wai statement for water services. The entity must also include in its response a plan that sets out how the entity intends (consistent with *clause 4(1)(b)*) to give effect to Te Mana o te Wai, to the extent that it applies to the entity’s duties, functions, and powers, in response to the statement.

Clause 142 requires the board of a water services entity to publish its response to a Te Mana o te Wai statement for water services as soon as practicable after issuing the response and, in any event, within 2 years after receiving the statement to which the response relates.

Subpart 4—Reporting obligations

Planning: statement of intent

Clauses 143 to 146 require the board of a water services entity to annually provide a statement of intent for the entity. The purpose of a water services entity’s statement of intent is to promote the public accountability of the entity by setting out the entity’s

strategic intentions and providing a base against which the water services entity's actual performance can later be assessed.

Planning: asset management plan

Clauses 147 to 149 require the board of an entity to provide an asset management plan to the entity's regional representative group at least once in every 3-year period. The asset management plan must cover a period of not less than 10 consecutive financial years.

Planning: funding and pricing plan

Clauses 150 to 152 require the board of an entity to provide a funding and pricing plan to the entity's regional representative group at least once in every 3-year period. The funding and pricing plan must cover a period of not less than 10 consecutive financial years and include a financial strategy for the years covered by the plan.

Planning: infrastructure strategy

Clauses 153 to 155 require the board of an entity to provide an infrastructure strategy to the entity's regional representative group at least once in every 3-year period. In summary, the strategy must cover a period of at least 30 consecutive financial years and identify—

- significant infrastructure issues for the water services entity over the period covered by the strategy:
- the main options for managing those issues and the implications of those options.

Reporting: annual report

Clauses 156 to 164 require a water services entity to provide an annual report to the entity's regional representative group after each financial year. An entity must publish a copy as soon as practicable after it has been provided to the regional representative group and, in any event, no later than 20 working days after receiving the audit report provided by the Auditor-General under *clause 161*.

Subpart 5—Other provisions for financial management and independence

Bank accounts

Clause 165 provides for requirements relating to the bank accounts of water services entities.

Financial independence

Clause 166 provides that a territorial authority owner (in its capacity as a holder of shares in a water services entity, or any other capacity), a regional representative group, or a regional representative—

- has no right, title, or interest (legal or equitable) in the assets, security, debts, or liabilities of a water services entity (and the constitution cannot confer any such right, title, or interest — *see also clauses 15(3) and 93(2)(c)*); and
- must not receive any equity return, directly or indirectly, from a water services entity; and
- must not give a water services entity any financial support or capital; and
- must not lend money or provide credit to a water services entity; and
- must not give any person any guarantee, indemnity, or security in relation to the performance of any obligation by a water services entity.

However, under *clause 166(2)*, nothing in *clause 166(1) or (3)* limits or affects—

- the allocation or reallocation of shares under *clauses 15(2) and 16*; or
- the holding of those shares by the relevant territorial authority owner; or
- voting under *Schedule 4* on a divestment proposal.

Subpart 6—Accounting records

Clause 167 requires the board of a water services entity to ensure that proper accounting records are kept.

Subpart 7—Borrowing

Clause 168 permits a water services entity to borrow or enter into incidental arrangements, within or outside New Zealand, in currency other than New Zealand currency.

Part 5 Monitoring

Subpart 1—Monitor

Appointment and role of monitor

Clause 169 provides for the Minister to appoint a department as the monitor for the purposes of the Bill. The monitor's role is to assist the Minister to carry out their role (*see clause 26*) and to perform and exercise certain functions and powers, including administering appropriations and legislation and tendering advice to ministers.

Monitor's information-gathering power

Clauses 170 to 173 provide for—

- the monitor's power to request information from a water services entity:
- good reasons for an entity to refuse to provide information requested:
- civil proceedings relating to non-compliance with an information request.

Subpart 2—Minister’s powers to intervene

Subpart 2 provides for the power of the Minister to appoint a Crown review team, a Crown observer, or a Crown manager (a **ministerial body**).

Clause 174 defines problem, for the purposes of the Minister’s powers to intervene, as a matter, circumstance, or failure that has actual or probable adverse consequences for consumers or communities in a water services entity’s service area and includes—

- a matter or circumstance relating to the management or governance of the entity that detracts from, or is likely to detract from, its ability to give effect to its purpose;
- a significant or persistent failure by the entity to perform 1 or more of its functions or duties under the Bill or to give effect to a Government policy statement;
- the consequences of a state of emergency;
- a failure by the entity to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealing.

Crown review team

Clauses 175 and 176 provide for the power to appoint a Crown review team. In summary, the Minister may appoint a Crown review team if—

- the water services entity, without good reason, has not provided the information requested by the monitor by the stated or agreed date;
- the Minister believes on reasonable grounds that a problem relating to the water services entity may exist and the water services entity is unable or unwilling to effectively address the problem or another ministerial body has recommended the appointment;
- the Minister has received a written request to do so from the water services entity or the entity’s regional representative group.

Crown observer

Clauses 177 and 178 provide for the power to appoint a Crown observer. In summary, the Minister may appoint a Crown observer in relation to a water services entity on the entity’s request or if the Minister believes, on reasonable grounds, that a problem relating to a water services entity exists and—

- the appointment of a Crown observer is necessary to enable, or better enable, the Minister to effectively address the problem; or
- the appointment of a Crown observer is necessary to enable, or better enable, the Minister to monitor the water services entity’s progress in addressing the problem; or
- another ministerial body has recommended the appointment.

Crown manager

Clauses 179 and 180 provide for the power to appoint a Crown manager. The Minister may appoint a Crown manager in relation to a water services entity on the entity's request or if the Minister believes, on reasonable grounds, that a problem relating to a water services entity exists and—

- the nature and extent of the problem is such that the entity is unlikely to effectively address the problem without the appointment of a Crown manager; or
- the entity has not, without good reason, adequately implemented a recommendation of any other ministerial body in relation to the problem; or
- another ministerial body has recommended the appointment.

Subpart 3—General provisions applying to Minister's powers to intervene

Subpart 3 provides for general provisions relating to the appointment of a ministerial body, including—

- notification and publication requirements:
- requirements for reports produced by ministerial bodies:
- remuneration and expenses of ministerial appointees:
- recovery from the relevant water services entity of expenses incurred for the appointment of a ministerial appointee:
- protection from liability for members of a Crown review team, a Crown observer, or a Crown manager.

Part 6

Miscellaneous provisions

Subpart 1—Reviews

Clause 195 requires the Minister, in the relevant period, to commission a review of the need for, and operation and effectiveness of, the governance and accountability arrangements under the Act. The relevant period starts on the fifth anniversary, and ends on the sixth anniversary, of the establishment date (as defined in *clause 1(1) of Schedule 1*). This interim review must include consideration of stated matters. Before commissioning the review required by *clause 195*, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit.

Clause 196 requires the Minister, in the relevant period, to commission a review of the need for, and operation and effectiveness of, water services legislation. The relevant period starts on the ninth anniversary, and ends on the tenth anniversary, of the establishment date (as defined in *clause 1(1) of Schedule 1*). This comprehensive review must include consideration of stated matters. Before commissioning the

review required by *clause 196*, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit.

Clause 197 requires that a review required by the subpart be done by the following reviewer:

- the monitor, if the monitor is asked by the Minister to do the review;
- in any other case, a review panel commissioned by or on behalf of the Minister.

Clause 198 enables the reviewer, by notice in writing, to require a water services entity or other relevant person to provide the reviewer with information the reviewer thinks necessary to do the review. The entity or other relevant person must provide the requested information by the reasonable date that the reviewer has specified for that purpose in the notice. *Clauses 171 to 173* apply, with all necessary modifications, to a request under *clause 198*.

Clause 199 requires—

- the reviewer to prepare a report on a review required by the subpart;
- the report to include at least certain stated contents;
- the reviewer to ensure that the people and organisations that the reviewer thinks appropriate are consulted during the preparation of the report about the matters to be considered in the report;
- the reviewer, after completing the report, to promptly present the report to the Minister;
- the Minister, after receiving the report, to promptly present a copy to the House of Representatives.

Clause 200 repeals the subpart on the 15th anniversary of the establishment date.

Subpart 2—Rights or interests in water preserved

Clause 201(1) provides that the purpose of *clause 201* is to achieve both of the following outcomes:

- any rights or interests in water are preserved, consistent with assurances given by the Crown to the Supreme Court in 2012, and recorded in *New Zealand Māori Council v Attorney-General* [2013] NZSC 6, [2013] 3 NZLR 31 at [145];
- the Act, and duties, functions, and powers under the Act, operate effectively.

Clause 201(2) provides that no legislation in or made under the Act—

- creates or transfers any proprietary right or interest in water;
- extinguishes or limits any customary right or interest (for example, one founded on, or arising from, aboriginal title or customary law) any iwi or hapū may have in water.

Clause 201(3) provides that nothing in *clause 201* affects, or affects the lawfulness or validity of the performance or exercise by any person of, any duty, function, or power under the Act.

Subpart 3—Engagement

Clause 202 provides for engagement requirements relating to—

- the preparation of a water services entity’s response to Te Mana o te Wai statements;
- the development of a model constitution;
- the preparation of asset management plans, funding and pricing plans, and infrastructure strategies.

Clauses 203 to 205 provide for engagement requirements relating to consumers, including requirements for the chief executive of a water services entity to—

- establish 1 or more consumer forums;
- annually prepare a consumer engagement stocktake.

Subpart 4—Regulations

Clause 206 provides for the power to make regulations, including to provide for—

- a model constitution for each water services entity that will be the first constitution of the entity under *clause 94*;
- financial and non-financial disclosure requirements relating to the statement of intent, asset management plan, funding and pricing plan, and infrastructure strategy;
- additional transitional and savings provisions concerning the coming into force of the Bill, including transitional reporting obligations that apply to local government organisations and water services entities.

Subpart 5—Amendments to other Acts

Subpart 3 provides for amendments to other Acts.

Schedules

Schedule 1 provides for transitional and savings provisions (*see clause 7*).

Schedule 2 describes the service area of each water services entity.

Schedule 3 provides for the process each water services entity must follow when preparing a statement of intent, asset management plan, funding and pricing plan, or infrastructure strategy.

Schedule 4 provides for the process that a water services entity must follow for a divestment proposal. A divestment proposal is permitted by *clause 116(2)(b) or (c)(i)* if it is done in accordance with *Schedule 4*. A divestment proposal means a proposal for a water services entity to do specified things in breach of *clause 116(1)* (which

requires the entity to continue to provide water services and maintain its capacity to perform or exercise its duties, functions, or powers under the Bill). The specified things are as follows:

- divest its ownership or other interest in a water service:
- lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its service area (if, in doing so, the entity does not retain its capacity to perform or exercise its duties, functions, or powers—*see clause 116(2)(c)(ii)*).

A divestment proposal may be implemented only if—

- a regional representative group resolves to refer a divestment proposal to territorial authority owners by a vote of no less than 75% of the regional representatives present and voting:
- territorial authority owners resolve unanimously to refer the proposal to a poll:
- at least 75% of the votes cast in the poll are in favour of the proposal.

Hon Nanaia Mahuta

Water Services Entities Bill

Government Bill

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		Schedule 3	122
		Preparation of planning documents	
		Schedule 4	128
		Divestment proposals	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Water Services Entities Act **2022**.

2 Commencement

- (1) The following provisions come into force on the day after the date of Royal assent:
- (a) **sections 3, 5(a), (b), (c), and (f), and 6 to 9** (preliminary provisions):
 - (b) **subparts 1 to 3, 6, and 8 of Part 2** (which relate to the establishment of water services entities and the roles of the Minister, Crown monitor, and board):
 - (c) **sections 119 and 120** (which relate to the employment of the chief executive and other employees):

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- (d) **sections 147 to 152** (which relate to requirement to prepare and adopt an asset management plan and a funding and pricing plan):
- (e) **section 206** (which contains regulation-making powers):
- (f) **section 214** (which authorises local authorities, during a transition period, to defer reviews of water services bylaws): 5
- (g) **Schedule 1** (which contains transitional, savings, and related provisions).
- (2) The rest of this Act comes into force—
- (a) on a date set by the Governor-General by Order in Council; or
- (b) to the extent not brought into force earlier, on **1 July 2024**. 10
- (3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Part 1**Preliminary provisions**

- 3 Purpose** 15
- The purpose of this Act is to—
- (a) establish 4 water services entities to provide water services in New Zealand; and
- (b) provide for their objectives, functions, service delivery areas, and governance arrangements. 20
- 4 Te Tiriti o Waitangi/the Treaty of Waitangi and Te Mana o Te Wai**
- (1) All persons performing or exercising duties, functions, or powers under this Act—
- (a) must give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and 25
- (b) must give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to those duties, functions, or powers.
- (2) **Subsection (1)(a)** is not limited by **subsection (1)(b)** or **section 5**.
- (3) This section is subject to **section 9** (Treaty settlement obligations prevail).
- 5 Provisions on Te Tiriti o Waitangi/the Treaty of Waitangi** 30
- In order to recognise and respect the Crown's responsibility to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi, this Act provides,—
- (a) in **section 4(1)(a)**, that all persons performing or exercising duties, functions, or powers under this Act must give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi: 35

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- (b) in **section 4(1)(b)**, that all persons performing or exercising duties, functions, or powers under this Act must give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to those duties, functions, or powers:
 - (c) in **section 13**, that the operating principles of a water services entity include— 5
 - (i) partnering and engaging early and meaningfully with Māori; and
 - (ii) giving effect to Treaty settlement obligations to the extent that the obligations apply to the duties and functions of the entity:
 - (d) in **section 27**, that there must be mana whenua representation on each entity’s regional representative group: 10
 - (e) in **sections 38 and 57**, that the board appointment committee of each regional representative group and the board of each entity must include members who, collectively, have knowledge and expertise in relation to— 15
 - (i) the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
 - (ii) perspectives of mana whenua, mātauranga, tikanga, and te ao Māori:
 - (f) in **section 74**, that the board of each water services entity must— 20
 - (i) ensure that the water services entity maintains systems and processes to ensure that, for the purpose of carrying out its functions, it has the capacity and capability to—
 - (A) give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
 - (B) engage with, and understand perspectives of, mana whenua; 25
 and
 - (ii) maintain systems and processes for the continuing education of all board members to gain knowledge of, and experience and expertise in relation to, the principles of te Tiriti o Waitangi/the Treaty of Waitangi: 30
 - (g) in **section 141**, that the board of each water services entity must respond to Te Mana o te Wai statements for water services issued to the entity by mana whenua.
- 6 Interpretation** 35
- In this Act, unless the context otherwise requires,—
- board** means members of the board of a water services entity who number not less than the required quorum acting together as a board
- board appointment committee** means a committee of a regional representative group appointed under **section 38**

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board member—

- (a) means a member of the board appointed under **section 57**; but
- (b) for the purposes of **sections 122 to 126**, has the meaning set out in **section 121**

chairperson,—

5

- (a) of a regional representative group, means—
 - (i) its chairperson (*see* **section 41**); or
 - (ii) if **section 42(2)(c)** applies, both of its co-chairpersons:
- (b) of a regional advisory panel, means—
 - (i) its chairperson (*see* **section 53**); or
 - (ii) if **section 54(2)(c)** applies, both of its co-chairpersons

10

claimant group, in relation to the definitions of **Treaty settlement Act** and **Treaty settlement deed**, means a group of Māori with Treaty of Waitangi claims against the Crown, whether or not those claims have been lodged with, or heard by, the Waitangi Tribunal under the Treaty of Waitangi Act 1975

15

committee means,—

- (a) in relation to a regional advisory panel, a committee or subcommittee appointed under the constitution; and
- (b) in relation to a regional representative group, a committee or subcommittee appointed under the constitution (including the board appointment committee); and
- (c) in relation to a board, a committee or subcommittee appointed under the constitution

20

constitution means, in relation to a water services entity,—

- (a) the entity's first constitution as provided for in **section 94**; or
- (b) if the regional representative group has amended the entity's first constitution or adopted a new constitution under **section 95 or 96**, the constitution as adopted or amended under that section

25

department means the department for the time being responsible for the administration of this Act

30

deputy chairperson,—

- (a) of a regional representative group, means—
 - (i) its deputy chairperson (*see* **section 41**); or
 - (ii) if **section 42(2)(c)** applies, both of its deputy co-chairpersons:
- (b) of a regional advisory panel, means—
 - (i) its deputy chairperson (*see* **section 53**); or
 - (ii) if **section 54(2)(d)** applies, both of its deputy co-chairpersons

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13

- drinking water** has the meaning set out in section 6 of the Water Services Act 2021
- employee**, in relation to a water services entity,—
- (a) includes the chief executive of the entity other than for the process of determining terms and conditions under **section 119**; and 5
 - (b) for the purposes of **sections 122 to 126**, has the meaning set out in **section 121**
- financial year** means the 12 months ending on the close of 30 June 2022
- funding and pricing plan** means the funding and pricing plan prepared by the board under **section 150** 10
- generally accepted accounting practice** has the meaning set out in section 8 of the Financial Reporting Act 2013
- Government policy statement** means a Government policy statement on water services issued by the Minister under **section 129**
- local authority** has the meaning set out in section 5 of the Local Government Act 2002 15
- mana whenua**, for an identified area, means the iwi or hapū holding and exercising, in accordance with tikanga, authority or other customary rights or interests in that area
- mana whenua panel member** means a mana whenua panel member appointed to a regional advisory panel (*see section 51*) 20
- mana whenua representative** means a mana whenua representative appointed to a regional representative group under **section 33**
- Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act 25
- ministerial appointee** means a person appointed under **subpart 2 of Part 5** as a member of a Crown review team, as a Crown observer, or as a Crown manager
- ministerial body** means a Crown review team, a Crown observer, or a Crown manager appointed under **subpart 2 of Part 5** 30
- monitor** means the department appointed under **section 169**
- natural person act** has the meaning set out in **section 25**
- regional advisory panel** means, in relation to a water services entity, a regional advisory panel established by the constitution 35
- regional advisory panel member** means—
- (a) a territorial authority panel member; or
 - (b) a mana whenua panel member

regional representative means a territorial authority representative or mana whenua representative

regional representative group means, in relation to a water services entity, the regional representative group established for the entity under **section 27**

regulations means regulations made under **section 206** 5

service area means, in relation to a water services entity, the area identified in **Schedule 2** as the service area of the entity

Te Mana o te Wai has the meaning set out in the National Policy Statement for Freshwater Management issued in 2020 under section 52 of the Resource Management Act 1991 and any statement issued under that section that amends or replaces the 2020 statement 10

Te Mana o te Wai statement for water services means a statement provided by mana whenua to a water services entity under **section 140**

territorial authority has the meaning set out in section 5 of the Local Government Act 2002 15

territorial authority owners means, in relation to a water services entity, the territorial authorities listed in the part of **Schedule 2** that relates to the entity

territorial authority panel member means a territorial authority panel member appointed to a regional advisory panel (*see section 50*)

territorial authority representative means a territorial authority representative appointed to a regional representative group under **section 32** 20

Treaty of Waitangi claim means a claim within the meaning of section 6 of the Treaty of Waitangi Act 1975, whether that claim was submitted or not to the Waitangi Tribunal

Treaty settlement Act means— 25

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and
- (b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act 30

Treaty settlement deed means a deed or other agreement—

- (a) that is signed for and on behalf of the Crown by 1 or more Ministers of the Crown and by representatives of a claimant group; and
- (b) that is in settlement of the Treaty of Waitangi claims of the members of that group, or in express anticipation, or on account, of that settlement 35

Treaty settlement obligations means obligations under any of the following:

- (a) Treaty settlement Acts:
- (b) Treaty settlement deeds

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water services means services relating to water supply, wastewater, and storm-water

water services entity or **entity** means a water services entity established under **section 10**

water supply includes— 5

- (a) drinking water supply as defined in section 9 of the Water Services Act 2021; and
- (b) firefighting water supplies as defined in section 6 of the Fire and Emergency New Zealand Act 2017.

7 Transitional, savings, and related provisions 10

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

8 Act binds the Crown

This Act binds the Crown.

9 Treaty settlement obligations prevail 15

If a provision of this Act is inconsistent with a Treaty settlement obligation, the Treaty settlement obligation prevails.

Part 2

Water services entities

Subpart 1—Establishment of water services entities 20

10 Water services entities established

This section establishes the water services entities named in **Parts 1 to 4 of Schedule 2**.

11 Objectives of water services entities

The objectives of each water services entity are to— 25

- (a) deliver water services and related infrastructure in an efficient and financially sustainable manner: 30
- (b) protect and promote public health and the environment:
- (c) support and enable housing and urban development:
- (d) operate in accordance with best commercial and business practices:
- (e) act in the best interests of present and future consumers and communities:

Water Services Entities Bill		Part 2 cl 14
	(f) deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.	
	Compare: 2020 No 52 s 8	
12	Functions of water services entities	
	The functions of each water services entity are—	5
	(a) to provide safe, reliable, and efficient water services in its area; and	
	(b) any functions that are incidental and related to, or consequential on, its functions set out in paragraph (a) .	
13	Operating principles	
	The operating principles of a water services entity for the purposes of section 73 are—	10
	(a) developing and sharing capability and technical expertise with other water services entities and throughout the water services sector; and	
	(b) being innovative in the design and delivery of water services and water services infrastructure; and	15
	(c) being open and transparent, including in relation to—	
	(i) the calculation and setting of prices; and	
	(ii) determining levels of service delivery to communities and consumers; and	
	(iii) reporting on the performance of the water services entity; and	20
	(d) partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can—	
	(i) give effect to Te Mana o te Wai; and	
	(ii) understand, support, and enable the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga; and	25
	(e) giving effect to Treaty settlement obligations to the extent that the obligations apply to the duties and functions of the entity; and	
	(f) partnering and engaging early and meaningfully with territorial authorities and their communities; and	
	(g) co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector.	30
14	Duties to provide funding and information	
	A water services entity must provide—	
	(a) funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to mana whenua, for remuneration, expenses, or costs, in accordance with section 114(1) ; and	35

- (b) information to its regional representative group, or a regional advisory panel for that group, in accordance with **section 114(2)**.

15 Status of water services entities

Body corporate and separate legal entity

- (1) A water services entity— 5
- (a) is a body corporate; and
- (b) is accordingly a legal entity separate from the entity's board members, the entity's employees, the Crown, the entity's regional representative group, and the entity's territorial authority owners; and
- (c) continues in existence until it is dissolved by an Act. 10
- Co-owned in shares by territorial authority owners*
- (2) A water services entity is co-owned—
- (a) by the territorial authorities in its service area; and
- (b) in shares allocated and reallocated under **section 16**.
- (3) Shares allocated or reallocated to, and held by, a territorial authority owner cannot, for any reason, be sold, or otherwise transferred (*see also section 166*). 15
- (4) **Subsection (3)** overrides any legislation to the contrary.
- Not company, council organisation, council-controlled organisation, etc*
- (5) Despite **subsections (1) to (4)**, a water services entity is not— 20
- (a) a company as defined in section 2(1) of the Companies Act 1993; or
- (b) a council organisation or a council-controlled organisation as those terms are defined in section 6 of the Local Government Act 2002; or
- (c) a local government organisation as defined in section 124 of the Local Government Act 2002. 25

Compare: 2004 No 115 s 15

16 Shares in water services entities

- (1) Shares in a water services entity are, on each relevant date, allocated or reallocated to each territorial authority owner based on the population of its district or part district. 30
- (2) The allocation or reallocation is as follows:
- (a) if that population is not more than 50,000 people, 1 share:
- (b) if that population is more than 50,000 people,— 35
- (i) 1 share for every 50,000 people in that district or part district; and
- (ii) 1 share for a group of fewer than 50,000 people, additional to those 1 or more multiples of 50,000 people, in that district or part district.

- (3) In this section,—
- population**, of a district or part district of a territorial authority owner, means that population as determined by the most recent available census of population and dwellings carried out by Statistics New Zealand under the Statistics Act 1975 5
- relevant date**, for an allocation or a reallocation to the territorial authority owners of shares in a water services entity, means a date that is—
- (a) the establishment date (as defined in **clause 1(1) of Schedule 1**); or
 - (b) the date immediately after a 5-year period that started on—
 - (i) the establishment date (as so defined); or 10
 - (ii) a fifth anniversary of the establishment date (as so defined); or
 - (c) a date on which a territorial authority owner, or its district, is created, adjusted, altered, or abolished in or under the Local Government Act 2002 in a way that affects 1 or both of the following:
 - (i) territorial authority owners named in **Parts 1 to 4 of Schedule 2**: 15
 - (ii) their districts or part districts specified in those Parts; or
 - (d) a date on which a divestment proposal (as defined in **clause 1 of Schedule 4**) that affects the water services entities named in **Parts 1 to 4 of Schedule 2**, or their service areas, or both, takes effect. 20
- (4) The monitor must notify every allocation or reallocation, as soon as practicable, to the Minister, the water services entity, and every territorial authority owner.
- (5) The monitor must also make every allocation or reallocation publicly available, as soon as practicable, by publishing a copy on an Internet site maintained by, or on behalf of, the department in a format that is readily accessible. 25
- 17 Core things water services entities can do**
- A water services entity may do anything that is authorised by this Act.
Compare: 2004 No 115 s 16
- 18 Other things water services entities can do** 30
- (1) A water services entity may do anything that a natural person of full age and capacity may do.
 - (2) **Subsection (1)** applies except as provided in this Act or another Act or rule of law. 35
Compare: 2004 No 115 s 17

19 Acts must be for purpose of functions

A water services entity may do an act under **section 17 or 18** only for the purpose of performing its functions.

Compare: 2004 No 115 s 18

Subpart 2—Validity of acts

5

20 Acts in breach of statute are invalid

(1) An act of a water services entity is invalid, unless **section 21** applies, if it is—

- (a) an act that is contrary to, or outside the authority of, this Act; or
- (b) an act that is done otherwise than for the purpose of performing the entity's functions.

10

(2) **Subsection (1)** does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

Compare: 2004 No 115 s 19

21 Some natural person acts protected

(1) **Section 20**, or any rule of law to similar effect, does not prevent a person dealing with a water services entity from enforcing a transaction that is a natural person act unless the person dealing with the entity had, or ought reasonably to have had, knowledge—

15

- (a) of an express restriction in an Act that makes the act contrary to, or outside the authority of, the Act; or
- (b) that the act is done otherwise than for the purpose of performing the entity's functions.

20

(2) A person who relies on **subsection (1)** has the onus of proving that they did not have, and ought not reasonably to have had, the knowledge referred to in that subsection.

25

(3) A water services entity must report, in its annual report, each transaction that the entity has performed in the year to which the report relates that was invalid under **section 20** but enforced in reliance on this section.

(4) This section does not affect any person's other remedies (for example, remedies in contract) under the general law.

30

Compare: 2004 No 115 s 20

22 Limits on protection of natural person acts

Section 21 does not limit—

- (a) **section 84** (which provides for orders to require or restrain acts); or
- (b) the board of a water services entity bringing an action against a board member who voted for or otherwise authorised the act for breach of their individual duties as a board member; or

35

Water Services Entities Bill		Part 2 cl 25
<ul style="list-style-type: none"> (c) a board member who voted for or otherwise authorised the act being removed from office for breach of the individual duties of board members or the collective duties of the board; or (d) an application, in accordance with the law, for judicial review; or (e) section 109 (which allows a water services entity to avoid certain acts done in breach of conflict of interest rules). 	5	
Compare: 2004 No 115 s 21		
23 Acts that are not in best interests of water services entity		
It is irrelevant to the validity of an act that the act is not, or would not be, in the best interests of a water services entity.	10	
Compare: 2004 No 115 s 22		
24 Dealings between water services entities and other persons		
(1) A water services entity may not assert against a person dealing with the entity that—		
(a) a person held out by the water services entity to be a board member, an employee, or an agent of the entity (as the case may be)—	15	
(i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or		
(ii) does not have the authority to exercise a power which, given the nature of the entity, a person appointed to that capacity customarily has authority to exercise; or	20	
(iii) does not have the authority to exercise a power that the entity holds them out as having; or		
(b) a document issued on behalf of the water services entity by a board member, an employee, or an agent of the entity with actual or usual authority to issue the document is not valid or genuine.	25	
(2) However, a water services entity may assert any of those matters if the person dealing with the entity had, or ought reasonably to have had, knowledge of the matter.		
(3) Nothing in this section affects a person’s right to apply, in accordance with the law, for judicial review.	30	
Compare: 2004 No 115 s 23		
25 Interpretation for sections 15 to 24		
In sections 15 to 24 , unless the context otherwise requires,—		
act includes a transfer of property, rights, or interests to or by a water services entity	35	
do includes—		
(a) to do an act; and		

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- (b) to have a capacity; and
 - (c) to have or exercise a power, right, or privilege
- natural person act—**
- (a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and 5
 - (b) includes entry into a contract for, or relating to,—
 - (i) acquisition of financial products or borrowing:
 - (ii) the purchase, leasing, or sale of, or other dealings with, property:
 - (iii) the employment, or engagement of the services, of a person 10
- person dealing—**
- (a) means the other party to the transaction, if the act of the water services entity is a transaction; and
 - (b) includes a person who has acquired property, rights, or interests from a water services entity. 15

Compare: 2004 No 115 s 24

Subpart 3—Minister’s role

- 26 Minister’s role**
- The role of the Minister is to oversee and manage the Crown’s interests in, and relationship with, the water services entities, and— 20
- (a) to issue a Government policy statement on water services under **section 129**:
 - (b) to appoint a Crown review team to perform functions under **section 175** in relation to a water services entity in the circumstances described in that section: 25
 - (c) to appoint a Crown observer to perform functions under **section 177** in relation to a water services entity in the circumstances described in that section:
 - (d) to appoint a Crown manager to perform functions under **section 179** in relation to a water services entity in the circumstances described in that section: 30
 - (e) to perform or exercise any other duties, functions, or powers the Minister has, in respect of the entities, under legislation.

Subpart 4—Regional representative groups

Establishment, role, and decision making of regional representative group

- 27 Establishment and membership of regional representative group**
- (1) This section establishes a regional representative group for each water services entity. 5
 - (2) Each regional representative group consists of no fewer than 12, and no more than 14, regional representatives (*see section 91(a)(i)* and the constitution).
 - (3) Each entity’s regional representative group must include an equal number of—
 - (a) territorial authority representatives; and
 - (b) mana whenua representatives. 10
- 28 Role of regional representative group**
- The role of a water services entity’s regional representative group is—
- (a) appointing and removing the entity’s board members under this Part; and
 - (b) participating in the process of setting the entity’s strategic direction and performance expectations under **subpart 4 of Part 4**; and 15
 - (c) reviewing the performance of the entity under **section 139**; and
 - (d) approving the appointment and remuneration policy prepared by its board appointment committee under **section 40**; and
 - (e) performing or exercising any other duties, functions, or powers it has under legislation. 20
- 29 Collective duty of regional representative group**
- The regional representative group of a water services entity must perform or exercise its duties, functions, and powers under legislation—
- (a) wholly or mostly for the benefit of all communities in the entity’s service area; and 25
 - (b) taking into account the diversity of the communities, and the diversity of the communities’ interests, in that area; and
 - (c) taking into account the interests of future as well as current communities in that area. 30
- Compare: 2002 No 84 s 14
- 30 Decision making by regional representative group**
- Decisions made by a regional representative group of a water services entity must be made—
- (a) by consensus if consensus can be reached by regional representatives taking all reasonably practicable steps to reach consensus in accordance 35

	with a procedure, and within a time frame, specified in the constitution; and	
	(b) in any other case, by 75% of the regional representatives present and voting.	
31	Group may regulate its own procedure if none specified	5
	A regional representative group of a water services entity may regulate its own procedure for a matter if this Act and the constitution do not specify a procedure for the matter.	
	<i>Appointment of regional representatives</i>	
32	Method of appointing territorial authority representatives to regional representative group	10
(1)	The territorial authority owners of a water services entity must appoint territorial authority representatives to the regional representative group of the water services entity in accordance with section 27(2) and (3) and the constitution.	
(2)	The territorial authority owners must appoint only persons who are—	15
(a)	elected members or chief executives of a territorial authority owner of the water services entity; or	
(b)	senior managers of a territorial authority owner that, in the collective opinion of the territorial authority owners, have the appropriate knowledge, skills, and experience to assist the regional representative group in performing its role (<i>see section 28</i>).	20
33	Method of appointing mana whenua representatives to regional representative group	
	Mana whenua whose rohe or takiwā is within the service area of a water services entity must appoint mana whenua representatives to the regional representative group of the water services entity in accordance with section 27(2) and (3) and the constitution.	25
34	Requirements before appointment as regional representative	
(1)	Before a person is appointed as a regional representative, the person must—	
(a)	consent in writing to the appointment; and	30
(b)	certify that they are not disqualified from being a regional representative (<i>see section 97</i>); and	
(c)	disclose the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the water services entity.	35
(2)	A disclosure under subsection (1)(c) must be made,—	

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<ul style="list-style-type: none"> (a) in the case of a proposed appointment as a territorial authority representative, to the entity’s territorial authority owners: (b) in the case of a proposed appointment as a mana whenua representative, to the mana whenua whose rohe or takiwā is within the entity’s service area. 	5	
<p>(3) As soon as practicable after becoming aware of a failure to comply with subsection (1)(c), the regional representative group must notify the monitor.</p> <p>Compare: 2004 No 115 s 31</p>		
35 Validity of regional representatives’ acts		
<p>The acts of a person as a regional representative, chairperson, or deputy chairperson of the regional representative group are valid even though—</p> <ul style="list-style-type: none"> (a) a defect existed in the appointment of the person; or (b) the person is or was disqualified from being a regional representative; or (c) the occasion for the person acting, or for their appointment, had not arisen or had ended. 	10	
		15
		Compare: 2004 No 115 s 34
36 Validity of appointments		
<p>(1) The appointment of a person as a regional representative, chairperson, or deputy chairperson of a regional representative group is not invalid only because a defect existed in the appointment of the person.</p>	20	
<p>(2) This section does not apply to a defect in the qualifications for appointment of a regional representative, chairperson, or deputy chairperson (if any).</p> <p>Compare: 2004 No 115 s 35(1), (2)(a)</p>		
37 Resignation of regional representatives		
<p>(1) A territorial authority representative may resign from office by written notice to the entity’s territorial authority owners signed by the territorial authority representative.</p>	25	
<p>(2) A mana whenua representative may resign from office by written notice to the mana whenua whose rohe or takiwā is within the entity’s service area signed by the mana whenua representative.</p>	30	
<p>(3) A resignation under subsection (1) or (2) is effective—</p> <ul style="list-style-type: none"> (a) on receipt of the notice by the territorial owners or mana whenua (as applicable); or (b) at any later time specified in the notice. 	35	
		Compare: 2004 No 115 s 44

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Board appointment committee

- 38 Regional representative group must appoint board appointment committee**
- (1) Each regional representative group must appoint a board appointment committee. 5
- (2) The regional representative group must appoint members to the board appointment committee who, collectively, have knowledge of, and experience and expertise in relation to,—
- (a) performance monitoring and governance; and
- (b) network infrastructure industries; and 10
- (c) the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
- (d) perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.
- (3) The regional representative group must not appoint a person as a member of the board appointment committee unless,—
- (a) before appointment, the person discloses to the regional representative group the details of any interest the person may have if they were a member of that committee; and 15
- (b) the person is a regional representative.
- 39 Functions of board appointment committee**
- The functions of the board appointment committee are— 20
- (a) to appoint and remove members of the board of a water services entity; and
- (b) to prepare and maintain an appointment and remuneration policy for the board; and
- (c) to perform or exercise any of the regional representative group’s functions and powers that are delegated to the committee in relation to appointing and removing board members. 25
- 40 Board appointment committee must prepare board appointment and remuneration policy**
- (1) The board appointment committee must prepare and maintain an appointment and remuneration policy that provides for— 30
- (a) the collective or individual experience, qualifications, skills, or expertise required of members of the water services entity’s board in addition to those required by **section 63(2)**; and
- (b) a remuneration and expenses framework for members of the entity’s board. 35
- (2) The regional representative group must—

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- (a) review the policy prepared by the board appointment committee; and
- (b) if satisfied with the policy, approve it.

Chairperson and deputy chairperson

41 Appointment of chairperson and deputy chairperson

- (1) Each regional representative group must elect or appoint, in accordance with the constitution (*see section 91(a)(x)*),— 5
 - (a) 1 of its regional representatives as chairperson of the group; and
 - (b) 1 of its regional representatives as deputy chairperson of the group.
- (2) However, this section does not apply if the constitution provides that the group has co-chairpersons and deputy co-chairpersons, in accordance with **section 42.** 10

42 Co-chairpersons and deputy co-chairpersons

- (1) The constitution may provide that a regional representative group must elect or appoint, in accordance with the constitution (*see section 91(a)(x)*),— 15
 - (a) 2 of its regional representatives as co-chairpersons of the group; and
 - (b) 2 of its regional representatives as deputy co-chairpersons of the group.
- (2) If the constitution provides for, and requires, a regional representative group to elect or appoint co-chairpersons and deputy co-chairpersons of the group,—
 - (a) 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the group’s territorial authority representatives; and 20
 - (b) 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the group’s mana whenua representatives; and
 - (c) references in legislation, other than this section, to the group’s chairperson are taken to be references to both of its co-chairpersons; and
 - (d) references in legislation, other than this section, to the group’s deputy chairperson are taken to be references to both of its deputy co-chairpersons. 25

Disputes

43 Disputes between regional representatives

- (1) This section applies if a dispute arises between regional representatives on a matter that they are required under this Act to work together on, jointly develop, or agree. 30
- (2) The regional representatives—
 - (a) may by agreement undertake a binding process of dispute resolution; but
 - (b) if they do not reach agreement on a binding process, must undertake a non-binding process of dispute resolution. 35

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- (3) Whether the regional representatives choose a binding process or a non-binding process, each regional representative must—
- (a) jointly appoint an arbitrator or a mediator; and
 - (b) meet that regional representative's own costs of the process (so they are not met by the represented territorial authority or mana whenua). 5
- (4) If the dispute remains unresolved after a non-binding process has been undertaken, the regional representatives may individually or jointly seek the assistance of the Minister.
- (5) The Minister, with a view to assisting the regional representatives to resolve the dispute, may— 10
- (a) appoint, and meet the costs of, a Crown facilitator;
 - (b) direct the regional representatives to use a particular alternative dispute resolution process for that purpose.
- Compare: 1991 No 69 s 58S

Official information

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44 Application of Local Government Official Information and Meetings Act 1987 to regional representative group

- (1) Part 7 of the Local Government Official Information and Meetings Act 1987 applies to the regional representative group of a water services entity.
- (2) This section does not limit— 20
- (a) **section 55** (which relates to the application of Part 7 of that Act to a regional advisory panel for the group); or
 - (b) **section 61** (which relates to the application of Parts 1 to 6 of that Act to the water services entity).

Subpart 5—Regional advisory panels

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*Establishment, role, and decision making of regional advisory panels***45 Establishment and membership of regional advisory panels**

- (1) The constitution of a water services entity may establish 1 or more regional advisory panels.
- (2) Each regional advisory panel must include an equal number of— 30
- (a) territorial authority panel members; and
 - (b) mana whenua panel members.

46 Role of regional advisory panel

The role of a regional advisory panel is to provide advice to a regional representative group about that group's performance or exercise of its duties, func- 35

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tions, or powers (*see* **section 28**) in respect of, or otherwise affecting, a particular geographic area—

- (a) in the service area of the water services entity; and
- (b) for which the panel is responsible under the constitution (*see* **section 91(f)(ii)**).

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47 Collective duty of regional advisory panel

A regional advisory panel for a regional representative group of a water services entity must perform or exercise its duties, functions, and powers under legislation—

- (a) wholly or mostly for the benefit of all communities in the entity’s service area; and
- (b) taking into account the diversity of the communities, and the diversity of the communities’ interests, in that area; and
- (c) taking into account the interests of future as well as current communities in that area.

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Compare: 2002 No 84 s 14

48 Decision making by regional advisory panel

Decisions made by a regional advisory panel for a regional representative group of a water services entity must be made—

- (a) by consensus if consensus can be reached by regional advisory panel members taking all reasonably practicable steps to reach consensus in accordance with a procedure, and within a time frame, specified in the constitution; and
- (b) in any other case, by 75% of the regional advisory panel members present and voting.

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49 Panel may regulate its own procedure if none specified

A regional advisory panel for a regional representative group of a water services entity may regulate its own procedure for a matter if this Act and the constitution do not specify a procedure for the matter.

Appointment of regional advisory panel members

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50 Method of appointing territorial authority panel members

The territorial authority owners of a water services entity may appoint territorial authority panel members to a regional advisory panel in accordance with **section 45(2)** and the constitution.

51 Method of appointing mana whenua panel members

Mana whenua whose rohe or takiwā is within the service area of a water services entity may appoint mana whenua representatives to a regional advisory panel in accordance with **section 45(2)** and the constitution.

52 Requirements before appointment as regional advisory panel member 5

- (1) Before a person is appointed as a regional advisory panel member, the person must—
- (a) consent in writing to the appointment; and
 - (b) certify that they are not disqualified from being a regional representative (*see section 97*); and 10
 - (c) disclose the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the water services entity.
- (2) A disclosure under **subsection (1)(c)** must be made,—
- (a) in the case of a proposed appointment as a territorial authority panel member, to the entity's territorial authority owners; 15
 - (b) in the case of a proposed appointment as a mana whenua panel member, to the mana whenua whose rohe or takiwā is within the entity's service area.
- (3) As soon as practicable after becoming aware of a failure to comply with **subsection (1)(c)**, the regional advisory panel must notify the monitor. 20

Compare: 2004 No 115 s 31

*Chairperson and deputy chairperson***53 Appointment of chairperson and deputy chairperson**

- (1) Each regional advisory panel must elect or appoint, in accordance with the constitution (*see section 91(f)(x)*),— 25
- (a) 1 of its regional advisory panel members as chairperson of the panel; and
 - (b) 1 of its regional advisory panel members as deputy chairperson of the panel.
- (2) However, this section does not apply if the constitution provides for the panel to have co-chairpersons and deputy co-chairpersons, in accordance with **section 54**. 30

54 Co-chairpersons and deputy co-chairpersons

- (1) The constitution may provide that a regional advisory panel must elect or appoint, in accordance with the constitution (*see section 91(f)(x)*),— 35
- (a) 2 of its regional advisory panel members as co-chairpersons of the panel; and

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- (b) 2 of its regional advisory panel members as deputy co-chairpersons of the panel.
- (2) If the constitution provides for, and requires, a regional advisory panel to elect or appoint co-chairpersons and deputy co-chairpersons of the panel,—
 - (a) 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the panel’s territorial authority panel members; and 5
 - (b) 1 co-chairperson and 1 deputy co-chairperson must be elected or appointed by the panel’s mana whenua panel members; and
 - (c) references in legislation, other than this section, to the panel’s chairperson are taken to be references to both of its co-chairpersons; and 10
 - (d) references in legislation, other than this section, to the panel’s deputy chairperson are taken to be references to both of its deputy co-chairpersons.

Official information

55 Application of Local Government Official Information and Meetings Act 1987 to regional representative panel 15

- (1) Part 7 of the Local Government Official Information and Meetings Act 1987 applies to a regional advisory panel for the regional representative group of a water services entity.
- (2) This section does not limit— 20
 - (a) **section 44** (which relates to the application of Part 7 of that Act to the regional representative group); or
 - (b) **section 61** (which relates to the application of Parts 1 to 6 of that Act to the water services entity).

Subpart 6—Boards of water services entities 25

Role, membership, and accountability

56 Board’s role

- (1) The board is the governing body of a water services entity, with the authority, in the entity’s name, to exercise the powers and perform the functions of the entity. 30
- (2) All decisions relating to the operation of a water services entity must be made by, or under the authority of, the board in accordance with this Act.
Compare: 2004 No 115 s 25

57 Membership of board

- (1) The board of a water services entity consists of no fewer than 6, and no more than 10, members. 35

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- (2) The board appointment committee must appoint board members who, collectively, have knowledge of, and experience and expertise in relation to,—
- (a) performance monitoring and governance; and
 - (b) network infrastructure industries; and
 - (c) the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and 5
 - (d) perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.

58 Chairperson and deputy chairperson

The board of a water services entity must have a chairperson and a deputy chairperson appointed by the regional representative group, or by its board appointment committee, in accordance with the constitution. 10

59 Accountability of board members to regional representative group

- (1) Board members must comply with—
- (a) the board's collective duties (*see sections 73 and 74*); and
 - (b) their individual duties as board members (*see sections 75 to 79*).
- (2) Board members of an entity are accountable to the entity's regional representative group for performing their duties as board members. 15

Compare: 2004 No 115 s 26

*Obligation to hold specified meetings in public***60 Board must hold 2 public meetings each financial year**

- (1) The board of a water services entity must hold at least 2 meetings during each financial year that are open to members of the public (the **public board meetings**). 20
- (2) At least 1 of the public board meetings must be held after 1 July each year for the purpose of considering the entity's performance under its statement of intent in the previous financial year. 25
- (3) The board must—
- (a) give public notice of the details of the public meeting at least 1 month before the meeting; and
 - (b) allocate a reasonable amount of time for members of the public attending a public board meeting to address the board in relation to the subject matter of the meeting. 30
- (4) To the extent consistent with the requirements of this section, a public board meeting is subject to the rules and requirements that normally apply to the meetings of the board.
- (5) This section prevails in the event of any conflict between this section and the rules and requirements that normally apply to meetings of the board. 35

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Official information

- 61 Application of Local Government Official Information and Meetings Act 1987 to water services entity**
- (1) Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 apply to a water services entity as if the entity were a local authority. 5
- (2) This section does not limit—
- (a) **section 44** (which relates to the application of Part 7 of that Act to the entity’s regional representative group); or
- (b) **section 55** (which relates to the application of Part 7 of that Act to a regional advisory panel for that regional representative group). 10
- Appointment, removal, and conditions of board members*
- 62 Method of appointing board members**
- (1) Board members are appointed by a board appointment committee.
- (2) The appointment must be made by written notice to the board member (with a copy to the water services entity). 15
- (3) The notice must—
- (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the board member receives the notice; and
- (b) state the term of the appointment. 20
- Compare: 2004 No 115 s 28(2)
- 63 Criteria for appointments by board appointment committee**
- (1) A board appointment committee must appoint board members under **section 62** in accordance with the criteria for board members and the process for appointment under this Act (including the appointment and remuneration policy (if any) approved by the regional representative group under **section 40**). 25
- (2) The board appointment committee may only appoint a person who, in the committee’s opinion, has the appropriate knowledge, skills, and experience to assist the water services entity to achieve its objectives and perform its functions.
- (3) In making an appointment, the board appointment committee must take into account the desirability of promoting diversity in the membership of the board. 30
- Compare: 2004 No 115 s 29
- 64 Requirements before appointment as board member**
- (1) Before a person is appointed as a board member of a water services entity, the person must—
- (a) consent in writing to the appointment; and 35

- (b) certify that they are not disqualified from being a board member (*see section 97*); and
 - (c) disclose to the chairperson of the entity’s regional representative group the nature and extent (including monetary value, if quantifiable) of all interests that the person has at that time, or is likely to have, in matters relating to the entity. 5
- (2) The board of a water services entity must notify the chairperson of the entity’s regional representative group of a failure to comply with **subsection (1)(c)** as soon as practicable after becoming aware of the failure. 10
- Compare: 2004 No 115 s 31
- 65 Term of office of board members**
- (1) A board member holds office for 5 years or any shorter period stated in the notice of appointment.
 - (2) A board member may be reappointed.
 - (3) A board member continues in office despite the expiry of their term of office until— 15
 - (a) the board member is reappointed; or
 - (b) the board member’s successor is appointed; or
 - (c) the board appointment committee informs the board member by written notice (with a copy to the water services entity) that the board member is not to be reappointed and no successor is to be appointed at that time. 20
 - (4) This section is subject to **section 72**. 25
- Compare: 2004 No 115 s 32
- 66 Validity of board members’ acts**
- The acts of a person as a member, chairperson, or deputy chairperson of the board are valid even if— 25
- (a) a defect existed in the appointment of the person; or
 - (b) the person is or was disqualified from being a board member; or
 - (c) the occasion for the person acting, or for their appointment, had not arisen or had ended. 30
- Compare: 2004 No 115 s 34
- 67 Validity of appointments of board members**
- (1) The appointment of a person as a member, chairperson, or deputy chairperson of the board is not invalid only because a defect existed in the appointment of the person. 35
 - (2) This section does not apply to a defect in the qualifications for appointment of a member, chairperson, or deputy chairperson (if any).
- Compare: 2004 No 115 s 35(1) and (2)(a)

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68 Removal of board members

- (1) The board appointment committee may, at any time for just cause, remove a board member from office.
- (2) The removal must be made by written notice to the board member (with a copy to the water services entity). 5
- (3) The notice must state—
- (a) the date on which the removal takes effect which must not be earlier than the date on which the board member receives the notice; and
- (b) the reasons for the removal.
- (4) In this section, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the board or the individual duties of members (depending on the seriousness of the breach). 10
- Compare: 2004 No 115 ss 37, 39(1)–(3), 40

69 Process for removal

- The board appointment committee may remove a board member with as little formality and technicality, and as much expedition, as is permitted by— 15
- (a) the principles of natural justice; and
- (b) a proper consideration of the matter. 20
- Compare: 2004 No 115 s 41(a) and (b)

70 No compensation for board member's loss of office

A board member is not entitled to any compensation or other payment or benefit relating to them ceasing, for any reason, to hold office as a board member.

Compare: 2004 No 115 s 43

71 Resignation of board members

- (1) A board member may resign from office by giving written notice to the board appointment committee (with a copy to the water services entity) signed by the board member. 25
- (2) The resignation is effective on receipt of the notice by the board appointment committee or at any later time specified in the notice. 30
- Compare: 2004 No 115 s 44

72 Board members ceasing to hold office

- A board member ceases to hold office if the board member—
- (a) resigns in accordance with **section 71**; or
- (b) is removed from office in accordance with **section 68**; or 35
- (c) becomes disqualified from being a member under **section 97(2)**.
- Compare: 2004 No 115 s 45

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Collective duties of board

- 73 Board must act consistently with objectives, functions, operating principles, and statement of intent** 5
- The board of a water services entity must ensure that the entity acts in a manner consistent with its objectives, functions, operating principles, and current statement of intent.
- Compare: 2004 No 115 s 49
- 74 Collective duties relating to te Tiriti o Waitangi/the Treaty of Waitangi**
- The board of a water services entity must—
- (a) ensure that the entity maintains systems and processes to ensure that, for the purpose of carrying out its functions, the entity has the capacity and capability to— 10
- (i) give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and
- (ii) engage with, and understand perspectives of, mana whenua; and 15
- (b) maintain systems and processes for the continuing education of all board members to gain knowledge of, and experience and expertise in relation to, the principles of te Tiriti o Waitangi/the Treaty of Waitangi.

Individual duties of board members

- 75 Duty of board members to comply with relevant legislation** 20
- A board member of a water services entity must not contravene, or cause the contravention of, or agree to the entity contravening, this Act or the Water Services Act 2021.
- Compare: 2004 No 115 s 53
- 76 Duty of board members to act with honesty and integrity** 25
- A board member of a water services entity must, when acting as a board member, act with honesty and integrity.
- Compare: 2004 No 115 s 54
- 77 Duty of board members to act in good faith and not at expense of water services entity's interests** 30
- A board member of a water services entity must, when acting as a board member, act in good faith and not pursue their own interests at the expense of the entity's interests.
- Compare: 2004 No 115 s 55

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78 Duty of board members to act with reasonable care, diligence, and skill

A board member of a water services entity must, when acting as a board member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

- (a) the nature of the entity; and 5
- (b) the nature of the action.

Compare: 2004 No 115 s 56

79 Duty not to disclose information

A board member of a water services entity who has information in their capacity as a board member that would not otherwise be available to them must not disclose that information to any person or make use of, or act on, that information, except— 10

- (a) in the performance of the entity's functions; or
- (b) as required or permitted by law; or
- (c) in complying with the requirements for board members to disclose interests. 15

Compare: 2004 No 115 s 57(1)

*Effect of non-compliance with duties***80 Accountability for collective board duties**

- (1) The duties of the board and board members of a water services entity under **sections 73 and 74 (collective duties)** are duties owed to the entity's regional representative group. 20
- (2) If a board does not comply with any of its collective duties, the board appointment committee may remove all or any of the board members from office.
- (3) However, **subsection (2)** does not apply to a board member if— 25
 - (a) the board member did not know, and could not reasonably be expected to know, that the duty was to be or was being breached; or
 - (b) the board member took all reasonable steps in the circumstances to prevent the duty being breached.
- (4) The taking of reasonable steps does not require a board member to apply to a court for an order under **section 84**. 30
- (5) This section and **section 81** do not affect any other ground for removing a board member from office.

Compare: 2004 No 115 s 58(1)–(4), (7)

81 Board member's liability for breach of collective duty 35

- (1) A board member of a water services entity is not liable for a breach of a collective duty under this Act.

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- (2) However, **subsection (1)** does not limit **section 80(2)**.
 - (3) **Subsection (1)** does not affect—
 - (a) anything else for which the board member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or 5
 - (b) the right to apply for a court order under **section 84**.

Compare: 2004 No 115 s 58(5), (6), (8)
- 82 Accountability of board members for individual duties**
- (1) The duties of the board members of a water services entity under **sections 75 to 79 (individual duties)** are duties owed to the entity and the entity’s regional representative group. 10
 - (2) If a board member does not comply with their individual duties, that board member may be removed from office (subject to any requirements in **sections 68 and 69** that are applicable to the board member).
 - (3) A water services entity may bring an action against a board member for breach of any individual duty. 15
 - (4) This section and **section 83** do not affect any other ground for removing a board member from office.

Compare: 2004 No 115 s 59(1)–(3), (5)
- 83 Board member’s liability for breach of individual duty** 20
- (1) A board member of a water services entity is not liable for a breach of an individual duty under this Act except as provided in **section 82(2) and (3)**.
 - (2) **Subsection (1)**—
 - (a) does not affect anything else for which the board member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach; or 25
 - (b) the right to apply for a court order under **section 84**.

Compare: 2004 No 115 s 59(4), (6)
- 84 Court actions requiring or restraining board or board members**
- (1) The Minister or a regional representative may apply to a court for an order— 30
 - (a) restraining the board or a board member of a water services entity from engaging in conduct that would contravene any requirement under this Act; and
 - (b) granting any consequential relief.
 - (2) The court may make an order on the application subject to the following rules: 35
 - (a) an order may be made only if it is just and equitable to do so:
 - (b) no order may be made in respect of conduct that has been completed.

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- (3) The court may, at any time before the final determination of an application under this section, make as an interim order any order that it is empowered to make as a final order.
- (4) This section is subject to **section 115**.
Compare: 2004 No 115 s 60(1), (3)–(5) 5

Delegation

85 Board’s ability to delegate

- (1) The board of a water services entity may delegate any of the functions or powers of the entity or the board, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons: 10
 - (a) a board member:
 - (b) the chief executive or any other employee of the entity:
 - (c) a committee:
 - (d) any class of persons comprising any of the persons listed in **paragraphs (a) to (c)**. 15
- (2) **Subsection (1)** does not apply to any functions or powers specified in this Act as not being capable of delegation.
- (3) The board must not delegate the general power of delegation.
Compare: 2004 No 115 s 73

86 Powers of delegate 20

- (1) A delegate to whom any functions or powers of a water services entity or its board are delegated—
 - (a) may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the entity or the board; 25
and
 - (b) may delegate the function or power only—
 - (i) with the prior written consent of the board; and
 - (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate. 30
 - (2) A delegate who purports to perform a function or exercise a power under a delegation—
 - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and
 - (b) must produce evidence of their authority to do so, if reasonably requested to do so. 35
- Compare: 2004 No 115 s 74

87	Effect of delegation on water services entity or board	
	No delegation in accordance with this Act—	
	(a) affects or prevents the performance of any function or the exercise of any power by a water services entity or its board; or	
	(b) affects the responsibility of the board for the actions of any delegate acting under the delegation; or	5
	(c) is affected by any change in the membership of the board, or of any committee or class of persons, or by any change in a chief executive or other employee.	
	Compare: 2004 No 115 s 75	10
88	Revocations of delegations	
(1)	A delegation under section 85 may be revoked at will by—	
	(a) resolution of the board and written notice to the delegate; or	
	(b) any other method provided for in the delegation.	
(2)	A delegation under section 86(1)(b) may be revoked at will by written notice of the delegate to the subdelegate.	15
	Compare: 2004 No 115 s 76	
	<i>Board procedure</i>	
89	Board may regulate its own procedure if none specified	
	The board may regulate its own procedure for a matter if this Act and the constitution do not specify a procedure for the matter.	20
	Subpart 7—Constitutions of water services entities	
90	Entity must have constitution	
	Each water services entity must have a constitution that complies with the requirements of this Act.	25
91	What constitution must contain	
	The constitution of a water services entity must provide for the following matters:	
	<i>Composition of regional representative group</i>	
(a)	the composition of the regional representative group, including—	30
	(i) whether the group consists of 12 or 14 regional representatives (<i>see section 27(2) and (3)</i>); and	
	(ii) the procedures for the appointment of territorial authority representatives to the group (<i>see section 32</i>); and	

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- (iii) the procedures for the appointment of mana whenua representatives to the group (*see* **section 33**); and
 - (iv) the requirements before appointment to the group, including disclosure of interests (*see* **section 34**); and
 - (v) the procedures for the appointment of regional representatives to the board appointment committee (*see* **section 38**); and 5
 - (vi) the composition of any other committees; and
 - (vii) the term of office of regional representatives; and
 - (viii) how a person ceases to be a regional representative; and
 - (ix) the process and grounds for removing regional representatives; and 10
 - (x) how the group’s chairperson and deputy chairperson are elected or appointed or, if the constitution provides that the group has co-chairpersons and deputy co-chairpersons, how they are elected or appointed (*see* **sections 41 and 42**): 15
- Procedures for regional representative group*
- (b) how the group will perform or exercise its functions, powers, and duties:
 - (c) arrangements and requirements for meetings of the group and of committees (including the board appointment committee) of the group, including— 20
 - (i) the intervals between meetings; and
 - (ii) the information that must be presented at meetings; and
 - (iii) when minutes are required to be kept; and
 - (iv) the manner of calling meetings; and
 - (v) the time within which, and manner in which, notices of meetings (including public meetings) and notices of motion must be notified; and 25
 - (vi) the quorum and procedure for meetings, including decision-making procedures:
 - (d) if the constitution provides for the group to have co-chairpersons and deputy co-chairpersons (*see* **section 42**),— 30
 - (i) the procedure, for a regional representative to disclose details of an interest, required for the purposes of **section 102(4)(c)**:
 - (ii) the procedure, for the board to notify a failure by a board member to comply with **section 101 or 105(1)**, and the acts affected, required for the purposes of **section 106(1)(b)**: 35
 - (iii) the procedure, for giving a permission for 1 or more regional representatives, or regional representatives with a specified class of

interest, to do anything otherwise prohibited by **section 105**, required for the purposes of **section 107(5)**:

(e) procedures and time frames for making decisions by consensus (*see section 30*):

Composition of regional advisory panel 5

(f) the composition of a regional advisory panel, including—

(i) the total number of regional advisory panel members (*see section 45(2)*); and

(ii) the particular geographic area for which the panel is responsible (*see section 46*); and 10

(iii) the procedures for the appointment of territorial authority panel members to the panel (*see section 50*); and

(iv) the procedures for the appointment of mana whenua panel members to the panel (*see section 51*); and

(v) the requirements before appointment as a regional advisory panel member, including disclosure of interests (*see section 52*); and 15

(vi) the composition of any committees; and

(vii) the term of office of regional advisory panel members; and

(viii) how a person ceases to be a regional advisory panel member; and

(ix) the process and grounds for removing regional advisory panel members; and 20

(x) how the panel’s chairperson and deputy chairperson are elected or appointed or, if the constitution provides that the panel has co-chairpersons and deputy co-chairpersons, how they are elected or appointed (*see sections 53 and 54*): 25

Procedures for regional advisory panel

(g) arrangements and requirements for meetings of a regional advisory panel and of committees of the panel, including—

(i) the intervals between meetings; and

(ii) the information that must be presented at meetings; and 30

(iii) when minutes are required to be kept; and

(iv) the manner of calling meetings; and

(v) the time within which, and manner in which, notices of meetings (including public meetings) and notices of motion must be notified; and 35

(vi) the quorum and procedure for meetings, including decision-making procedures:

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- (h) if the constitution provides for the panel to have co-chairpersons and deputy co-chairpersons (*see section 54*),—
 - (i) the procedure, for a regional advisory panel member to disclose details of an interest, required for the purposes of **section 103(4)(c)**: 5
 - (ii) the procedure, for giving a permission for 1 or more regional advisory panel members, or regional advisory panel members with a specified class of interest, to do anything otherwise prohibited by **section 105**, required for the purposes of **section 107(8)**: 10
- (i) procedures and time frames for making decisions by consensus (*see section 48*):

Procedures for performing duty to provide funding for specified remuneration, expenses, or costs
- (j) procedures for the entity to perform its duty under **section 114(1)** to provide funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to mana whenua, for the following remuneration, expenses, or costs: 15
 - (i) remuneration for, and reasonable expenses of,— 20
 - (A) regional representatives:
 - (B) regional advisory panel members:
 - (ii) reasonable administrative costs of each meeting of that group or panel:
 - (iii) reasonable costs of that group or panel performing or exercising its duties, functions, or powers under this Act or the constitution: 25
 - (iv) reasonable costs related to that group or panel establishing or operating committees:
 - (v) reasonable costs of territorial authority owners and mana whenua related to participating in appointment procedures for that group or panel: 30
 - (vi) reasonable costs for that group or panel obtaining advice to enable it to perform or exercise effectively its duties, functions, or powers under this Act or the constitution:
 - (vii) other reasonable costs related to that group or panel performing or exercising its duties, functions, or powers under this Act or the constitution: 35
 - (viii) any unforeseen costs incurred with the prior approval of the board of the entity:

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Composition of board

- (k) the composition of the board, including—
 - (i) the procedures for the appointment of board members by the board appointment committee (*see sections 62 and 63*); and
 - (ii) the requirements before appointment to the board, including disclosure of interests (*see section 64*); and 5
 - (iii) the term of office of board members (*see section 65*); and
 - (iv) how a person ceases to be a board member (*see section 72*); and
 - (v) how the chairperson and deputy chairperson of the board will be appointed and their term of office: 10

Procedures for board

- (l) the procedures for the board, including—
 - (i) the intervals between meetings; and
 - (ii) the information that must be presented at meetings; and
 - (iii) when minutes are required to be kept; and 15
 - (iv) the manner of calling meetings; and
 - (v) the time within which, and manner in which, notices of meetings (including public meetings) and notices of motion must be notified; and
 - (vi) the quorum and procedure for meetings: 20
- (m) decision-making procedures, including any requirements relating to voting or consensus decision-making:

Procedures for dispute resolution

- (n) procedures for dispute resolution (in addition to those in **section 43(4) and (5)**), including procedures for resolving— 25
 - (i) disputes within a regional representative group (that is, between regional representatives); and
 - (ii) disputes between the regional representative group and the board; and
 - (iii) disputes between parties that are able to appoint regional representatives and that are disputes about appointment processes: 30

Procedures for reviewing, amending, or replacing the constitution

- (o) procedures for reviewing, amending, or replacing the constitution (*see sections 95 and 96*).

92 Constitution may contain other matters not inconsistent with Act 35

- (1) The constitution of a water services entity may provide for any other matters that are not inconsistent with this Act or any other legislation.

- (2) In particular, the constitution may provide for—
 - (a) collective or individual experience, expertise, qualifications, or skills required of a regional representative group, its committees, or its regional representatives (in addition to those required by **section 38(2)** for members of a board appointment committee): 5
 - (b) collective or individual experience, expertise, qualifications, or skills required of any regional advisory panel, its committees, or its members:
 - (c) collective experience, qualifications, skills or expertise required of the board (in addition to those required by **section 57(2)** for board members): 10
 - (d) additional reporting and monitoring requirements imposed on the board by the regional representative group, over and above requirements in the statement of strategic and performance expectations, statement of intent, annual report, asset management plan, funding and pricing plan, and infrastructure strategy: 15
 - (e) reviews, done by the regional representative group, of the board’s performance, including the intervals between those reviews.
- (3) **Subsection (2)** does not limit **subsection (1)**.

93 Effect of constitution

- (1) A constitution of a water services entity has no effect to the extent that it contravenes, or is inconsistent with, this Act or any other legislation. 20
- (2) The constitution cannot—
 - (a) delegate or transfer duties, functions, or powers imposed or conferred by this Act:
 - (b) confer decision-making rights weighted by shares held by a territorial authority owner for any matter: 25
 - (c) confer on a territorial authority owner (in its capacity as a holder of shares in a water services entity, or any other capacity), a regional representative group, or a regional representative any right, title, or interest (legal or equitable) in the assets, security, debts, or liabilities of a water services entity (*see also sections 15(3) and 166(1)(a)*): 30
 - (d) confer a power of direction contrary to **section 115**.
- (3) The constitution is binding, in accordance with its terms, as between—
 - (a) the regional representative group, its regional representatives, and its committees; and 35
 - (b) the regional representative group, and the territorial authority owners and mana whenua who, under this Act (*see sections 32 and 33*) and the constitution, appoint and remove regional representatives; and
 - (c) any regional advisory panel, its members, and its committees; and

- (d) the board, its members, and its committees.
- (4) **Subsection (2)** is subject to the rest of this Act (for example, to the board’s ability under **sections 85 to 88** to delegate the functions or powers of the entity or the board).
- 94 First constitution of water services entity** 5
- (1) The first constitution of a water services entity is the model constitution for the entity set out in regulations.
- (2) But, when that model constitution is first amended or replaced under **section 95 or 96**,—
 - (a) that model constitution as so amended or replaced must set out all provisions of the entity’s constitution (including any unchanged from that model constitution); and 10
 - (b) the regulations setting out the model constitution for the entity are revoked.
- 95 Process for amending or replacing constitution** 15
- (1) A regional representative group may propose to amend the water services entity’s constitution or adopt a new constitution for the entity in the manner provided in this section.
- (2) A proposed amendment to the entity’s constitution or a proposed new constitution for the entity must be approved by the Minister before it is effective. 20
- (3) A draft constitution, or a proposed amendment to the entity’s constitution, must be—
 - (a) in writing; and
 - (b) approved at a general meeting of the group by a resolution passed by a 75% majority of all of the group’s regional representatives; and 25
 - (c) otherwise proposed in accordance with the constitution.
- (4) The regional representative group must ensure that written notice of the draft constitution or proposed amendment is provided to the Minister.
- (5) If the Minister approves the amendment or proposed new constitution, the amendment or replacement constitution is effective— 30
 - (a) on the day immediately after the date of that approval; or
 - (b) on a later date that is specified in the amendment or replacement, and that is in accordance with the terms of the resolution of the group under **subsection (3)(b)**.
- (6) A proposed amendment to the entity’s constitution or a proposed new constitution for the entity has no effect if rejected by the Minister. 35
- (7) The constitution as amended or replaced under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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- (8) For that Act, the regional representative group is, despite the Minister’s approval, taken to be the maker of the constitution.
- (9) This section does not apply to an amendment of a type described in **section 96(1)**.
- 96 Minor or technical amendments** 5
- (1) A regional representative group may, in the manner provided by the constitution, amend the water services entity’s constitution under this section if the amendment—
 - (a) has no more than a minor effect; or
 - (b) corrects errors or makes similar technical alterations. 10
- (2) The regional representative group must, in accordance with the constitution, ensure that written notice of the amendment is sent to the monitor.
- (3) If no objection from the monitor is received within 20 working days after the date on which the notice is served (or any longer period specified in the entity’s constitution), the regional representative group may make the amendment. 15
- (4) If the group makes the amendment, the amendment is effective—
 - (a) on the day immediately after the date on which the group makes the amendment; or
 - (b) on a later date that is specified in the amendment.
- (5) The constitution as amended under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 20

Subpart 8—General provisions relating to regional representatives, regional advisory panel members, and board members

Qualifications

- 97 Qualifications of regional representatives, regional advisory panel members, and board members** 25
- (1) A natural person who is not disqualified by this section may be a regional representative, a regional advisory panel member, or a board member of a water services entity.
- (2) The following persons are disqualified from being a regional representative, regional advisory panel member, or a board member: 30
 - (a) a person who is an undischarged bankrupt:
 - (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Financial Markets Conduct Act 2013, or the Takeovers Act 1993: 35

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- (c) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
- (d) a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988 that reflects adversely on the person’s— 5
 - (i) competence to manage their own affairs in relation to their property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare:
- (e) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person: 10
- (f) a member of Parliament. 15
- (3) The following persons are also disqualified from being a board member:
 - (a) a regional representative:
 - (b) a regional advisory panel member:
 - (c) a member—
 - (i) of a territorial authority; and 20
 - (ii) elected under section 19B or 19C of the Local Electoral Act 2001.

Compare: 2004 No 115 s 30

Reliance on information and advice

- 98 When regional representatives, regional advisory panel members, and board members may rely on certain information and advice** 25
- (1) A regional representative, regional advisory panel member, or board member, of a water services entity may, when acting as a regional representative, regional advisory panel member, or board member, rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons: 30
 - (a) an employee of a water services entity whom the regional representative, regional advisory panel member, or board member believes on reasonable grounds to be reliable and competent in relation to the matters concerned: 30
 - (b) a professional adviser or expert in relation to matters that the regional representative, regional advisory panel member, or board member believes on reasonable grounds to be within the person’s professional or expert competence: 35

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- (c) any other regional representative, regional advisory panel member, or board member or a committee on which the regional representative, regional advisory panel member, or board member did not serve in relation to matters within the designated authority of the regional representative, regional advisory panel member, board member, or committee (as applicable). 5
 - (2) This section applies to a regional representative, regional advisory panel member, or board member only if they—
 - (a) act in good faith; and
 - (b) make proper inquiry if the need for inquiry is indicated by the circumstances; and 10
 - (c) have no knowledge that the reliance is unwarranted.
- Compare: 2004 No 115 s 61(1), (3)

Conflict of interest disclosure rules

99 Water services entity must keep interest registers for entity, regional representative group, and regional advisory panel 15

A water services entity must keep a separate interest register for each of the following:

- (a) interests of board members:
- (b) interests of regional representatives: 20
- (c) interests of regional advisory panel members.

100 When person is interested

- (1) A person is **interested** in a matter if the person—
 - (a) may derive a financial benefit from the matter; or
 - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or 25
 - (c) may have a financial interest in a person to whom the matter relates; or
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) is otherwise directly or indirectly interested in the matter. 30
- (2) However, a person is not interested in a matter—
 - (a) because the person receives an indemnity, insurance cover, remuneration, or other benefits authorised under this Act or another Act; or
 - (b) if their interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence them in carrying out their responsibilities under this Act or another Act; or 35

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	(c) only because they have past or current involvement in the relevant sector, industry, or practice.	
(3)	In this section, matter means,—	
	(a) in relation to a board member,—	
	(i) a water services entity’s performance of its functions or exercise of its powers; or	5
	(ii) an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the entity:	
	(b) in relation to a regional representative,—	
	(i) a regional representative group’s performance of its functions or exercise of its powers; or	10
	(ii) a board appointment committee’s performance of its functions or exercise of its powers:	
	(c) in relation to a regional advisory panel member, a regional advisory panel’s performance of its functions or exercise of its powers.	15
	Compare: 2004 No 115 s 62	
101	Obligation of board member to disclose interest	
(1)	A board member who is interested in a matter relating to a water services entity must disclose details of the interest in accordance with subsection (4) as soon as practicable after the board member becomes aware that they are interested.	20
(2)	A general notice of an interest in a matter relating to a water services entity, or in a matter that may in future relate to the entity, that is disclosed in accordance with subsection (4) is a standing disclosure of that interest for the purposes of this section.	25
(3)	A standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases.	
(4)	A board member must disclose details of an interest in the interests register kept by the water services entity, and to—	
	(a) the chairperson of the board or, if there is no chairperson or if the chairperson is unavailable or interested, the deputy chairperson of the board; or	30
	(b) the regional representative group, if there is neither a chairperson nor a deputy chairperson of the board, or if both the chairperson and the deputy chairperson of the board are unavailable or interested.	35
	Compare: 2004 No 115 ss 63, 64	
102	Obligation of regional representative to disclose interest	
(1)	A regional representative who is interested in a matter relating to an entity’s regional representative group must disclose details of the interest in accordance	
50		

with **subsection (4)** as soon as practicable after the member becomes aware that they are interested.

- (2) A general notice of an interest in a matter relating to a regional representative group, or in a matter that may in future relate to the group, that is disclosed in accordance with **subsection (4)** is a standing disclosure of that interest for the purposes of this section. 5
 - (3) A standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases.
 - (4) A regional representative must disclose details of an interest in the interests register kept by the water services entity, and— 10
 - (a) to the chairperson of the regional representative group or, if there is no chairperson or if the chairperson is unavailable or interested, the deputy chairperson of the group; or
 - (b) to the monitor, if there is neither a chairperson nor a deputy chairperson of the regional representative group, or if both the chairperson and the deputy chairperson of the group are unavailable or interested; or 15
 - (c) in accordance with the procedure specified for the purposes of this paragraph in the constitution if it provides for the group to have co-chairpersons and deputy co-chairpersons (*see sections 42 and 91(d)*). 20
- Compare: 2004 No 115 ss 63, 64 20

103 Obligation of regional advisory panel member to disclose interest

- (1) A regional advisory panel member who is interested in a matter relating to a regional advisory panel for an entity’s regional representative group must disclose details of the interest in accordance with **subsection (4)** as soon as practicable after the member becomes aware that they are interested. 25
- (2) A general notice of an interest in a matter relating to a regional advisory panel, or in a matter that may in future relate to the panel, that is disclosed in accordance with **subsection (4)** is a standing disclosure of that interest for the purposes of this section.
- (3) A standing disclosure ceases to have effect if the nature of the interest materially alters or the extent of the interest materially increases. 30
- (4) A regional advisory panel member must disclose details of an interest in the interests register kept by the water services entity, and—
 - (a) to the chairperson of the regional advisory panel or, if there is no chairperson or if the chairperson is unavailable or interested, the deputy chairperson of the panel; or 35
 - (b) to the monitor, if there is neither a chairperson nor a deputy chairperson of the regional advisory panel, or if both the chairperson and the deputy chairperson of the panel are unavailable or interested; or

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	(c) in accordance with the procedure specified for the purposes of this paragraph in the constitution if it provides for the panel to have co-chairpersons and deputy co-chairpersons (<i>see sections 54 and 91(h)</i>).	
	Compare: 2004 No 115 ss 63, 64	
104	What must be disclosed	5
	The details that must be disclosed under sections 101, 102, and 103 are—	
	(a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or	
	(b) the nature and extent of the interest (if the monetary value cannot be quantified).	10
	Compare: 2004 No 115 s 65	
105	Consequences of being interested in matter	
	<i>Board member</i>	
(1)	A board member who is interested in a matter relating to a water services entity—	15
	(a) must not vote or take part in any discussion or decision of the board or otherwise participate in any activity of the entity that relates to the matter; and	
	(b) must not sign any document relating to the entry into a transaction or the initiation of the matter; and	20
	(c) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the board during which a discussion or decision relating to the matter occurs or is made.	
	<i>Regional representative</i>	
(2)	A regional representative who is interested in a matter relating to a regional representative group—	25
	(a) must not vote or take part in any discussion or decision of the group or otherwise participate in any activity of the group that relates to the matter; and	
	(b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the group during which a discussion or decision relating to the matter occurs or is made.	30
	<i>Regional advisory panel member</i>	
(3)	A regional advisory panel member who is interested in a matter relating to a regional advisory panel—	35
	(a) must not vote or take part in any discussion or decision of the panel or otherwise participate in any activity of the panel that relates to the matter; and	

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	(b) is to be disregarded for the purpose of forming a quorum for that part of a meeting of the panel during which a discussion or decision relating to the matter occurs or is made.	
	Compare: 2004 No 115 s 66	
106	Consequences of failing to disclose interest	5
	<i>Board</i>	
(1)	As soon as practicable after becoming aware of a failure by a board member to comply with section 101 or 105(1) , the board must notify the failure and the acts affected—	
	(a) to the chairperson of the regional representative group (if the constitution does not provide for the group to have co-chairpersons and deputy co-chairpersons); or	10
	(b) in accordance with the procedure specified for the purposes of this paragraph in the constitution if it provides for the group to have co-chairpersons and deputy co-chairpersons (<i>see sections 42 and 91(d)</i>).	15
	<i>Regional representative group</i>	
(2)	The regional representative group must notify the monitor of a failure by a regional representative to comply with section 102 or 105(2) , and the acts affected, as soon as practicable after becoming aware of the failure.	
	<i>Regional advisory panel</i>	20
(3)	The regional advisory panel must notify the monitor of a failure by a regional advisory panel member to comply with section 103 or 105(3) , and the acts affected, as soon as practicable after becoming aware of the failure.	
	<i>Validity of act or matter</i>	
(4)	A failure to comply with section 101, 102, 103, or 105 does not affect the validity of an act or a matter.	25
(5)	However, subsection (4) does not limit the right of any person to apply, in accordance with law, for judicial review.	
	Compare: 2004 No 115 s 67	
107	Permission to act despite being interested in matter	30
	<i>Board</i>	
(1)	The chairperson of the board may, by prior written notice to the board, permit 1 or more board members, or board members with a specified class of interest, to do anything otherwise prohibited by section 105 if the chairperson is satisfied that it is in the public interest to do so.	35
(2)	The deputy chairperson (if any) of the board may give a permission if there is no chairperson, or if the chairperson is unavailable or interested.	

Regional representative group

- (3) The chairperson of a regional representative group may, by prior written notice to the regional representative group, permit 1 or more regional representatives, or regional representatives with a specified class of interest, to do anything otherwise prohibited by **section 105** if the co-chairperson is satisfied that it is in the public interest to do so. 5
- (4) The deputy chairperson of a regional representative group may give a permission if there is no chairperson, or if the chairperson is unavailable or interested.
- (5) Despite **subsections (3) and (4)**, if the constitution provides for the group to have co-chairpersons and deputy co-chairpersons (*see section 42*), a permission may be given only in accordance with the procedure specified, for the purposes of this subsection, in the constitution (*see section 91(d)*). 10

Regional advisory panel

- (6) The chairperson of a regional advisory panel may, by prior written notice to the regional advisory panel, permit 1 or more regional advisory panel members, or regional advisory panel members with a specified class of interest, to do anything otherwise prohibited by **section 105** if the co-chairperson is satisfied that it is in the public interest to do so. 15
- (7) The deputy chairperson of a regional advisory panel may give a permission if there is no chairperson, or if the chairperson is unavailable or interested. 20
- (8) Despite **subsections (6) and (7)**, if the constitution provides for the panel to have co-chairpersons and deputy co-chairpersons (*see section 53*), a permission may be given only in accordance with the procedure specified, for the purposes of this subsection, in the constitution (*see section 91(h)*). 25

Permission

- (9) A permission may state conditions that the board member, regional representative, or regional advisory panel member must comply with. 25
- (10) A permission may be amended or revoked in the same way as it may be given. Compare: 2004 No 115 s 68(1)–(5)

108 Permission must be disclosed in annual report 30

The water services entity must disclose an interest to which a permission under **section 107** relates in its annual report, together with a statement of who gave the permission and any conditions or amendments to, or revocation of, the permission.

Compare: 2004 No 115 s 68(6) 35

109 Entity may avoid certain acts done in breach of conflict of interest rules

- (1) A water services entity may avoid a natural person act done by the entity in respect of which a board member was in breach of **section 105**.
- (2) However, the act of a board member—

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- (a) may be avoided only within 3 months of the affected act being notified—
 - (i) to the chairperson of the regional representative group, under **section 101(a)**; or
 - (ii) under **section 106(1)(b)**, and in accordance with the procedure specified, for the purposes of **section 106(1)(b)**, in the constitution; and 5
- (b) cannot be avoided if the entity receives fair value in respect of the act.
- (3) An act in which a board member is interested can be avoided on the ground of the board member’s interest only in accordance with this section. 10
 Compare: 2004 No 115 s 69
- 110 What is fair value**
- (1) A water services entity is presumed to receive fair value in respect of an act that is done by the entity in the ordinary course of its business and on usual terms and conditions. 15
- (2) Whether a water services entity receives fair value in respect of an act must be determined on the basis of the information known to the entity and to the interested board member at the time the act is done.
 Compare: 2004 No 115 s 70
- 111 Onus of proving fair value** 20
- (1) A person who is seeking to prevent an act from being avoided, and who knew, or ought reasonably to have known, of the board member’s interest at the time the act was done, has the onus of establishing fair value.
- (2) In any other case, a water services entity has the onus of establishing that it did not receive fair value. 25
 Compare: 2004 No 115 s 71
- 112 Effect of avoidance on third parties**
- The avoidance of an act under **section 109** does not affect the title or interest of a person to or in property that the person has acquired if the property was acquired— 30
 - (a) from a person other than the water services entity; and
 - (b) for valuable consideration; and
 - (c) without knowledge of the circumstances of the act under which the person referred to in **paragraph (a)** acquired the property from the entity. 35
 Compare: 2004 No 115 s 72

Vacancies in membership

113 Vacancies in membership of board, regional representative group, or regional advisory panel

- (1) The powers and functions of a water services entity are not affected by any vacancy in the membership of— 5
 - (a) its board; or
 - (b) its regional representative group; or
 - (c) a regional advisory panel for that group.
 - (2) The powers and functions of a water services entity’s regional representative group are not affected by any vacancy in the membership of— 10
 - (a) the entity’s board; or
 - (b) the regional representative group; or
 - (c) a regional advisory panel for that group.
 - (3) The powers and functions of a regional advisory panel for the regional representative group of a water services entity are not affected by any vacancy in the membership of— 15
 - (a) the regional advisory panel; or
 - (b) the regional representative group; or
 - (c) the entity’s board.
- Compare: 2004 No 115 s 77 20

Duties to provide funding and information

114 Duties to provide funding and information

Duty to provide funding for remuneration, expenses, or costs

- (1) A water services entity must provide funding to its regional representative group and a regional advisory panel for that group or, as the case requires, to its territorial authority owners and to mana whenua, for the remuneration, expenses, or costs specified in **section 91(j)**. 25

Duty to provide information

- (2) A water services entity must provide information that the entity holds if that information is required— 30
 - (a) by the entity’s regional representative group or a regional advisory panel for that group; and
 - (b) to help the group or panel perform or exercise its duties, functions, or powers.
- (3) But personal information within the meaning of the Privacy Act 2020 may be provided under **subsection (2)** only in accordance with that Act. 35

Part 3 Operation of water services entities

Independence of water services entities

115 Safeguarding independence of water services entities

- (1) The Minister, a territorial authority owner, a regional representative, or a regional representative group cannot direct a water services entity or a board member or an employee of a water services entity— 5
- (a) in relation to the performance or exercise of a duty, function, or power under this Act; or
- (b) to require the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons. 10
- (2) This section applies to all Government policy statements and statements of strategic and performance expectations issued under this Act.
- (3) This section also prevents a constitution of a water services entity from conferring a power of direction that would contravene this section. 15

Compare: 2004 No 115 s 113

Obligation to maintain ownership and control of water services and significant assets

116 Obligation to maintain water services

- (1) A water services entity must continue to provide water services and maintain its capacity to perform or exercise its duties, functions, or powers under this Act. 20
- (2) In order to perform or exercise its duties, functions, or powers under this Act, a water services entity must not do any of the following: 25
- (a) use water services assets as security for any purpose:
- (b) divest its ownership or other interest in a water service except in accordance with **Schedule 4**:
- (c) lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its service area except— 30
- (i) in accordance with **Schedule 4**; or
- (ii) if, in doing so, the entity retains its capacity to perform or exercise its duties, functions, or powers.
- (3) In this section,—
- significant infrastructure** means any of the following: 35
- (a) water services assets that—

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- (i) are owned and operated by a water services entity for the purpose of delivering water services to consumers or communities in any part of the entity’s service area; and
- (ii) a water services entity needs to retain to—
 - (A) maintain its capacity to achieve its objectives; or 5
 - (B) perform or exercise its duties, functions, or powers; or
 - (C) promote an outcome that the entity has identified as important to the current or future well-being of consumers or communities in the entity’s service area; and
- (b) infrastructure that is identified by the water services entity as being material to its operations and that is included in the entity’s current statement of intent 10

water services assets includes existing or proposed assets used or proposed to be used by the water services entity to provide water services. 15
 Compare: 2002 No 84 s 130(2), (3)(a), (b), (c)

Contracting out of water services

117 Contracts relating to provision of water services

- (1) Despite **section 116**, a water services entity may enter into a contract for any aspect of the operation of all or part of water services for a term not longer than 35 years. 20
- (2) If a water services entity enters into a contract under **subsection (1)**, it must—
 - (a) continue to be legally responsible for providing the water services; and
 - (b) maintain ownership of the infrastructure and assets relating to the water services; and 25
 - (c) retain control over—
 - (i) the pricing of water services; and
 - (ii) developing policy related to the delivery of water services.
- (3) This section does not prevent a water services entity from entering into a contract with 1 or more other water services entities if the purpose of the contract relates solely to water services. 30

Compare: 2002 No 84, s 136

118 Joint arrangements for purpose of providing water services

- (1) **Section 116** does not prevent a water services entity from entering into, for the purpose of providing water services, a joint arrangement or joint water services entity arrangement for a term not longer than 35 years (except a concession or other franchise agreement relating to the provision of the water services or any aspect of the water services). 35

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- (2) Before a water services entity enters into a joint arrangement or joint water services entity arrangement, it must have consulted in accordance with the procedures set out in Part 6 of the Local Government Act 2002 as if it were a local authority.
- (3) If a water services entity enters into a joint arrangement under **subsection (1)**, it must—
 - (a) continue to be legally responsible for providing the water services; and
 - (b) retain control over—
 - (i) the pricing of water services; and
 - (ii) developing policy related to water services; and
 - (c) after the end of the joint arrangement, retain ownership of all the infrastructure associated with the water services, whether or not the infrastructure was—
 - (i) provided by the water services entity at the beginning of the joint arrangement; or
 - (ii) developed or purchased during the joint arrangement; and
 - (d) not sell or transfer ownership of any existing infrastructure associated with the water services, unless the water services entity reasonably believes that the sale is—
 - (i) incidental to the joint arrangement; and
 - (ii) desirable for the success of the joint arrangement.
- (4) In this section,—

concession or other franchise agreement means an agreement under which a person other than a water services entity is entitled to receive a payment from any person other than the water services entity for the supply of the water services

joint arrangement means an arrangement entered into by 1 or more water services entities with 1 or more bodies that are not water services entities for the purpose of providing water services or any aspect of a water service

joint water services entity arrangement means an arrangement entered into by 2 or more water services entities for the purpose of providing water services or any aspect of a water service.

Compare: 2002 No 84 ss 136, 137

Employees of water services entities

- 119 Employment of chief executive**
- (1) A chief executive of a water services entity is appointed by the entity’s board.
- (2) The terms and conditions of employment of a chief executive must be agreed between the board and the chief executive.

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(3)	When considering the terms and conditions of a chief executive, the board must have regard to all of the following (among any other relevant factors):	
	(a) the legal, commercial, and operational context of the entity:	
	(b) the person’s knowledge, skills, experience, and performance:	
	(c) the public interest in prudent stewardship of public resources:	5
	(d) relevant market information.	
(4)	A failure to comply with this section does not invalidate the acts of a chief executive of a water services entity.	
	Compare: 2004 No 115 s 117	
120	Water services entity to be good employer	10
(1)	A water services entity must, if it employs employees,—	
	(a) operate a personnel policy that complies with the principle of being a good employer; and	
	(b) make the policy (including the equal employment opportunities programme) available to its employees; and	15
	(c) ensure its compliance with the policy (including its equal employment opportunities programme) and report in its annual report on the extent of its compliance.	
(2)	For the purposes of this section, a good employer is an employer who operates a personnel policy that contains provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—	20
	(a) good and safe working conditions; and	
	(b) an equal employment opportunities programme; and	
	(c) the impartial selection of suitably qualified persons for appointment; and	25
	(d) recognition of—	
	(i) the aims and aspirations of Māori; and	
	(ii) the employment requirements of Māori; and	
	(iii) the need for involvement of Māori as employees of the entity; and	
	(e) opportunities for enhancing the abilities of individual employees; and	30
	(f) recognition of the aims and aspirations, employment requirements, and cultural differences of ethnic or minority groups; and	
	(g) recognition of the employment requirements of women; and	
	(h) recognition of the employment requirements of persons with disabilities.	
(3)	For the purposes of this section, an equal employment opportunities programme means a programme that is aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers that cause or	35

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perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

Compare: 2004 No 115 s 118

Protections from liability

121	Definitions for protections from liability	5
	In sections 122 to 126 ,—	
	board member —	
	(a) means a member of the board appointed under section 57 ; and	
	(b) includes a board member who is a board member at any time after the commencement of this section but who ceases to be a board member	10
	effect insurance includes to pay, whether directly or indirectly, the costs of the insurance	
	employee , in relation to a water services entity,—	
	(a) includes the chief executive of the entity other than for the process of determining terms and conditions under section 119 ; and	15
	(b) includes a person who is an employee at any time after the commencement of this section but who ceases to be an employee	
	entity’s functions includes any function that an Act confers separately on a board member or employee of the entity	
	excluded act or omission means an act or omission by the board member or employee in good faith and in performance or intended performance of the entity’s functions	20
	indemnify includes to relieve or excuse from liability, whether before or after the liability arises, and indemnity has a corresponding meaning.	
	Compare: 2004 No 115 s 126	25
122	Protections for board members and employees from liabilities of water services entity	
	A board member or an employee of a water services entity is not liable for any liability of the entity by reason only of being a board member or an employee.	
	Compare: 2004 No 115 s 120	30
123	Immunity from civil liability	
	(1) A board member of a water services entity is not liable, in respect of an excluded act or omission,—	
	(a) to the entity, unless the excluded act or omission is also a breach of an individual duty under any of sections 75 to 79 ;	35
	(b) to any other person.	

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(2)	An employee of a water services entity is not liable to any person in respect of an excluded act or omission.	
(3)	Nothing in this section affects—	
	(a) the making of an order under section 84 :	
	(b) the liability of any person that is not a civil liability:	5
	(c) the right of any person to apply, in accordance with the law, for judicial review.	
	Compare: 2004 No 115 s 121	
124	Indemnities in relation to excluded act or omission	
	A water services entity may only indemnify a board member or an employee in respect of an excluded act or omission (including costs incurred in defending or settling any claim or proceeding relating to that excluded act or omission).	10
	Compare: 2004 No 115 s 122	
125	Insurance for liability of board member or employee	
	A water services entity may effect insurance cover for a board member or an employee of the entity in relation to their acts or omissions, except an act or omission that is—	15
	(a) in bad faith; or	
	(b) not in the performance or intended performance of the entity’s functions.	
	Compare: 2004 No 115 s 123	20
126	Breach of indemnity and insurance limits	
(1)	A board member or an employee who is indemnified or insured by a water services entity in breach of this Act must repay to the entity the cost of providing or effecting that indemnity or insurance cover, to the extent that the indemnity or insurance cover exceeds that which could have been provided or effected under this Act.	25
(2)	The water services entity may recover the amount as a debt due in a court of competent jurisdiction.	
	Compare: 2004 No 115 s 125	
	<i>Dealings with third parties by water services entities</i>	30
127	Method of contracting	
(1)	A contract or other enforceable obligation may be entered into by a water services entity as provided in this section.	
(2)	An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of a water services entity in writing, signed under the name of the entity, by 2 or more of its board members.	35

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- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of a water services entity in writing by a person acting under the entity's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of a water services entity in writing or orally by a person acting under the entity's express or implied authority. 5
- (5) This section applies to a contract or other obligation—
- (a) whether or not that obligation was entered into in New Zealand; and
- (b) whether or not the law governing that obligation is the law of New Zealand. 10

Compare: 2004 No 115 s 127

128 Address for service

The address for service in respect of a water services entity is the address of the head office of the entity.

Compare: 2004 No 115 s 130

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Part 4**Financial and accountability matters**

Subpart 1—Government policy statement on water services

129 Minister may issue Government policy statement on water services

- (1) The Minister may issue a Government policy statement on water services. 20
- (2) The Minister must review a Government policy statement no later than 3 years after the date on which it is issued and subsequently at intervals of no more than 3 years after the most recent review.
- (3) A Government policy statement may be issued under **subsection (1)** if—
- (a) the Government policy statement is consistent with the objectives of water services entities under **section 11**; and 25
- (b) the Minister has complied with **section 131(b)**.
- (4) A Government policy statement issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 30
- Compare: 2019 No 50 s 22

130 Purpose and content of Government policy statement

- (1) The purpose of a Government policy statement is to—
- (a) state the Government's overall direction and priorities for water services; and
- (b) inform and guide agencies involved in, and the activities necessary or desirable for, water services. 35

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(2)	A Government policy statement must include the following:	
(a)	the Government’s overall direction for water services, which must include a multi-decade outlook:	
(b)	the Government’s priorities for water services:	
(c)	how the Government expects other agencies to support that direction and those priorities:	5
(d)	the Government’s expectations in relation to Māori interests, partnering with mana whenua, and giving effect to Te Mana o te Wai:	
(e)	how the Government expects water services entities to take into account the well-being of communities.	10
(3)	A Government policy statement may also include—	
(a)	the Government’s expectations in relation to the contribution of water services entities to the outcomes sought by the Government in the following areas:	
(i)	public health:	15
(ii)	the environment:	
(iii)	housing and urban development:	
(iv)	climate change mitigation and adaptation:	
(v)	water security:	
(vi)	resilience to natural hazards:	20
(b)	any other matters the Minister considers relevant.	
	Compare: 2019 No 50 s 23	
131	Preparation or review of Government policy statement	
	When preparing or reviewing a Government policy statement, the Minister must—	25
(a)	be satisfied that it promotes a water services system that contributes to the current and future well-being of New Zealanders; and	
(b)	consult—	
(i)	the water services entities; and	
(ii)	the regional representative group of each water services entity; and	30
(iii)	Taumata Arowai—the Water Services Regulator; and	
(iv)	other persons, and representative groups of persons, who have an interest in water services in New Zealand.	
	Compare: 2019 No 50 s 24	35

132	Water services entities to give effect to Government policy statement	
	A water services entity must give effect to any Government policy statement when performing its functions.	
	Compare: 2019 No 50 s 26	
133	Amending Government policy statement	5
(1)	The Minister may amend a Government policy statement at any time.	
(2)	Sections 131 and 134 (which relate to the preparation and availability of a Government policy statement)—	
(a)	apply with the necessary modifications to an amendment to the Government policy statement; but	10
(b)	do not apply if the amendment to the Government policy statement is not significant.	
	Compare: 2019 No 50 s 29	
134	Obligation to publish and present Government policy statement	
(1)	As soon as practicable after issuing a Government policy statement, the Minister must—	15
(a)	present a copy to the House of Representatives; and	
(b)	arrange for a copy to be given to each water services entity.	
(2)	The department must make the Government policy statement publicly available as soon as practicable after it is issued by publishing a copy on an Internet site maintained by, or on behalf of, the department in a format that is readily accessible.	20
	Compare: 2019 No 50 s 28	
	Subpart 2—Regional representative group’s statement of strategic and performance expectations	25
135	Regional representative group must issue and review, and may replace, statement of strategic and performance expectations	
(1)	The regional representative group of a water services entity must issue a statement of strategic and performance expectations for the entity.	
(2)	The regional representative group must, at least once during every year after the year in which a statement of strategic and performance expectations is issued, review the statement.	30
(3)	The regional representative group may, following a review, issue a new statement of strategic and performance expectations that replaces the statement of strategic and performance expectations that was reviewed, in which case, the reviewed statement expires when it is replaced.	35

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(4)	A statement of strategic and performance expectations must relate to at least 3 financial years.	
136	Purpose and content of statement of strategic and performance expectations	
(1)	The purpose of a statement of strategic and performance expectations for a water services entity is to—	5
	(a) state the regional representative group’s objectives and priorities for water services in the entity’s service area; and	
	(b) inform and guide the decisions and actions of the board of the entity.	
(2)	A statement of strategic and performance expectations for a water services entity must—	10
	(a) include the following matters:	
	(i) the regional representative group’s expectations and strategic priorities for the entity:	
	(ii) the outcomes the group expects to be achieved through the delivery of water services by the entity:	15
	(iii) how the group expects the water services entity to meet its objectives, perform or exercise its duties, functions and powers, and comply with its operating principles:	
	(iv) how the group expects the water services entity to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the entity’s duties, functions, and powers; and	20
	(b) require the entity to give effect to the objective under section 11(a) of delivering water services and related infrastructure in an efficient and financially sustainable manner.	25
(3)	A matter under subsection (2)(a) must not be inconsistent with the direction and priorities for water services in the Government policy statement (if any) issued under section 129 .	
137	Water services entity to give effect to statement of strategic and performance expectations	30
	The board of a water services entity must give effect to the statement of strategic and performance expectations for the entity when performing its functions.	
	Compare: 2019 No 50 s 26	
138	Obligation to publish statement of strategic and performance expectations	
(1)	The regional representative group of a water services entity must provide a copy of a statement of strategic and performance expectations to the board of the entity as soon as practicable after issuing it.	35

- (2) The board must make the statement of strategic and performance expectations publicly available as soon as practicable after it is issued by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible.
- 139 Obligation of regional representative group to review board performance** 5
 The regional representative group of a water services entity must annually review the performance of the board in giving effect to the statement of strategic and performance expectations.
- Subpart 3—Te Mana o te Wai statements for water services
- 140 Mana whenua may provide Te Mana o te Wai statements for water services** 10
- (1) Mana whenua whose rohe or takiwā includes a freshwater body in the service area of a water services entity may provide the entity with a Te Mana o te Wai statement for water services.
- (2) A Te Mana o te Wai statement for water services provided under **subsection (1)** may— 15
- (a) be provided by an individual iwi or hapū, or by a group of iwi or hapū;
 - (b) relate to 1 freshwater body, or to multiple freshwater bodies.
- (3) Mana whenua who have provided a Te Mana o te Wai statement for water services under **subsection (1)**— 20
- (a) may review the statement at any time; and
 - (b) following a review, may provide a new statement that replaces the statement that was reviewed, in which case, the reviewed statement expires when it is replaced.
- (4) A statement provided under **subsection (1) or (3)(b)** expires after 10 years. 25
- 141 Water services entity must respond to Te Mana o te Wai statement for water services**
- (1) As soon as practicable after receiving a Te Mana o te Wai statement for water services under **section 140**, the board of a water services entity must— 30
- (a) acknowledge receipt of the statement; and
 - (b) engage with the mana whenua who provided the statement in accordance with **section 202** in relation to the preparation of a response to the Te Mana o te Wai statement for water services.
- (2) A response to a Te Mana o te Wai statement for water services must include a plan that sets out how the water services entity intends (consistent with, and without limiting, **section 4(1)(b)**) to give effect to Te Mana o te Wai, to the extent that it applies to the entity’s duties, functions, and powers. 35

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142 Obligation to publish response to Te Mana o te Wai statement for water services

The board of a water services entity must make its response to a Te Mana o te Wai statement for water services publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible— 5

- (a) as soon as practicable after issuing the response; and
- (b) in any event, within 2 years after receiving the statement to which it relates.

Subpart 4—Reporting obligations 10

Planning: statement of intent

143 Purpose of statement of intent

The purpose of a statement of intent is to promote the public accountability of a water services entity by—

- (a) setting out the entity’s strategic intentions; and 15
- (b) providing a base against which the water services entity’s actual performance can later be assessed.

Compare: 2004 No 115 s 138

144 Board must prepare statement of intent

- (1) The board of a water services entity must provide to the regional representative group a statement of intent that complies with this section and **section 145**. 20
- (2) The board must provide a statement of intent annually.
- (3) A statement of intent must—
 - (a) relate to at least the following 3 financial years; and
 - (b) be prepared in accordance with **Part 1 of Schedule 3**. 25

145 Content of statement of intent

Strategic elements

- (1) A statement of intent for a water services entity must, for the period to which it relates, set out—
 - (a) how the entity intends to meet its objectives, perform or exercise its duties, functions, and powers, and comply with its operating principles; and 30
 - (b) the outcomes the board expects to achieve through the delivery of water services; and
 - (c) how the entity intends to give effect to— 35

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(i)	the expectations, strategic priorities, and outcomes outlined in the statement of strategic and performance expectations for the entity; and	
(ii)	the direction and priorities in the Government policy statement.	
	<i>Operational elements</i>	5
(2)	A statement of intent for a water services entity must, for the period to which it relates, set out—	
(a)	the nature and scope of the activities the entity proposes to undertake; and	
(b)	significant work that the entity proposes to undertake; and	10
(c)	any actions the entity intends to take (consistent with its plan under section 141(2)) relating to water services as part of its response to a Te Mana o te Wai statement for water services; and	
(d)	how the entity proposes to approach consumer and community engagement; and	15
(e)	a forecast statement of service delivery performance for water supply, wastewater, and stormwater services, including non-financial performance measures and targets about the quality of the services to be delivered.	
	<i>Financial elements</i>	20
(3)	A statement of intent must also include—	
(a)	the forecast financial statements for each financial year in the period to which the statement of intent relates; and	
(b)	the financial statements for the financial year immediately preceding the period to which the statement of intent relates; and	25
(c)	a forecast of expenditure to be applied to—	
(i)	meet additional demand for water supply, wastewater, and stormwater services; and	
(ii)	improve the level of the service delivery performance; and	
(iii)	replace existing assets.	30
(4)	For the purposes of this section, budgeted expenditure applied for 2 or all of the purposes in subsection (3) may be treated as if it were applied solely in relation to the primary purpose of the expenditure.	
146	Board must publish statement of intent	
	The board of a water services entity must, as soon as practicable after providing a statement of intent to the entity’s regional representative group, make the statement publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible.	35

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*Planning: asset management plan***147 Board must prepare asset management plan**

- (1) The board of a water services entity must provide an asset management plan to the entity's regional representative group at least once in every 3-year period.
- (2) The asset management plan must— 5
- (a) cover a period of not less than 10 consecutive financial years; and
 - (b) comply with **section 148**; and
 - (c) be prepared in accordance with **Part 2 of Schedule 3**.

148 Content of asset management plan

An asset management plan for a water services entity must, for the period to which it relates, set out— 10

- (a) the investment priorities for the infrastructure assets of the entity; and
- (b) how the entity will—
 - (i) operate, maintain, and renew its infrastructure assets; and
 - (ii) provide new infrastructure assets; and 15
- (c) how the plan meets the proposed activities and intention of the entity set out in its statement of intent; and
- (d) how the plan relates to any actions the entity intends to take (consistent with its plan under **section 141(2)**) as part of its response to a Te Mana o te Wai statement for water services. 20

149 Obligation to publish asset management plan

As soon as practicable after an asset management plan is provided to the regional representative group, the chief executive of a water services entity must—

- (a) make the plan publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible; and 25
- (b) prepare and publish a report on how the entity considered consumer and community input into, and feedback on, the plan and incorporated it into the plan. 30

*Planning: funding and pricing plan***150 Board must prepare funding and pricing plan**

- (1) The board of a water services entity must provide a funding and pricing plan to the entity's regional representative group at least once in every 3-year period.
- (2) The funding and pricing plan must— 35

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- (a) cover a period of not less than 10 consecutive financial years; and
- (b) comply with **section 151**; and
- (c) be prepared in accordance with **Part 3 of Schedule 3**.

151 Content of funding and pricing plan

- (1) A funding and pricing plan for a water services entity must, for the period to which it relates, set out—
 - (a) the sources of, and the entity’s intended approach to, funding, revenue, and pricing; and
 - (b) the entity’s intended approach to pricing its services and charging consumers; and
 - (c) a financial strategy for all of the consecutive financial years covered by the funding and pricing plan.
- (2) A financial strategy must—
 - (a) include a statement of the factors that are expected to have a significant impact on the water services entity during the consecutive financial years covered by the strategy, including—
 - (i) the expected changes in population and the use of land in the entity’s service area, and the capital and operating costs of providing for those changes; and
 - (ii) the expected capital expenditure on network infrastructure that is required to maintain existing levels of service currently provided by the entity; and
 - (iii) other significant factors affecting the entity’s ability to maintain existing levels of service and to meet additional demands for services; and
 - (b) specify the entity’s policy on the giving of security for its borrowing; and
 - (c) specify the entity’s objectives for holding and managing financial investments and equity securities.

Compare: 2002 No 84 s 101A(1), (3)(a), (c), (d)

152 Obligation to publish funding and pricing plan

As soon as practicable after a funding and pricing plan is provided to the regional representative group, the chief executive must—

- (a) make the plan publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible; and

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- (b) prepare and publish a report on how the entity considered consumer and community input into, and feedback on, the plan and incorporated it into the plan.

Planning: infrastructure strategy

- 153 Board must prepare and adopt infrastructure strategy** 5
- (1) The board of a water services entity must provide an infrastructure strategy to the entity’s regional representative group at least once in every 3-year period.
 - (2) The strategy must—
 - (a) cover a period of at least 30 consecutive financial years; and
 - (b) comply with **section 154**; and 10
 - (c) be prepared in accordance with **Part 4 of Schedule 3**.
- 154 Content of infrastructure strategy**
- (1) An infrastructure strategy must identify—
 - (a) significant infrastructure issues for the water services entity over the period covered by the strategy; and 15
 - (b) the main options for managing those issues and the implications of those options.
 - (2) An infrastructure strategy must also, for the period to which it relates, outline how the water services entity intends to operate, maintain, and renew its existing infrastructure assets and provide for new infrastructure over the period covered by the strategy. 20
 - (3) An infrastructure strategy must also, for the period to which it relates, outline how the water services entity intends (consistent with, and without limiting, **section 4(1)(b)**) to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the entity’s duties, functions, and powers. 25
Compare: 2002 No 84 s 101B
- 155 Obligation to publish infrastructure strategy**
- The chief executive of a water services entity must, as soon as practicable after an infrastructure strategy is provided to the entity’s regional representative group,— 30
- (a) make the strategy publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible; and
 - (b) prepare and publish a report on how consumer and community input into, and feedback on, the strategy was considered and incorporated into the strategy. 35

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*Reporting: annual report***156 Obligation to prepare and publish annual report**

- (1) A water services entity must,—
- (a) as soon as practicable after the end of each financial year, prepare a report on the affairs of the water services entity; and 5
 - (b) provide the report to its regional representative group no later than 15 working days after receiving the audit report provided under **section 161**.
- (2) A water services entity must publish a copy of its annual report on an Internet site maintained by, or on behalf of, the entity— 10
- (a) as soon as practicable after it has been provided to the regional representative group; and
 - (b) in any event, no later than 20 working days after receiving the audit report.
- Compare: 2004 No 115 s 150(1) 15

157 Form and content of annual report

- (1) An annual report of a water services entity must contain the following information and reports in respect of the financial year to which it relates:
- (a) information on operations that complies with **subsection (2)**;
 - (b) a statement of service delivery performance in accordance with **section 158**; 20
 - (c) the annual financial statements for the entity in accordance with **section 159**;
 - (d) a statement of responsibility in accordance with **section 160**;
 - (e) an audit report in accordance with **section 161**; 25
 - (f) information on compliance with its obligation to be a good employer, including its equal employment opportunities programme (*see section 120*);
 - (g) information required by **section 162** (which relates to payments in respect of board members, chief executives, and employees during that financial year); 30
 - (h) information on responses the board has made to Te Mana o te Wai statements for water services during that financial year (*see section 141*);
 - (i) information on any action that the entity has taken (consistent with its plan under **section 141(2)**) as part of its response to a Te Mana o te Wai statement for water services (*see section 141*); 35
 - (j) information required by **section 21(3)** (which relates to the enforcement of certain natural person transactions):

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- (k) information required by **section 108** (which relates to permission to act despite being interested in a matter):
- (l) any matters that relate to or affect the entity’s operations that the entity is otherwise required, or has undertaken, or wishes to report on in its annual report. 5
- (2) The annual report must provide the information that is necessary to enable an informed assessment to be made of the entity’s operations for that financial year, including an assessment of the entity’s progress in relation to its strategic intentions as set out in the most recent statement of intent, asset management plan, and funding and pricing plan. 10
 Compare: 2004 No 115 s 151(1)(a)–(e), (g)–(k), (2)
- 158 Form and content of statement of service delivery performance**
- (1) A statement of service delivery performance must, in relation to a water services entity and a financial year, contain the following information:
 - (a) a comparison of the actual performance achieved with the forecast statement of service delivery performance in the statement of intent (*see section 145(2)(e)*): 15
 - (b) whether any intended changes to the level of service delivery have been achieved:
 - (c) the reasons for any significant variation between the level of service delivery achieved and the intended level of service delivery: 20
 - (d) the actual revenue, operating expenditure, and capital expenditure for water supply, wastewater, and stormwater services, compared to the revenue, operating expenditure, and capital expenditure budgeted for those services in the statement of intent. 25
- (2) For the purposes of **subsection (1)(d)**, the statement must separately provide for actual and budgeted expenditure applied to—
 - (a) meet additional demand for the water supply, wastewater, and stormwater services:
 - (b) improve the level of service delivery performance: 30
 - (c) replace existing assets.
- (3) For the purposes of this section, actual or budgeted expenditure for 2 or all of the purposes in **subsection (2)** may be treated as if it were made solely in relation to the primary purpose of the expenditure. 35
 Compare: 2004 No 115 s 153
- 159 Annual financial statements**
- (1) As soon as practicable after the end of each financial year, a water services entity must prepare financial statements in relation to the entity for that financial year.

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- (2) The financial statements must—
 - (a) include any information or explanations needed to fairly reflect the financial operations and financial position; and
 - (b) include the forecast financial statements prepared at the start of the financial year for comparison with the actual financial statements. 5
- Compare: 2004 No 115 s 154

160 Statement of responsibility

- The statement of responsibility must—
- (a) contain a statement of the signatories’ responsibility for the preparation of the financial statements and statement of performance and for the judgments in them; and 10
 - (b) contain a statement of the signatories’ responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting; and
 - (c) contain a statement that, in the opinion of the signatories, the financial statements and statement of performance for the financial year fairly reflect the financial position and operations of the water services entity; and 15
 - (d) be dated and signed—
 - (i) by 2 board members on behalf of the board; and 20
 - (ii) by the chief executive.

Compare: 2004 No 115 s 155

161 Audit report

- (1) A water services entity must forward to the Auditor-General—
 - (a) the entity’s annual financial statements and statement of service delivery performance; and 25
 - (b) any other information that the Auditor-General has agreed, or is required, to audit.
- (2) The Auditor-General must—
 - (a) audit the statements and information referred to in **subsection (1)**; and 30
 - (b) provide an audit report on those statements and that information to the water services entity.

Compare: 2004 No 115 s 156(1), (2)

162 Disclosure of payments in respect of board members and employees

- (1) The annual report must include, in respect of the water services entity,— 35

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- (a) a report on the remuneration that, in the financial year to which the report relates, was received by, or was payable to, each of the chief executive and each board member of the water services entity; and
- (b) a report on the number of employees who were employed by the entity— 5
 - (i) on the last day of the financial year to which the report relates; and
 - (ii) on the last day of the immediately preceding financial year; and
- (c) the amount of any severance payments made in the financial year to any person who vacated office as the chief executive; and 10
- (d) the number of employees of the entity to whom, in the financial year, severance payments were made and the amount of each severance payment (if any); and
- (e) the details of any indemnity provided by the entity during the financial year to the chief executive, any board member, or any employee; and 15
- (f) the details of any insurance cover effected by the entity during the financial year in respect of the liability or the costs of the chief executive, any board member, or any employee.
- (2) The report under **subsection (1)(a)** must include, in relation to the chief executive and each board member, the total annual remuneration (including the value of any non-financial benefits) that was paid to the person, or was payable to the person, in their capacity as a chief executive or as a board member of the entity during the financial year. 20
- (3) The report must state, as at the last day of the financial year,— 25
 - (a) the number of full-time employees; and
 - (b) the full-time equivalent number of all other employees; and
 - (c) the number of employees receiving total annual remuneration of less than \$100,000; and
 - (d) the number of employees receiving total annual remuneration of \$100,000 or more, expressed in bands of \$10,000. 30
- (4) If the number of employees in any band to which **subsection (3)(d)** applies is 5 or fewer, the number for that band must be combined with the next-highest band and the statement in the report in relation to that subsection must be adjusted accordingly.
- (5) In this section,— 35

board member, chief executive, and **employee** include a person who was a board member, the chief executive, or an employee at any time after the commencement of this section but who is no longer a board member, the chief executive, or an employee

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severance payment means any consideration that a water services entity has agreed to provide to an employee in respect of that employee’s agreement to the termination of their employment, being consideration, whether of a monetary nature or otherwise, additional to any entitlement of that employee to—

- (a) any final payment of salary; or 5
- (b) any holiday pay; or
- (c) any superannuation contributions

total annual remuneration, in relation to an employee, a board member, or the chief executive of a water services entity, includes the value of any non-financial benefit that, during the year, was paid to the employee, board member, or chief executive, or was payable to the employee, board member, or chief executive, by the water services entity. 10

Compare: 2004 No 115 s 152; 2002 No 84 Schedule 10, cls 32, 32A, 33

163 Information to be prepared in accordance with generally accepted accounting practice 15

All information that is required by any provision of this subpart to be included in a statement of intent, a funding and pricing plan, an asset management plan, an infrastructure strategy, or an annual report must be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards. 20

Compare: 2002 No 84 s 111

164 Insurance of assets

An annual report must state, as at the end of the financial year,—

- (a) the total value of all assets of the water services entity that are covered by insurance contracts and the maximum amount to which they are insured; and 25
- (b) the total value of all assets of the water services entity that are covered by financial risk sharing arrangements and the maximum amount available to the water services entity under those arrangements; and 30
- (c) the total value of all assets of the water services entity that are self-insured and the value of any fund maintained by the water services entity for that purpose.

Compare: 2002 No 84 Schedule 10 cl 31A

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Subpart 5—Other provisions for financial management and
independence

Bank accounts

165 Bank accounts of water services entities

- (1) A water services entity must ensure that all money received by the entity is paid, as soon as practicable after it is received, into 1 or more bank accounts that are established, maintained, and operated by the entity at 1 or more of the following: 5
- (a) a registered bank or registered building society that satisfies a relevant credit-rating test specified in a notice in the *Gazette* published by the Minister of Finance; or 10
- (b) a registered bank or registered building society that meets the conditions of any relevant approval given by the Minister of Finance by notice in the *Gazette*; or
- (c) a bank outside New Zealand that meets the conditions of any relevant approval given by the Minister of Finance by notice in the *Gazette*; or 15
- (d) a bank outside New Zealand if the conditions specified in **subsection (2)** are met.
- (2) The conditions referred to in **subsection (1)(d)** are as follows:
- (a) the water services entity must be authorised to establish, maintain, and operate 1 or more bank accounts at 1 or more banks outside New Zealand— 20
- (i) by the Minister of Finance in writing; or
- (ii) by a notice in the *Gazette* published by the Minister of Finance; and 25
- (b) the bank account or bank accounts must be of a type approved—
- (i) by the Minister of Finance in writing; or
- (ii) by a notice in the *Gazette* published by the Minister of Finance.
- (3) A water services entity must establish, maintain, and operate a bank account referred to in **subsection (2)** subject to— 30
- (a) any conditions specified in a notice published in the *Gazette* by the Minister of Finance; and
- (b) any conditions of the authorisation or approval given by the Minister of Finance.
- (4) A water services entity must ensure that it does not establish, maintain, or operate a bank account other than as provided for in **subsection (1)**. 35

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- (5) All money in a bank account at a registered bank or a registered building society must be denominated in New Zealand dollars unless the Minister of Finance allows otherwise.
- (6) A water services entity must properly authorise the withdrawal or payment of money from a bank account of the entity. 5
- (7) There is a period of grace if a bank account ceases to qualify under **subsection (1)** and,—
 - (a) during that period, the water services entity may continue to pay money into the bank account; but
 - (b) by the end of the period, the water services entity must have closed the account and paid all the money in the account into another bank account that qualifies under **subsection (1)**. 10
- (8) The period of grace ends on the earlier of—
 - (a) the date that is 2 months after the bank account ceases to qualify under **subsection (1)**; and 15
 - (b) the date that is specified by the Minister of Finance and notified to the water services entity.

Compare: 2004 No 115 s 158

Financial independence

- 166 Financial independence** 20
- (1) A territorial authority owner (in its capacity as a holder of shares in a water services entity, or any other capacity), a regional representative group, or a regional representative—
 - (a) has no right, title, or interest (legal or equitable) in the assets, security, debts, or liabilities of a water services entity (and the constitution cannot confer any such right, title, or interest — *see also sections 15(3) and 93(2)(c)*); and 25
 - (b) must not receive any equity return, directly or indirectly, from a water services entity; and
 - (c) must not give a water services entity any financial support or capital; and 30
 - (d) must not lend money or provide credit to a water services entity; and
 - (e) must not give any person any guarantee, indemnity, or security in relation to the performance of any obligation by a water services entity.
 - (2) However, nothing in **subsection (1) or (3)** limits or affects—
 - (a) the allocation or reallocation of shares under **sections 15(2) and 16**; 35
or
 - (b) the holding of those shares by the relevant territorial authority owner; or
 - (c) voting under **Schedule 4** on a divestment proposal.

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- (3) In this section,—
- equity return** means—
- (a) profits of the entity; or
 - (b) distributions from the entity; or
 - (c) any benefit derived, directly or indirectly, from a water services entity 5
that represents, is calculated by reference to, or is determined by,—
 - (i) a share in or proportion of the entity’s capital; or
 - (ii) the entity’s surplus or residual economic value (after satisfying
prior contractual claims); or
 - (iii) the entity’s profitability or any other indicator of its success 10
- give financial support or capital** does not include to sell or supply goods or
services on credit—
- (a) in the ordinary course of the territorial authority owner’s, or the water
services entity’s, performance of its lawful responsibilities; and
 - (b) on terms and conditions generally available to other parties of equivalent 15
creditworthiness
- lend money or provide credit**—
- (a) includes, without limiting the generality of that expression,—
 - (i) to defer payment for any goods or services supplied or works con- 20
structed for any person, organisation, or government; and
 - (ii) to enter into hire purchase agreements or agreements that are of
the same or a substantially similar nature; and
 - (iii) to enter into finance lease arrangements or arrangements that are
of the same or a substantially similar nature; and
 - (iv) to subscribe for any debt securities or uncalled capital; but 25
 - (b) does not include to sell or supply goods or services on credit—
 - (i) in the ordinary course of the territorial authority owner’s, or the
water services entity’s, performance of its lawful responsibilities;
and
 - (ii) on terms and conditions generally available to other parties of 30
equivalent creditworthiness
- security** has the meaning set out in section 6 of the Financial Markets Conduct
Act 2013.

Compare: 2010 No 116 Schedule 2 cl 6; 2020 No 47 s 114

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Subpart 6—Accounting records

167 Board must ensure that proper accounting records are kept

- (1) The board of a water services entity must cause accounting records to be kept that—
- (a) correctly record and explain the transactions of the entity; and 5
 - (b) will, at any time, enable the financial position of the entity to be determined with reasonable accuracy; and
 - (c) will enable the board members of the entity to ensure that the financial statements of the entity comply with **sections 159 and 163**; and
 - (d) will enable the financial statements of the water services entity to be readily and properly audited. 10
- (2) The accounting records must be in written form or in a manner in which they are easily accessible and convertible into written form.

Compare: 2004 No 115 s 168

Subpart 7—Borrowing 15

168 Borrowing in foreign currency

A water services entity may borrow or enter into incidental arrangements within or outside New Zealand in currency other than New Zealand currency.

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Monitoring 20

Subpart 1—Monitor

*Appointment and role of monitor***169 Appointment and role of monitor**

- (1) The Minister may appoint a department to be the monitor.
- (2) The role of the monitor is— 25
- (a) to act as a steward to provide oversight of the water services system from a whole of government perspective; and
 - (b) to assist the Minister to carry out the Minister's role (which is described in **section 26**); and
 - (c) to perform or exercise any or all of the following functions or powers: 30
 - (i) administering appropriations:
 - (ii) administering legislation:
 - (iii) tendering advice to Ministers:

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- (iv) any other functions or powers in this Act or another Act that may, or must, be performed by the monitor.
 - (3) The monitor may exercise all powers that are—
 - (a) conferred on the monitor by this Act; or
 - (b) reasonably necessary for performing the monitor’s functions and duties. 5
- Compare: 2021 No 31 s 80

Monitor’s information-gathering power

170 Monitor’s power to request information

- (1) The monitor may, by notice in writing, require a water services entity to provide it with information the monitor considers necessary to carry out its role under **section 169**. 10
- (2) An entity must provide the information—
 - (a) by the date specified in the notice; or
 - (b) by any other date the monitor has agreed to.

171 Good reason for refusing to supply requested information 15

- (1) A request for information made under **section 170** may be refused if—
 - (a) the withholding of the information is necessary to protect the privacy of a person (whether or not a natural person or a deceased person); or
 - (b) the supply of the information would limit the ability of the water services entity, or of any of its employees or board members, to perform or exercise duties, functions, or powers under this Act in relation to a particular matter. 20
 - (2) A reason in **subsection (1)(a)** applies only if it is not outweighed by the monitor’s need to have the information in order to perform its duties and functions under this Act. 25
 - (3) The information cannot be withheld other than for the reasons in **subsection (1)**, and cannot be withheld at all if it could not properly be withheld under the Official Information Act 1982. 25
- Compare: 2004 No 115 s 134

172 Civil proceedings relating to non-compliance with information request 30

- (1) The monitor may apply to the High Court for an order if a person does not comply with **section 170**.
- (2) If the court is satisfied that the person has not complied with **section 170**, the court may make either or both of the following:
 - (a) an order directing the person to comply with **section 170**: 35
 - (b) an order imposing a civil pecuniary penalty not exceeding \$50,000.

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- (3) In addition to the orders referred to in **subsection (2)**, the court may make any other order that it considers appropriate in the circumstances, including an order directing the person to pay to the monitor the reasonable costs of the proceedings.
Compare: 2021 No 36 s 143 5
- 173 Content of notice**
- (1) A notice under **section 170** must state—
- (a) the information required by the monitor; and
 - (b) the form in which the water services entity must provide the information; and 10
 - (c) the date by which the water services entity must provide the information.
- (2) The notice may require a water services entity to provide information—
- (a) by instalments on specified dates;
 - (b) by instalments at specified intervals. 15
- Compare: 2002 No 84 s 257(3), (5)
- Subpart 2—Minister’s powers to intervene**
- 174 Meaning of problem for purposes of subpart**
- In this subpart, **problem** means a matter, circumstance, or failure (for example, any of the following matters, circumstances, or failures) that has actual or probable adverse consequences for consumers or communities in a water services entity’s service area: 20
- (a) a matter or circumstance relating to the management or governance of the entity that detracts from, or is likely to detract from, its ability to give effect to its purpose; and
 - (b) a significant or persistent failure by the entity— 25
 - (i) to perform 1 or more of its functions or duties under this Act; or
 - (ii) to give effect to a Government policy statement issued by the Minister under **section 129**; and
 - (c) the consequences of a state of emergency (within the meaning of section 4 of the Civil Defence Emergency Management Act 2002) affecting, or recently affecting, the entity’s service area; and 30
 - (d) a failure by the entity to demonstrate prudent management of its revenues, expenses, assets, liabilities, investments, or general financial dealings; and
 - (e) a potential problem. 35

Crown review team

175 Minister may appoint Crown review team

- (1) The Minister may appoint a Crown review team to perform functions under this section if—
 - (a) the water services entity has received a notice under **section 170** and, without good reason, has not provided the information required by the notice by the stated or agreed date; or 5
 - (b) the Minister believes on reasonable grounds that a problem relating to the water services entity may exist and—
 - (i) the water services entity is unable or unwilling to effectively address the problem; or 10
 - (ii) a ministerial body currently or previously appointed in relation to the water services entity has recommended the appointment; or
 - (c) the Minister has received a written request to do so from the water services entity or the entity’s regional representative group. 15
- (2) Before appointing a Crown review team, the Minister must give notice of the proposed appointment in accordance with **section 185**.
- (3) Before the Crown review team begins its review, the Minister must give notice of the appointment in accordance with **section 186**.
- (4) A Crown review team must, to the extent authorised by its terms of reference,— 20
 - (a) investigate and report on the nature and extent of the problem or failure to provide information; and
 - (b) make recommendations to the water services entity and the Minister on how the water services entity could address the problem (if any); and 25
 - (c) make recommendations to the Minister on whether the Minister should take further action in relation to the water services entity, including whether the Minister should appoint any other ministerial body in relation to the entity; and
 - (d) ensure, as far as practicable, that the existing organisational capability of the water services entity is not diminished. 30
- (5) To the extent authorised by its terms of reference, a Crown review team may also investigate, and report on, any related matter recommended by a ministerial body currently or previously appointed in relation to the water services entity. 35
- (6) A water services entity must—
 - (a) co-operate with a Crown review team so that it may comply with its terms of reference; and

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- (b) comply with any reasonable request of the Crown review team to provide any relevant information that the water services entity holds.
- (7) A Crown review team must produce a final report that complies with **section 188** as soon as practicable after completing a review.
Compare: 2002 No 84 s 258 5
- 176 Appointment of Crown review team**
- (1) A Crown review team comprises 1 or more members.
- (2) If a Crown review team comprises 2 or more members, the Minister must appoint 1 member as the chairperson.
- (3) The Minister must appoint each member by notice in writing. 10
- (4) Each notice of appointment must include—
- (a) the terms of reference of the Crown review team, including—
- (i) an outline of the reason it has been appointed to perform functions under **section 175**; and
- (ii) the extent of its authority; and 15
- (b) the start and end dates of each member's appointment; and
- (c) the start and end dates of the review period.
Compare: 2002 No 84 s 258A
- Crown observer*
- 177 Minister may appoint Crown observer** 20
- (1) The Minister may appoint a Crown observer to perform functions under this section if—
- (a) the Minister believes, on reasonable grounds, that a problem relating to a water services entity exists and—
- (i) the appointment of a Crown observer is necessary to enable, or better enable, the water services entity to effectively address the problem; or 25
- (ii) the appointment of a Crown observer is necessary to enable, or better enable, the Minister to monitor the water services entity's progress in addressing the problem; or 30
- (iii) a ministerial body currently or previously appointed in relation to the water services entity has recommended the appointment; or
- (b) the Minister has received a written request to do so from the water services entity or the entity's regional representative group.
- (2) Before appointing a Crown observer, the Minister must give notice of the proposed appointment in accordance with **section 185**. 35

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(3)	Before the Crown observer begins their observation period, the Minister must give notice of the appointment in accordance with section 186 .	
(4)	A Crown observer must, to the extent authorised by the Crown observer’s terms of reference,—	
	(a) assist the water services entity to address the problem; and	5
	(b) monitor the water services entity’s progress in relation to the problem; and	
	(c) make recommendations to the Minister on whether the Minister should take further action in relation to the water services entity, including whether the Minister should appoint any other ministerial body in relation to the entity; and	10
	(d) ensure, as far as practicable, that the existing organisational capability of the water services entity is not diminished; and	
	(e) assist the water services entity with, and monitor progress on, any related matter as recommended by a ministerial body currently or previously appointed in relation to the entity.	15
(5)	A water services entity must—	
	(a) co-operate with a Crown observer so that it may comply with its terms of reference; and	
	(b) comply with any reasonable request of the Crown observer to provide any relevant information that the water services entity holds.	20
(6)	A Crown observer must produce a final report that complies with section 188 as soon as practicable after its observation period ends.	
	<small>Compare: 2002 No 84 s 258B</small>	
178	Appointment of Crown observer	25
(1)	The Minister must appoint a Crown observer by notice in writing.	
(2)	Each notice of appointment must include—	
	(a) the terms of reference of the Crown observer, including—	
	(i) an outline of the problem that the Crown observer has been appointed to observe; and	30
	(ii) the extent of the Crown observer’s authority; and	
	(b) the start and end dates of the Crown observer’s appointment; and	
	(c) the start and end dates of the observation period.	
	<small>Compare: 2002 No 84 s 258C</small>	

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*Crown manager***179 Minister may appoint Crown manager**

- (1) The Minister may appoint a Crown manager to perform functions under this section if—
- (a) the Minister believes, on reasonable grounds, that a problem relating to the water services entity exists and—
 - (i) the nature and extent of the problem is such that the water services entity is unlikely to effectively address the problem without the appointment of a Crown manager; or
 - (ii) the water services entity has not, without good reason, adequately implemented a recommendation of any other ministerial body in relation to the problem; or
 - (iii) a ministerial body currently or previously appointed in relation to the water services entity has recommended the appointment; or
 - (b) the Minister has received a written request to do so from the water services entity or the entity's regional representative group.
- (2) Before appointing a Crown manager, the Minister must give a notice of the proposed appointment in accordance with **section 185**.
- (3) Before the Crown manager begins their management period, the Minister must give notice of the appointment in accordance with **section 186**.
- (4) A Crown manager must, to the extent authorised by their terms of reference,—
- (a) direct the water services entity, or the board of the water services entity, to act to address the problem; and
 - (b) make recommendations to the Minister on whether the Minister should take further action in relation to the water services entity, including whether the Minister should appoint any other ministerial body in relation to the entity; and
 - (c) ensure, as far as practicable, that the existing organisational capability of the water services entity is not diminished; and
 - (d) direct the water services entity on any related matter as recommended by a ministerial body currently or previously appointed in relation to the entity.
- (5) A Crown manager may work together with, or apart from, the board of a water services entity.
- (6) A water services entity must—
- (a) co-operate with a Crown manager so that it may comply with its terms of reference; and
 - (b) comply with the directions of a Crown manager; and

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	(c) comply with any reasonable request of a Crown manager to provide any relevant information that the water services entity holds.	
	(7) A Crown manager must produce a final report that complies with section 188 as soon as practicable after their management period ends.	
	Compare: 2002 No 84 s 258D	5
180	Appointment of Crown manager	
	(1) The Minister must appoint a Crown manager by notice in writing.	
	(2) Each notice of appointment must include—	
	(a) the terms of reference of the Crown manager, including—	
	(i) an outline of the problem it has been appointed to manage; and	10
	(ii) the extent of the Crown manager’s authority; and	
	(b) the start and end dates of the Crown manager’s appointment; and	
	(c) the start and dates of the management period.	
	Compare: 2002 No 84 s 258E	
	Subpart 3—General provisions applying to Minister’s powers to intervene	15
181	Application	
	This subpart applies in relation to any appointment the Minister makes under subpart 2 .	
182	Minister may consult	20
	The Minister may consult any person, organisation, or group—	
	(a) when determining what action, if any, to take under subpart 2 ;	
	(b) when appointing a ministerial body;	
	(c) when formulating the terms of reference for a ministerial body.	
	Compare: 2002 No 84 s 258N	25
183	Minister must publish list of matters	
	(1) The Minister must publish a list of matters relevant to determining what action, if any, the Minister will take under subpart 2 .	
	(2) Without limiting subsection (1) , the list must include the following matters:	
	(a) guiding principles that the Minister is likely to adopt when making decisions under this Part:	30
	(b) matters or circumstances relating to the management or governance of a water services entity that the Minister considers are likely to detract from the ability of the entity to give effect to its objectives or undertake its functions:	35

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- (c) the types and sources of information that the Minister is likely to consider when making decisions under this Part.
- (3) The Minister must review the list no later than 5 years after the date on which it is published and subsequently at intervals of no more than 5 years after the most recent review. 5
- (4) The Minister must republish the list after each review.
- (5) Before publishing or republishing a list, the Minister—
 - (a) must consult Local Government New Zealand; and
 - (b) may consult any other person, organisation, or group.
- (6) In this section, **publish** and **republish** mean to publish in the *Gazette* and on an Internet site maintained by, or on behalf of, the monitor. 10
 Compare: 2002 No 84 s 258O
- 184 Minister must have regard to published list**
- (1) The Minister must, when determining what action, if any, to take under **subpart 2**, have regard to the list published under **section 183**. 15
- (2) However, the Minister may act under **subpart 2** and appoint a ministerial body in relation to a water services entity even if the problem in relation to the water services entity does not relate to a matter on the list.
 Compare: 2002 No 84 s 258P
- 185 Notice of proposed appointment of ministerial body** 20
- (1) Before appointing a ministerial body to perform functions under this subpart in relation to a water services entity, the Minister must—
 - (a) give the entity and the entity’s regional representative group notice that the Minister intends to make the appointment; and
 - (b) state— 25
 - (i) the reasons for the proposed appointment; and
 - (ii) the proposed terms of reference; and
 - (c) give the entity an opportunity to satisfy the Minister of the following matters, as applicable, by a date specified in the notice, which must be no earlier than 10 working days after the date on which the Minister gives the notice to the entity: 30
 - (i) that the reasons for the Minister to make the appointment do not exist;
 - (ii) that the water services entity is acting effectively to address the problem (if any) or the reasons for the proposed appointment: 35
 - (iii) that, for any other reason, the Minister should not make the appointment;
 - (iv) that the Minister should appoint a different ministerial body.

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(2)	The Minister must notify a water services entity, in writing, if the Minister decides not to appoint a ministerial body.	
(3)	This section does not apply if—	
	(a) the water services entity has requested the Minister to make the appointment; or	5
	(b) the problem in relation to which the Minister intends to make the appointment relates to the consequences of a state of emergency and the Minister believes, on reasonable grounds, that the public health or safety of the people within the water services entity’s service area is, or is likely to be, endangered.	10
	Compare: 2002 No 84 s 258Q	
186	Notice of appointment of ministerial body	
(1)	A notice of appointment of a ministerial body under section 175(3), 177(3), or 179(3) must—	
	(a) be in writing; and	15
	(b) be given as soon as is reasonably practicable after the Minister makes the appointment; and	
	(c) be sent to the relevant water services entity and the entity’s regional representative group; and	
	(d) be published in the <i>Gazette</i> ; and	20
	(e) be publicly notified.	
(2)	A notice of appointment must include—	
	(a) a statement that the Minister has appointed a ministerial body in relation to the relevant water services entity; and	
	(b) the type of ministerial body appointed; and	25
	(c) the terms of reference; and	
	(d) the start and end dates of the ministerial body’s appointment; and	
	(e) the name of each member of the ministerial body; and	
	(f) if applicable, the name of the chairperson of the ministerial body.	
(3)	The Minister must notify any change in the membership of a ministerial body by notice in the <i>Gazette</i> .	30
(4)	In this section, publicly notify means to publish—	
	(a) a notice on an Internet site maintained by, or on behalf of, the monitor; and	
	(b) any other notice that the Minister thinks desirable in the circumstances.	35
	Compare: 2002 No 84 ss 258S, 258T	

Water Services Entities Bill

Part 5 cl 189

187 Information to Minister

A ministerial body must inform the Minister about—

- (a) the steps it is taking to address the problem; and
- (b) the progress of those steps.

Compare: 2020 No 47 s 128(1)

5

188 Final report of ministerial body

- (1) A final report produced by a ministerial body under **section 175(7), 177(6), or 179(7)** must include—

- (a) a narrative description of the activities of the ministerial body in relation to its terms of reference; and 10
- (b) in respect of the problem in relation to which the ministerial body was appointed, an assessment of progress in addressing the problem; and
- (c) any final recommendations of the ministerial body to the Minister, the water services entity, or both; and
- (d) without limiting **paragraph (c)**, any final recommendations of the ministerial body to the Minister on whether the Minister should take further action in relation to the water services entity, including whether the Minister should appoint any other ministerial body in relation to the entity; and 15
- (e) any other matter required by the ministerial body's terms of reference. 20

- (2) The Minister must, as soon as practicable,—

- (a) give a copy of the report to the relevant water services entity and the entity's regional representative group; and
- (b) make the report publicly available, excluding any information that it is necessary to withhold for any of the reasons stated in section 6 or 7 of the Local Government Official Information and Meetings Act 1987. 25

Compare: 2002 No 84 s 258U

189 Remuneration and expenses of ministerial appointees

- (1) A ministerial appointee is entitled—

- (a) to receive remuneration for services as a member of a ministerial body as determined by the Minister in accordance with the fees framework; and 30
- (b) to be reimbursed for actual and reasonable travelling and other expenses incurred in providing the services as a member in accordance with the fees framework. 35

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Part 5 cl 190

Water Services Entities Bill

- (2) In this section, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.
Compare: 2002 No 84 s 258V
- 190 Recovery of expenses from water services entity** 5
- (1) A water services entity owes, as a debt to the Crown, any expenses that the Crown incurs for the appointment of a Crown manager in relation to the entity, including the payment of remuneration and expenses to the Crown manager.
- (2) Any expenses that the Crown incurs for the appointment of a Crown observer or a Crown review team in relation to a water services entity, including the payment of remuneration and expenses to the Crown observer or any member of the Crown review team, may be recovered by the Crown from the entity if—
- (a) the Minister decides that it is reasonable to do so in the circumstances; and
- (b) the terms of reference authorise the recovery. 15
Compare: 2002 No 84 s 258W
- 191 Minister may terminate appointment of ministerial body or ministerial appointee**
- (1) The Minister may terminate the appointment of a ministerial body or ministerial appointee at any time by notice in writing. 20
- (2) The Minister must give notice of the termination of a ministerial body—
- (a) in writing to the water services entity and the entity's regional representative group; and
- (b) by notice in the *Gazette*; and
- (c) by public notice. 25
- (3) The Minister must give notice of the termination of the appointment of a ministerial appointee in writing to the appointee, the water services entity, and the entity's regional representative group.
- (4) No compensation is payable to a ministerial appointee as a result of the appointee's termination. 30
Compare: 2002 No 84 s 258X
- 192 Protection from liability for ministerial appointees**
- (1) A ministerial appointee is not liable for any act done or omitted to be done by the appointee in good faith in the performance or intended performance of the appointee's functions, responsibilities, and duties, or the exercise of the appointee's powers as a ministerial appointee. 35

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Water Services Entities Bill

Part 6 cl 195

- (2) The protection from liability in **subsection (1)** includes protection in relation to acts done or omitted to be done by a Crown manager when directing a water services entity to act.
Compare: 2002 No 84 s 258Y
- 193 Disclosure of information held by water services entity** 5
- (1) For the purposes of this Part, information held by a water services entity may be disclosed to the Minister or a ministerial body despite anything to the contrary in the Official Information Act 1982, the Local Government Official Information and Meetings Act 1987, or the Privacy Act 2020.
- (2) However, the Minister, the ministerial body, or a ministerial appointee must not publish or disclose the information to any other person except in accordance with those Acts. 10
Compare: 2002 No 84 s 258Z
- 194 Decisions and directions of Crown manager remain in force**
- On and from the expiry of the term of a Crown manager appointed in relation to a water services entity,— 15
- (a) a direction given to the water services entity by the Crown manager ceases to have effect; and
- (b) despite **paragraph (a)**, any decision made by the water services entity giving effect to the direction continues in force unless and until the board of the entity revokes or amends the decision. 20
Compare: 2002 No 84 s 258ZA(1), (2), (3)

Part 6**Miscellaneous provisions**

Subpart 1—Reviews 25

- 195 Interim review of governance and accountability arrangements under Act**
- (1) The Minister must, in the relevant period, commission a review of the need for, and the operation and effectiveness of, the governance and accountability arrangements under this Act.
- (2) The relevant period starts on the fifth anniversary, and ends on the sixth anniversary, of the establishment date (as defined in **clause 1(1) of Schedule 1**). 30
- (3) The interim review required by this section must include consideration of the following matters:
- (a) governance structures, and related roles and responsibilities, under this Act: 35
- (b) interaction of each water services entity's regional representative group with the following:

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Part 6 cl 196	Water Services Entities Bill	
<hr/>		
<ul style="list-style-type: none"> (i) the entity’s board: (ii) territorial authority owners: (iii) mana whenua in the entity’s service area: (iv) communities in the entity’s service area: 		
(c)	interaction of each water services entity with the following:	5
	<ul style="list-style-type: none"> (i) territorial authority owners: (ii) mana whenua in the entity’s service area: (iii) communities in the entity’s service area: 	
(d)	each water services entity’s—	
	<ul style="list-style-type: none"> (i) relationships with financiers; and (ii) financing arrangements: 	10
(e)	accountability, strategic direction, or planning or reporting mechanisms, including each—	
	<ul style="list-style-type: none"> (i) Government policy statement: (ii) regional representative group’s statement of strategic and performance expectations: (iii) Te Mana o te Wai statement for water services: (iv) statement of intent: (v) other planning or reporting document under this Act: 	15
(f)	each water services entity’s constitution, including amendments to it, or its replacement:	20
(g)	any other relevant matters identified by the Minister.	
(4)	Before commissioning the review required by this section, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit.	25
196 Comprehensive review of water services legislation		
(1)	The Minister must, in the relevant period, commission a review of the need for, and operation and effectiveness of, water services legislation.	
(2)	The relevant period starts on the ninth anniversary, and ends on the tenth anniversary, of the establishment date (as defined in clause 1(1) of Schedule 1).	30
(3)	The comprehensive review required by this section must include consideration of the following:	
	<ul style="list-style-type: none"> (a) legislation in or made under this Act, plus each water services entity’s constitution: (b) legislation in or made under Taumata Arowai—the Water Services Regulator Act 2020: 	35

Water Services Entities Bill

Part 6 cl 199

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- (c) legislation in or made under the Water Services Act 2021:
- (d) legislation about economic regulation of, or consumer protection in respect of, water services:
- (e) interaction of relevant regulators and relevant regulatory systems:
- (f) oversight, monitoring, and stewardship arrangements: 5
- (g) any other relevant matters identified by the Minister.
- (4) Before commissioning the review required by this section, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit. 10
- 197 Reviewer**
- A review required by this subpart must be done by the following reviewer:
- (a) the monitor, if the monitor is asked by the Minister to do the review:
- (b) in any other case, a review panel commissioned by or on behalf of the Minister. 15
- 198 Reviewer’s power to request information**
- (1) The reviewer may, by notice in writing, require a water services entity, or other relevant person, to provide the reviewer with information the reviewer thinks necessary to do the review.
- (2) The entity or other relevant person must provide the requested information by the reasonable date that the reviewer has specified for that purpose in the notice. 20
- (3) **Sections 171 to 173** apply, with all necessary modifications, to a request under this section.
- 199 Report** 25
- (1) The reviewer must prepare a report on a review required by this subpart.
- (2) The report must include at least the following contents:
- (a) any terms of reference, consistent with **section 195 or 196**:
- (b) the process that was followed:
- (c) the issues that were examined: 30
- (d) the key findings:
- (e) any recommendations arising out of the review, including—
- (i) whether any amendments to any of the legislation reviewed are necessary or desirable:
- (ii) any other matters that the reviewer recommends be considered by the Minister. 35

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Part 6 cl 200	Water Services Entities Bill	
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(3)	The reviewer must ensure that the people and organisations that the reviewer thinks appropriate are consulted, during the preparation of the report, about the matters to be considered in the report.	
(4)	The reviewer must, after completing the report, promptly present the report to the Minister.	5
(5)	The Minister must, after receiving the report, promptly present a copy to the House of Representatives.	
200	Repeal of this subpart	
	This subpart is repealed on the 15th anniversary of the establishment date (as defined in clause 1(1) of Schedule 1).	10
	Subpart 2—Rights or interests in water preserved	
201	Rights or interests in water preserved	
	<i>Purpose</i>	
(1)	The purpose of this section is to achieve both of the following outcomes:	
	(a) any rights or interests in water are preserved, consistent with assurances given by the Crown to the Supreme Court in 2012, and recorded in <i>New Zealand Māori Council v Attorney-General</i> [2013] NZSC 6, [2013] 3 NZLR 31 at [145];	15
	(b) this Act, and duties, functions, and powers under this Act, operate effectively.	20
	<i>Act does not create, transfer, extinguish, or limit rights or interests</i>	
(2)	No legislation in or made under this Act—	
	(a) creates or transfers any proprietary right or interest in water:	
	(b) extinguishes or limits any customary right or interest (for example, one founded on, or arising from, aboriginal title or customary law) any iwi or hapū may have in water.	25
	<i>Nothing in section affects duties, functions, and powers under Act</i>	
(3)	Nothing in this section affects, or affects the lawfulness or validity of the performance or exercise by any person of, any duty, function, or power under this Act.	30
	Compare: 2010 No 24 s 90(1)(a); 2014 No 74 s 15(5)(a); 2017 No 7 s 46(1), (2)(b)	
	Subpart 3—Engagement	
202	Engagement requirements	
(1)	This section applies to engagement that a water services entity must undertake in accordance with any of the following provisions:	35

Water Services Entities Bill

Part 6 cl 203

- (a) **section 141(1)(b)** (relating to the preparation of a response to a Te Mana o te Wai statement for water services):
- (b) **section 206(1)(a)** (relating to the making of regulations to provide for a model constitution):
- (c) **clauses 7, 14, and 19 of Schedule 3** (relating to asset management plans, funding and pricing plans, and infrastructure strategies). 5
- (2) Engagement requires that a water services entity do either or both of the following before deciding on a matter:
 - (a) consult on a proposal:
 - (b) seek input during the formulation of a proposal, or feedback on a proposal, on an iterative basis. 10
- (3) Input or feedback may be sought via hui or meetings, social media, or any other forum that the water services entity thinks appropriate.
- (4) In undertaking an approach to engagement on a matter, a water services entity— 15
 - (a) must consider the purpose of the engagement; and
 - (b) must consider the needs of the particular person or persons with whom the water services entity is engaging; and
 - (c) must allow adequate time for engagement to occur and for territorial authority owners, and for consumers and communities, to respond; and 20
 - (d) may consider the relevance and sufficiency of any earlier engagement.

Compare: 2020 No 42 s 22

Consumer engagement

203 Consumer forum

- (1) The chief executive of a water services entity must establish a consumer forum. 25
- (2) The purpose of a consumer forum is to—
 - (a) assist with effective and meaningful consumer and community engagement; and
 - (b) gather and compile consumer views; and
 - (c) assist the water services entity to understand consumer needs, expectations, and service requirements; and 30
 - (d) reflect and represent the interests and diversity of consumers across the entity’s region.
- (3) A consumer forum may be established under this section—
 - (a) for the whole or part of a service area; and 35
 - (b) in relation to all, or a particular class of, consumers.

Part 6 cl 204	Water Services Entities Bill	
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(4)	The chief executive of the entity must provide a guidance document to each consumer forum established under this section that provides for the composition and procedures of the forum, including—	
	(a) the intervals between meetings; and	
	(b) the number of members that may be on the forum; and	5
	(c) the method of selecting forum members; and	
	(d) any additional purposes to those set out in subsection (2) ; and	
	(e) the roles and responsibilities of forum members; and	
	(f) the term of membership of the forum; and	
	(g) any other matters not inconsistent with the purpose of a consumer forum under this section.	10
(5)	The chief executive must ensure that each consumer forum established has a guidance document.	
204	Consumer engagement stocktake	
(1)	The chief executive of a water services entity must prepare a consumer engagement stocktake annually.	15
(2)	The purpose of a consumer engagement stocktake is to—	
	(a) capture consumer and community feedback on, and satisfaction with, how the entity is performing; and	
	(b) set out how the water services entity will respond to consumer and community needs and address consumer and community concerns.	20
(3)	The chief executive must make the consumer engagement stocktake publicly available as soon as practicable after it is issued by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible.	25
205	Principles of engagement	
	In performing its functions under sections 147 to 155 and 204 , a water services entity must be guided and informed by the following principles:	
	(a) the entity’s communication to consumers should be clear and appropriate and recognise the different communication needs of consumers:	30
	(b) the entity should be openly available for consumer feedback and seek a diversity of consumer voices:	
	(c) the entity should clearly identify and explain the role of consumers in the engagement process:	
	(d) the entity should consider the changing needs of consumers over time, and ensure that engagement will be effective in the future:	35

Water Services Entities Bill

Part 6 cl 207

- (e) the entity should prioritise the importance of consumer issues to ensure that the entity is engaging with issues that are important to its consumers.

Subpart 4—Regulations

- 206 Regulations** 5
- (1) The Governor-General may, by Order in Council on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) providing for a model constitution for the purposes of **section 94**;
- (b) providing for financial and non-financial disclosure requirements relating to the statement of intent, asset management plan, funding and pricing plan, and infrastructure strategy that are consistent with generally accepted accounting practice: 10
- (c) providing for transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in place of, the transitional and savings provisions in **Schedule 1**, including transitional reporting obligations to apply to local government organisations or water services entities: 15
- (d) changing the name of a water services entity by amending or replacing the references to that entity in **Schedule 2**;
- (e) providing for anything this Act says may or must be provided for by regulations: 20
- (f) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) The Minister must, before recommending the making of regulations under **subsection (1)(a)** in relation to a water services entity, engage with the territorial authority owners of the entity and mana whenua of the service area. 25
- (3) Regulations made under **subsection (1)(b)** may include requirements relating to—
- (a) the type of information that must be provided; and
- (b) the frequency of the reporting. 30
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Subpart 5—Amendments to other Acts

Amendments to Goods and Services Tax Act 1985

- 207 Principal Act** 35
- Sections 208 and 209** amend the Goods and Services Tax Act 1985.

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Part 6 cl 208	Water Services Entities Bill	
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208 Section 2 amended (Interpretation)		
In section 2(1), insert in its appropriate alphabetical order:		
water services entity means a water services entity as defined in section 6 of the Water Services Entities Act 2022		
209 Section 6 amended (Meaning of term taxable activity)		5
In section 6(1)(b), replace “or any local authority or”, with “, local authority, water services entity, or”.		
<i>Amendments to Income Tax Act 2007</i>		
210 Principal Act		
Sections 211 and 212 amend the Income Tax Act 2007.		10
211 New section CW 38C inserted (Water services entities)		
After section CW 38B, insert:		
CW 38C Water services entities		
<i>Exempt income: sinking funds</i>		
(1) An amount of income derived from sinking funds relating to the debt of a water services entity is exempt income.		15
<i>Exempt income: other income</i>		
(2) Any other amount of income derived by a water services entity is exempt income.		
<i>Exclusion: amounts received in trust</i>		20
(3) Subsection (2) does not apply to an amount of income that a water services entity derives as a trustee.		
212 Section YA 1 amended (Definitions)		
In section YA 1, insert in its appropriate alphabetical order:		
water services entity means a water services entity as defined in section 6 of the Water Services Entities Act 2022		25
<i>Amendment to Local Government Act 2002</i>		
213 Principal Act		
Section 214 amends the Local Government Act 2002.		
214 New section 159A inserted and repealed (Review of water services bylaws may be deferred during transition period)		30
(1) After section 159, insert:		

159A Review of water services bylaws may be deferred during transition period

- (1) The local authority may decide to defer a review required by section 158(1) or (2) or 159 if all the following requirements are met:
 - (a) the review relates only to a water services bylaw:
 - (b) for that bylaw, the 5-year period in section 158(1) or (2)(b) or, as the case requires, the 10-year period in section 159 ends in the transition period: 5
 - (c) the local authority makes the decision in the transition period:
 - (d) the local authority gives prompt public notice of the deferral:
 - (e) that public notice identifies clearly the bylaw. 10
- (2) A deferral under **subsection (1)** has the results specified in **subsections (3) to (5)**.
- (3) The review is required only if the bylaw is not revoked in the transition period.
- (4) The review, if required, is required no later than the second anniversary of the establishment date. 15
- (5) For the purposes of section 160A, the last date on which the bylaw should have been reviewed under section 158 or 159 must be taken to be the second anniversary of the establishment date.
- (6) **Subsections (2) to (5)** apply despite sections 158, 159, and 160A.
- (7) In this section,— 20
 - bylaw**, without limiting the generality of that term as defined in section 5(1), includes—
 - (a) a set of bylaws; and
 - (b) an individual bylaw in a set of bylaws; and
 - (c) a provision within an individual bylaw 25

establishment date has the meaning in **clause 1(1) of Schedule 1** of the Water Services Entities Act **2022**

transition period means the period—

 - (a) starting on the day after the date of Royal assent of the Water Services Entities Act **2022**; and 30
 - (b) ending at the close of the day before the establishment date

water services bylaw means a bylaw that relates to all or any of the following:

 - (a) water supply (as defined in **section 6** of the Water Services Entities Act **2022**):
 - (b) wastewater: 35
 - (c) stormwater.
- (2) Repeal **section 159A** on **1 July 2028**.

Part 6 cl 215	Water Services Entities Bill	
<i>Amendment to Local Government Official Information and Meetings Act 1987</i>		
215	Principal Act	
	Section 216 amends the Local Government Official Information and Meetings Act 1987.	
216	Schedule 2 amended	5
	In Schedule 2, Part 1, insert in its appropriate alphabetical order: Regional representative groups established under subpart 4 of Part 2 of the Water Services Entities Act 2022	
<i>Amendment to Ombudsmen Act 1975</i>		
217	Principal Act	10
	Section 218 amends the Ombudsmen Act 1975.	
218	Schedule 1 amended	
	In Schedule 1, Part 3, insert in its appropriate alphabetical order: Regional representative groups established under subpart 4 of Part 2 of the Water Services Entities Act 2022	15
<i>Amendment to Public Audit Act 2001</i>		
219	Principal Act	
	Section 220 amends the Public Audit Act 2001.	
220	Schedule 1 amended	
	In Schedule 1, insert in its appropriate alphabetical order: Water services entities established under section 10 of the Water Services Entities Act 2022	20
<i>Amendment to Public Records Act 2005</i>		
221	Principal Act	
	Section 222 amends the Public Records Act 2005.	25
222	Section 4 amended (Interpretation)	
	In section 4, definition of local authority , after paragraph (b), insert: (c) includes a water services entity as defined in section 6 of the Water Services Entities Act 2022	

Water Services Entities Bill

Schedule 1

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to this Act as enacted

1 Interpretation

- (1) In this Part, unless the context otherwise requires,—
- assets, liabilities, and other matters**, of a local government organisation, include, without limitation, the organisation’s—
 - (a) assets (for example, infrastructure assets):
 - (b) contracts, engagements, or information:
 - (c) benefits, entitlements, interests, rights, powers, or privileges (including, without limitation, in relation to any moneys payable, proceedings, or statutory approvals or consents): 10
 - (d) eligibility for benefits, entitlements, interests, rights, powers, or privileges:
 - (e) duties or liabilities (including, without limitation, in relation to any moneys payable, proceedings, or statutory approvals or consents): 15
 - (f) ineligibility for benefits, entitlements, interests, rights, powers, or privileges
 - decision** has the meaning set out in **clause 21**
 - establishment chief executive** means a chief executive—
 - (a) of a water services entity; and 20
 - (b) appointed under **clause 4**

Water Services Entities Bill		Schedule 1
establishment date means the earlier of—		
(a)	a date appointed by the Governor-General by Order in Council; and	
(b)	1 July 2024	
establishment period means the period—		
(a)	commencing on the day after the date on which the Act receives the Royal assent; and	5
(b)	ending on the establishment date	
existing employer has the meaning set out in clause 15		
infrastructure assets includes—		
(a)	existing or proposed assets to be used to provide services by, or on behalf of, the water services entity in relation to water services; and	10
(b)	any other assets that the water services entity wishes to include in the strategy	
local government organisation has the same meaning as in section 124 of the Local Government Act 2002		
		15
water services reform means—		
(a)	the establishment of water services entities to deliver water services in accordance with this Act; and	
(b)	the transfer of interests in, and the ownership of, infrastructure assets from local government organisations to the water services entities.	20
(2)	An Order in Council made under this section is secondary legislation (<i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	
Subpart 1—Transitional provisions relating to establishment and governance of water services entities		
2	Establishment functions and objectives of water services entities	25
During the establishment period,—		
(a)	section 11 must be read as if—	
(i)	the objective set out paragraph (a) of that section were to ensure that, by the establishment date, the water services entity will deliver water services and related infrastructure in an efficient and financially sustainable manner; and	30
(ii)	the objective set out paragraph (f) of that section were to ensure that, by the establishment date, the water services entity will deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards; and	35

Schedule 1

Water Services Entities Bill

- (b) **section 12** must be read as if the function described in **paragraph (a)** of that section were to ensure that, by the establishment date, the water services entity will have sufficient capacity and capability to provide safe, reliable, and efficient water services in its area.
- 3 Establishment board of water services entity** 5
- During the establishment period, **subparts 6 and 8 of Part 2** of this Act apply with the following modifications:
- (a) **section 57(1)** must be read as if it required the board to consist of no fewer than 3, and no more than 6, members; and
- (b) all references to the constitution (for example, in **section 58**) do not apply (because only after that period will a model constitution for the purposes of **section 94** be provided for by regulations made under **section 206(1)(a)**); and 10
- (c) **section 60** (board must hold 2 public meetings each financial year) does not apply; and 15
- (d) all references to the regional representative group and the board appointment committee of the regional representative group in **subpart 6 of Part 2** of this Act must be read as if they were references to the Minister; and
- (e) **subpart 8 of Part 2** of this Act applies only in relation to board members, and all references in that subpart to the regional representative group and the board appointment committee of the regional representative group in relation to an obligation of the board or members of the board must be read as if they were references to the Minister; and 20
- (f) **section 65** must be read as if it provided that a member of the board of a water services entity holds office for the establishment period or for any shorter period stated in the notice of appointment. 25
- 4 Appointment of establishment chief executive**
- (1) The chief executive of the department must appoint an establishment chief executive to each water services entity during the establishment period. 30
- (2) An establishment chief executive is appointed for a term that—
- (a) commences in accordance with the terms and conditions agreed under **subclause (3)**; and
- (b) ends at the close of the day that is 24 months after the establishment date unless earlier terminated in accordance with **subclause (5)**. 35
- (3) The terms and conditions of employment of an establishment chief executive must be determined by agreement between the chief executive of the department and the establishment chief executive.

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(4) When considering the terms and conditions of an establishment chief executive, the chief executive of the department must have regard to the matters listed in section 119(3)(a) to (d) .	
(5) The board of a water services entity may remove the establishment chief executive of the entity from office at any time on or after the establishment date.	5
(6) This clause—	
(a) applies instead of section 119(1) to (3) during the establishment period; and	
(b) continues to apply until the earlier of the following:	10
(i) the date that is 24 months after the establishment date; and	
(ii) the time of the removal or resignation, after the establishment date, of a chief executive appointed under this clause.	
5 Establishment chief executive must prepare allocation schedule	
(1) During the establishment period, the establishment chief executive of a water services entity must prepare, and may update, an allocation schedule for the entity.	15
(2) A local government organisation must, under clause 11(1) and (2)(b) , cooperate with a relevant water services entity to facilitate the water services reform and, in particular, must comply with any reasonable request by the entity for information that—	20
(a) the organisation holds; and	
(b) is or may be necessary or desirable for preparing the allocation schedule for the entity.	
(3) The allocation schedule for a water services entity must—	25
(a) specify assets, liabilities, and other matters that relate wholly to the provision of water services by relevant local government organisations:	
(b) specify assets, liabilities, and other matters that relate—	
(i) partly to the provision of water services by relevant local government organisations; and	30
(ii) partly to the provision of other services by relevant local government organisations.	
(4) The allocation schedule for a water services entity may also specify assets, liabilities, and other matters (whether specified in subclause (3)(a) and (b) or otherwise) that—	35
(a) relate wholly to 1 or more relevant local government organisations; and	
(b) in the opinion of the establishment chief executive of the entity, should not transfer to the entity.	

Schedule 1	Water Services Entities Bill	
<hr/>		
(5)	The allocation schedule for a water services entity must be not inconsistent with a plan approved under clause 7(1) (see clause 7(3)(a) and (b)).	
6	Role of Minister during establishment period	
(1)	During the establishment period, in addition to the Minister's role under section 26 , the Minister has the additional role of overseeing the establishment of the water services entities.	5
(2)	The Minister's additional role includes functions and powers to appoint and remove members of the board of each water services entity under this schedule.	
Subpart 2—Transitional arrangements relating to reporting obligations		
7	Chief executive of department may approve establishment water services plan	10
(1)	The chief executive of the department may prepare and approve an establishment water services plan for a water services entity.	
(2)	The chief executive of the department must, before approving a plan under subclause (1) , consult with the relevant water services entity.	15
(3)	A plan approved under subclause (1) for a water services entity must include—	
	(a) the processes, policies, and guidance for identifying the functions, staff, and assets, liabilities, and other matters to be transferred to the entity; and	20
	(b) the proposed timing for the transfer of functions, staff, and assets, liabilities, and other matters to the entity; and	
	(c) the reporting requirements for the quarterly reports to be provided to the chief executive of the department under clause 9 of this schedule.	
(4)	The plan may include any other matters the Minister considers relevant.	25
8	Transitional requirements for asset management plan and funding and pricing plan during establishment period	
	During the establishment period, sections 147 to 152 (relating to the requirements to prepare an asset management plan and a funding and pricing plan) apply with the following modifications:	30
	(a) references to the regional representative group must be read as references to the chief executive of the department:	
	(b) sections 147(2)(c), 149(b), 150(2)(c), and 152(b) (which relate to engagement with consumers and the regional representative group) do not apply.	35

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9 Quarterly reports

- (1) The board of a water services entity must, during the establishment period, provide a quarterly report to the chief executive of the department.
- (2) The report must include any information required by an establishment water services plan approved under **clause 7** of this schedule. 5

10 First annual report of water services entity

- (1) An entity established during the last 4 months of a financial year—
 - (a) is not required to provide an annual report for that financial year; but
 - (b) must, after the end of the entity's first full financial year, provide an annual report that covers the period from the date on which the entity is established until the end of the entity's first full financial year. 10
- (2) The annual report referred to in **subclause (1)(b)** must contain the information required to be included in the entity's annual report, except that the information must be in respect of the period referred to in that subclause.

11 Duty of local government organisations to co-operate with department and water services entities 15

- (1) During the establishment period, a local government organisation must co-operate with the department and any relevant water services entity to facilitate the water services reform.
- (2) Without limiting **subclause (1)**, a local government organisation must— 20
 - (a) comply with any reasonable request by the chief executive of the department or the water services entity for employees of the local government organisation to be seconded to the water services entity; and
 - (b) comply with any reasonable request by the chief executive of the department or the water services entity for information that the local government organisation holds (for example, information of the kind specified in **clause 5(2)**). 25
- (3) The obligation to comply with a request under **subclause (2)(b)** includes a requirement to comply with any reasonable request to— 30
 - (a) collate information; or
 - (b) provide information in a particular format; or
 - (c) disclose current pricing information or indicative water charges on invoices during the establishment period.
- (4) A local government organisation may only provide personal information under **subclause (2)(b)** if the information relates to employment matters. 35
- (5) In this clause, **relevant water services entity** means the water services entity whose service area includes the district or region that the local government organisation services.

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12 Duty of water services entity to co-operate

- (1) During the establishment period, a water services entity must co-operate with the department to facilitate the water services reform.
- (2) Without limiting **subclause (1)**, a water services entity must comply with any reasonable request by the chief executive of the department for information that the water services entity holds that is relevant to the water services reform. 5

13 Chief executive of department may issue direction of non-compliance

- (1) The chief executive of the department may issue a non-compliance direction to a local government organisation if they fail to comply with **clause 11** or any disclosure requirements required by regulations made under **section 206(1)(b)**. 10
- (2) The non-compliance direction must—
- (a) identify the local government organisation to which it relates; and
 - (b) specify the non-compliance (for example, non-compliance with **clause 11** in respect of a request for information of the kind specified in **clause 5(2)**); and 15
 - (c) specify the action required to comply with the non-compliance direction.
- (3) The chief executive of the department may apply to the District Court for an order to compel a local government organisation to comply with a non-compliance direction. 20
- (4) The District Court may make an order to compel a local government organisation to comply with a non-compliance direction if satisfied that the local government organisation has failed to comply with the non-compliance direction.
- (5) The chief executive of the department may withdraw a non-compliance direction issued under this clause at any time. 25
- (6) An order of the District Court to compel a local government organisation to comply with a non-compliance direction under **subclause (4)** ceases to apply if the non-compliance order is withdrawn.

14 Relationship of this Part with Local Government Act 2002

- The following provisions of the Local Government Act 2002 do not apply to any actions taken by a local government organisation in order to comply with this schedule or facilitate the water services reform: 30
- (a) section 95(2) (relating to the requirement for a local authority to consult on significant or material variations from its annual plan);
 - (b) section 97 (which requires certain decisions to be taken only if provided for in a long-term plan): 35
 - (c) section 130(3) (relating to certain obligations to maintain water services).

Subpart 3—Transitional provisions relating to employment

Review of employment positions

- 15 Review of employment positions by chief executive of department during establishment period**
- (1) The chief executive of the department must, during the establishment period,— 5
- (a) review the positions of persons employed by existing employers; and
- (b) determine, in relation to each employee, whether the employee—
- (i) primarily undertakes functions that will be transferred to a water services entity; and
- (ii) has a senior management role. 10
- (2) The chief executive of the department must, before the establishment date, notify in writing each employee and their existing employer of the determination made in relation to the employee under **subclause (1)(b)**.
- (3) In this subpart, **existing employer**, in relation to a water services entity, means a local government organisation that— 15
- (a) provides water services in the service area of the water services entity before the establishment date; and
- (b) employs employees.
- 16 Obligation to offer certain employees position that involves same or similar duties and responsibilities** 20
- (1) The chief executive of a water services entity must offer an employee of an existing employer an employment position if the chief executive of the department determines under **clause 15** that—
- (a) the employee primarily undertakes functions that will be transferred to the water services entity; and 25
- (b) the employee does not have a senior management role.
- (2) The terms and conditions of the position offered under **subclause (1)** must—
- (a) involve the same or similar duties and responsibilities; and
- (b) include core terms that are no less favourable than the core terms that applied immediately before the notification by the chief executive of the department of the determination under **clause 15(1)(b)**; and 30
- (c) be in substantially the same general locality or a locality within reasonable commuting distance from the employee’s location of work immediately before the notification by the chief executive of the department of the determination under **clause 15(1)(b)**; and 35

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- (d) involve the same or similar hours and days of work to those worked by the employee immediately before the notification by the chief executive of the department of the determination under **clause 15(1)(b)**; and
- (e) recognise the employee's employment with the existing employer as if it were continuous service with the water services entity. 5
- (3) In **subclause (2), core terms** includes the employee's salary, leave entitlements, and any entitlement to redundancy compensation.
- (4) The chief executive of the relevant water services entity must, before the establishment date, notify each employee who is being offered a position with the water services entity— 10
- (a) that the employee is being offered a position with the same or similar duties and responsibilities with the water services entity; and
- (b) of the terms and conditions of employment of the position being offered; and
- (c) of the date by which the employee is to notify the chief executive as to whether the employee accepts or declines the offer. 15
- (5) Nothing in this clause—
- (a) imposes any obligation on an employee of an existing employer to accept an offer under this schedule; or
- (b) prevents the chief executive of the department from offering a position to any other employee of the existing employer on any terms and conditions the chief executive considers appropriate. 20
- 17 Transfer of employment positions**
- (1) An employee who accepts an offer of employment made under **clause 16(4)** becomes an employee of the water services entity, on and from the establishment date, on the terms and conditions offered under that subclause. 25
- (2) The terms and conditions of employment continue to apply in relation to the employee until—
- (a) the terms and conditions are varied—
- (i) by agreement between the employee and the relevant water services entity; or 30
- (ii) in accordance with the employee's terms and conditions of employment; or
- (iii) because of the application of section 61(1)(b) of the Employment Relations Act 2000; or 35
- (b) the employee accepts a subsequent position with the water services entity or the employee resigns or has their employment terminated.
- (3) To avoid doubt, **subclause (2)** applies,—

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- (a) in the case of an employee bound by an applicable collective agreement, subject to section 61(1)(b) of the Employment Relations Act 2000 and, without limiting this paragraph, subject to an applicable collective agreement that comes into force on the establishment date; and
- (b) in the case of an employee not bound by an applicable collective agreement, subject to any variation in terms and conditions of employment agreed to before the establishment date but to come into force on that date. 5
- (4) This clause applies only if the employee continues to be an employee of the existing employer at the close of the day before the establishment date. 10
Compare: 2010 No 37 s 101
- 18 Employees not entitled to redundancy or other compensation just because position or employer ceases to exist**
- (1) This clause applies to an employee of an existing employer who—
- (a) is notified of an offer in accordance with **clause 16(4)**; or 15
- (b) otherwise accepts a position with the water services entity.
- (2) An employee to whom this clause applies is not entitled to receive any payment or any other benefit (**compensation**) for any of the following reasons:
- (a) the position held by the employee with an existing employer ceases to exist: 20
- (b) the employee ceases to be an employee of an existing employer:
- (c) the employee's employer ceases to exist.
- Compare: 2010 No 37 s 103
- Collective bargaining and collective agreements*
- 19 Collective bargaining before establishment date for new collective agreement to come into force on that date** 25
- (1) **Subclause (2)** applies if an employee whose position is subject to review under **clause 15** is a member of a union that enters into bargaining for a collective agreement to come into force on the establishment date.
- (2) For the purposes of the bargaining during the establishment period,— 30
- (a) the employees are to be treated as if they were employees of the water services entity; and
- (b) section 41 of the Employment Relations Act 2000 does not apply in relation to the bargaining; and
- (c) the other provisions of the Employment Relations Act 2000 apply 35 accordingly with any necessary modifications.
- (3) For the purposes of ratifying a collective agreement, a person is to be treated as an employee of the entity only if—

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- (a) the person—
 - (i) has accepted an offer of a position; or
 - (ii) has neither accepted nor declined an offer notified under **clause 16**; or
 - (iii) has not received notice of an offer under **clause 16**; and 5
 - (b) the following work comes within the coverage clause in the collective agreement:
 - (i) work to be done by the person for the water services entity (if **paragraph (a)(i)** applies);
 - (ii) work done by the person for their existing employer (if **paragraph (a)(ii) or (iii)** applies). 10
 - (4) A person ceases to be an employee for the purposes of this clause if—
 - (a) the person declines an offer of a position with the water services entity; or
 - (b) the person is notified that their employment is to be terminated on and from the establishment date; or 15
 - (c) the person’s employment is terminated before that date or the person resigns before that date.
- Compare: 2010 No 37 s 111
- 20 Application of existing collective agreements on and from establishment date 20**
- (1) **Subclause (2)** applies if—
 - (a) an employee of an existing employer—
 - (i) has received and accepted an offer of employment with a water services entity; or 25
 - (ii) has received notification of an offer under **clause 16(4)** and neither accepted nor declined the offer; or
 - (iii) has not been notified in accordance with **clause 16(4)** as to whether they are being offered a position with a water services entity or their employment with an existing employer is to be terminated; and 30
 - (b) the employees are bound by a collective agreement under the Employment Relations Act 2000 in relation to their employment with their existing employer; and
 - (c) the collective agreement does not expire until after the establishment date. 35
 - (2) On and from the establishment date,—

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- (a) the collective agreement is to be treated as a separate collective agreement in relation to the water services entity; and
 - (b) the water services entity is to be treated as a party to the collective agreement in place of the previous employer; and
 - (c) the collective agreement continues to apply to and bind only the employees referred to in **subclause (1)** to the extent that the nature of the work they undertake for the water services entity comes within the coverage clause of the collective agreement. 5
 - (3) **Subclause (2)** applies only if the collective agreement is not replaced on the establishment date by a collective agreement in accordance with **clause 19**. 10
 - (4) A union that is a party to a separate collective agreement under this clause may, by notice in writing to the relevant water services entity, specify a date on which the agreement is to expire, being a date that is earlier than a date on which the agreement would otherwise expire under section 52(3) of the Employment Relations Act 2000. 15
- Compare: 2010 No 37 s 112

Subpart 4—Oversight powers of department

21 Decisions subject to department’s oversight powers

In this subpart, **decision**—

- (a) means a decision that— 20
 - (i) relates to the provision of water services; or
 - (ii) may affect the provision of water services; and
- (b) includes a decision—
 - (i) by a local authority to adopt or amend a long-term council community plan or to adopt an annual plan: 25
 - (ii) by a local authority to adopt a policy required by the Local Government Act 2002:
 - (iii) by a local authority that is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy or plan adopted by the local authority under the Local Government Act 2002: 30
 - (iv) by a local authority to purchase or dispose of assets other than in accordance with its long-term council community plan:
 - (v) by any local government organisation to purchase or dispose of an asset, if the purchase or disposal of the asset will have a material impact on the capacity to provide water services or on the financial well-being of the organisation: 35

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- (vi) by any local government organisation to enter into any contract (other than an employment agreement)—
 - (A) that imposes, or will continue to impose, any obligation on the local authority after a date determined by the chief executive of the department for the purposes of this paragraph: 5
 - (B) for which the consideration is, or is equivalent to or more than, an amount set by the chief executive of the department for the purposes of this paragraph:
- (vii) by any local government organisation to borrow money for a period that extends beyond a date set by the chief executive of the department for the purposes of this paragraph. 10

Compare: 2009 No 13 s 31(4), (5)

22 Review of local government organisation decisions and meeting agendas during establishment period 15

- (1) During the establishment period, each local government organisation must provide the department with information about an intended decision.
- (2) The chief executive of the department may review any decision made by, or on behalf of, a local government organisation during the establishment period.
- (3) Despite **subclause (2)**, the department must not review a decision under this clause that it has confirmed under **clause 24(2)(a)**. 20
- (4) The department must, without delay, notify a local government organisation if it—
 - (a) reviews a decision of the organisation under **subclause (2)**; and
 - (b) considers, on reasonable grounds, that the decision is a decision to which **clause 23** applies. 25

Compare: 2009 No 13 s 20

23 Decision making during establishment period

- (1) The chief executive of a local government organisation must ensure that, before implementing a decision to which this clause applies, the department has confirmed the decision in writing. 30
- (2) A decision to which this clause applies is void and of no effect until it is confirmed by the chief executive of the department.
- (3) This clause applies to a decision of a local government organisation that is made during the establishment period and that may, directly or because of its consequences,— 35
 - (a) significantly prejudice the water services reform; or
 - (b) significantly constrain the powers or capacity of the water services entities following the water services reform; or

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	(c) have a significant negative impact on the assets, liabilities, or other matters that are transferred to the water services entities as a result of the water services reform.	
	Compare: 2009 No 13 s 31(1), (6), (7)	
24	Confirmation of decisions of local government organisations	5
(1)	This clause applies to the department if a local government organisation seeks confirmation of a decision to which clause 23 applies.	
(2)	The department must, as soon as practicable and in writing,—	
	(a) confirm the decision; or	
	(b) decline to confirm the decision and give reasons for doing so (with reference to the matters in clause 23(3)); or	10
	(c) if it considers that it has insufficient information to make a decision, request further information from the chief executive and then act under paragraph (a) or (b) , as applicable.	
(3)	The chief executive of the department may decline to confirm a decision if they determine that 1 or more of the following criteria are met:	15
	(a) the decision will significantly prejudice the water services reform:	
	(b) the decision will significantly constrain the powers or capacity of a water services entity following the water services reform:	
	(c) the decision will have a significant negative impact on the assets, liabilities, or other matters that are transferred to a water services entity as a result of the water services reform.	20
	Compare: 2009 No 13 s 21	
	Subpart 5—Transitional tax relief, and recovery of costs	
25	Transitional tax relief	25
	No water services entity or local government organisation will have any tax liability under the Income Tax 2007 or the Goods and Services Act 1985 arising from the vesting of assets, liabilities, or other matters in, or the transfer of employees from a local government organisation to, a water services entity.	
26	Crown expenses and capital expenditure recoverable from water services entity	30
(1)	This clause applies to any expenses or capital expenditure incurred by the Crown—	
	(a) before, on, or after the commencement of this clause; and	
	(b) before the establishment date; and	35
	(c) in relation to establishing a water services entity.	
(2)	The expenses or capital expenditure must be reimbursed—	

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- (a) by the water services entity to the Crown; and
- (b) on the terms and conditions agreed between—
 - (i) the Minister; and
 - (ii) the Minister of Finance.
- (3) The terms and conditions may, for example, specify, or specify classes, descriptions, or kinds of, all or any of the expenses or capital expenditure. 5
- (4) The duty to reimburse the expenses or capital expenditure is not the Crown lending money for the purposes of the Public Finance Act 1989.

Compare: 1989 No 44 ss 4, 65K, 65L, 65O, 65P, 65Q; 2009 No 13 s 23

Water Services Entities Bill

Schedule 2

Schedule 2
Water services entities and their service areas

s 10

Part 1**Northern Water Services Entity**

5

The Northern Water Services Entity's service area includes the districts of the following territorial authorities:

- Auckland Council:
- Far North District Council:
- Kaipara District Council: 10
- Whangārei District Council.

Part 2**Western-Central Water Services Entity**

The Western-Central Water Services Entity's service area includes the districts of the following territorial authorities: 15

- Hamilton City Council:
- Hauraki District Council:
- Kawerau District Council:
- Matamata-Piako District Council:
- New Plymouth District Council: 20
- Ōpōtiki District Council:
- Ōtorohanga District Council:
- Rangitikei District Council:
- Rotorua District Council:
- Ruapehu District Council: 25
- South Taranaki District Council:
- South Waikato District Council:
- Stratford District Council:
- Taupō District Council:
- Tauranga City Council: 30
- Thames-Coromandel District Council:
- Waikato District Council:
- Waipa District Council:

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- Waitomo District Council:
- Western Bay of Plenty District Council:
- Whakatane District Council:
- Whanganui District Council.

Part 3

5

Eastern-Central Water Services Entity

The Eastern-Central Water Services Entity's service area includes the districts of the following territorial authorities:

- Carterton District Council:
- Central Hawke's Bay District Council: 10
- Chatham Islands Council:
- Gisborne District Council:
- Hastings District Council:
- Horowhenua District Council:
- Hutt City Council: 15
- Kapiti Coast District Council:
- Manawatu District Council:
- Marlborough District Council (excluding those parts included in the service area of the Southern Water Services Entity under **Part 4** of this schedule):
- Masterton District Council: 20
- Napier District Council:
- Nelson City Council:
- Palmerston North City Council:
- Porirua City Council:
- South Wairarapa District Council: 25
- Tararua District Council:
- Tasman District Council (excluding those parts included in the service area of the Southern Water Services Entity under **Part 4** of this schedule):
- Upper Hutt City Council:
- Wairoa District Council: 30
- Wellington City Council.

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Schedule 2

Part 4**Southern Water Services Entity**

The service area of the Southern Water Services Entity is the takiwā of Ngāi Tahu as described in section 5 of Te Runanga o Ngai Tahu Act 1996, and including—

- the districts of the following territorial authorities: 5
 - Ashburton District Council:
 - Buller District Council:
 - Central Otago District Council:
 - Christchurch City Council:
 - Clutha District Council: 10
 - Dunedin City Council:
 - Gore District Council:
 - Grey District Council:
 - Hurunui District Council:
 - Invercargill City Council: 15
 - Kaikoura District Council:
 - Mackenzie District Council:
 - Queenstown-Lakes District Council:
 - Selwyn District Council:
 - Southland District Council: 20
 - Timaru District Council:
 - Waimakariri District Council:
 - Waimate District Council:
 - Waitaki District Council:
 - Westland District Council; and 25
- the parts of the districts of the following territorial authorities within the boundaries of the takiwā of Ngāi Tahu as described in section 5 of Te Runanga o Ngai Tahu Act 1996:
 - Marlborough District Council:
 - Tasman District Council. 30

Schedule 3

Water Services Entities Bill

Schedule 3
Preparation of planning documents

ss 144, 147, 150, 153, 202

Part 1

Preparation of statement of intent

5

1 Draft statement of intent

- (1) The board of a water services entity must deliver a draft statement of intent to the entity's regional representative group.
- (2) The draft statement of intent must be delivered on or before 1 March in the year preceding the start of the period to which the draft statement of intent relates. 10

Compare: 2002 No 84 Schedule 8 cl 1

2 Strategic elements must be approved by regional representative group

- (1) The strategic elements (*see section 145(1)*) must, before being set out in the final statement of intent, be— 15
- (a) set out in the draft statement; and
- (b) approved by the water services entity's regional representative group.
- (2) The group may approve those elements with, or without, changes agreed with the entity's board.

3 Board must also consider group's comments on operational and financial elements 20

The board of a water services entity must consider any comments made—

- (a) on the operational and financial elements (*see section 145(2) and (3)*) of the draft statement of intent; and
- (b) by the regional representative group; and 25
- (c) at least 2 months before the start of the period to which the draft statement relates.

Compare: 2002 No 84 Schedule 8 cl 2

4 Final statement of intent

The board of a water services entity must deliver the final statement of intent to the entity's regional representative group before the start of the period to which it relates. 30

Compare: 2002 No 84 Schedule 8 cl 3

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Water Services Entities Bill

Schedule 3

5	Regional representative group may extend deadlines by up to 1 month	
	The regional representative group of a water services entity may, by written notice to the board, extend a deadline specified in clause 1(2), 3, or 4 for a period or periods not exceeding in total 1 calendar month.	
	Compare: 2002 No 84 Schedule 8 cl 4	5
6	Modifications of statement of intent	
	The board of a water services entity may, by written notice to the regional representative group, modify a statement of intent at any time if the board has first—	
	(a) given written notice to the regional representative group of the proposed modification; and	10
	(b) considered any comments made on the proposed modification by the regional representative group within—	
	(i) 1 month after the date on which the board gave the notice under paragraph (a) ; or	15
	(ii) any shorter period that the regional representative group may agree.	
	Compare: 2002 No 84 Schedule 8 cl 5	
Part 2		
Preparation of asset management plan		20
7	Engagement on asset management plan proposals	
	The board of a water services entity must engage with territorial authority owners, and with consumers and communities, on proposals to adopt an asset management plan in accordance with section 202 .	
8	Draft asset management plan	25
	(1) The board of a water services entity must deliver a draft asset management plan to the entity’s regional representative group.	
	(2) The draft asset management plan should include—	
	(a) the results of any engagement with territorial authority owners, and with consumers and communities, under section 202 ; and	30
	(b) a statement summarising the views received on the draft plan from territorial authority owners, and from consumers and communities.	
	(3) The draft asset management plan must be delivered on or before 1 March in the year preceding the financial year to which the draft asset management plan relates.	35
	Compare: 2002 No 84 Schedule 8 cl 1	

Schedule 3

Water Services Entities Bill

9	Consideration of regional representative group comments	
	The board of a water services entity must consider any comments on the draft asset management plan that are made by the regional representative group of the entity at least 2 months before the start of the period to which the draft plan relates.	5
	Compare: 2002 No 84 Schedule 8 cl 2	
10	Final asset management plan	
(1)	The board of a water services entity must deliver the final asset management plan to the regional representative group of the entity before the commencement of the financial year to which it relates.	10
(2)	The final asset management plan must include the board’s responses to the comments considered under clause 9 .	
	Compare: 2002 No 84 Schedule 8 cl 3	
11	Regional representative group may extend deadlines by up to 1 month	
	The regional representative group of a water services entity may, by written notice, extend a deadline specified in clause 8(3), 9, or 10(1) for a period or periods not exceeding in total 1 calendar month.	15
	Compare: 2002 No 84 Schedule 8 cl 4	
12	Modifications of asset management plan	
	The board of a water services entity may, by written notice, modify an asset management plan at any time if the board has first—	20
(a)	given written notice to the regional representative group of the entity of the proposed modification; and	
(b)	considered any comments made on the proposed modification by the regional representative group of the entity within—	25
(i)	1 month after the date on which the notice under paragraph (a) was given; or	
(ii)	any shorter period that the regional representative group of the entity may agree.	
	Compare: 2002 No 84 Schedule 8 cl 5	30

Part 3

Preparation of funding and pricing plan

13	Engagement on funding and pricing plan proposals	
	The board of a water services entity must engage with territorial authority owners, and with consumers and communities, on proposals to adopt a funding and pricing plan in accordance with section 202 .	35

Water Services Entities Bill

Schedule 3

14 Draft funding and pricing plan

- (1) The board of a water services entity must deliver a draft funding and pricing plan to the entity's regional representative group.
- (2) The draft funding and pricing plan should include—
- (a) the results of any engagement with territorial authority owners, and with consumers and communities, under **section 202**; and 5
 - (b) a statement summarising the views received on the draft plan from territorial authority owners, and from consumers and communities.
- (3) The draft funding and pricing plan must be delivered on or before 1 March in the year preceding the financial year to which the draft asset management plan relates. 10

15 Consideration of regional representative group comments

The board of a water services entity must consider any comments on the draft funding and pricing plan that are made by the regional representative group of the entity at least 2 months before the start of the period to which the draft plan relates. 15

Compare: 2002 No 84 Schedule 8 cl 2

16 Final funding and pricing plan

- (1) The board of a water services entity must deliver the final funding and pricing plan to the regional representative group of the entity before the commencement of the financial year to which it relates. 20
- (2) The final funding and pricing plan must include the board's responses to the comments considered under **clause 15** of this schedule.

Compare: 2002 No 84 Schedule 8 cl 3

17 Regional representative group may extend deadlines by up to 1 month 25

The regional representative group of a water services entity may, by written notice, extend a deadline specified in **clause 14(3), 15, or 16(1)** for a period or periods not exceeding in total 1 calendar month.

Compare: 2002 No 84 Schedule 8 cl 4

18 Modifications of funding and pricing plan 30

The board of a water services entity may, by written notice, modify a funding and pricing plan at any time if the board has first—

- (a) given written notice to the regional representative group of the entity of the proposed modification; and
- (b) considered any comments made on the proposed modification by the regional representative group of the entity within— 35
 - (i) 1 month after the date on which the notice under **paragraph (a)** was given; or

Schedule 3

Water Services Entities Bill

- (ii) any shorter period that the regional representative group of the entity may agree.

Compare: 2002 No 84 Schedule 8 cl 5

Part 4

Preparation of infrastructure strategy

5

19 Engagement on infrastructure strategy proposals

The board must engage with territorial authority owners, and with consumers and communities, on proposals to adopt an infrastructure strategy in accordance with **section 202**.

20 Draft infrastructure strategy

10

- (1) The board of a water services entity must deliver a draft infrastructure strategy to the entity’s regional representative group.

- (2) The draft infrastructure strategy should include—

- (a) the results of any engagement with territorial authority owners, and with consumers and communities, under **section 202**; and
- (b) a statement summarising the views received on the draft plan from territorial authority owners, and from consumers and communities.

15

- (3) The draft infrastructure strategy must be delivered on or before 1 March in the year preceding the financial year to which the draft infrastructure strategy relates.

20

Compare: 2002 No 84 Schedule 8 cl 1

21 Consideration of regional representative group comments

The board of a water services entity must consider any comments on the draft infrastructure strategy that are made by the regional representative group of the entity at least 2 months before the start of the period to which the draft plan relates.

25

Compare: 2002 No 84 Schedule 8 cl 2

22 Final infrastructure strategy

- (1) The board of a water services entity must deliver the final infrastructure strategy to the regional representative group of the entity before the commencement of the financial year to which it relates.

30

- (2) The final infrastructure strategy must include the board’s responses to the comments considered under **clause 21**.

Compare: 2002 No 84 Schedule 8 cl 3

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Schedule 3

- 23 Regional representative group may extend deadlines by up to 1 month**
- The regional representative group of a water services entity may, by written notice, extend a deadline specified in **clause 20(3), 21, or 22(1)** for a period or periods not exceeding in total 1 calendar month.
- Compare: 2002 No 84 Schedule 8 cl 4 5
- 24 Modifications of infrastructure strategy**
- The board may, by written notice, modify an infrastructure strategy at any time if the board has first—
- (a) given written notice to the regional representative group of the entity of the proposed modification; and 10
 - (b) considered any comments made on the proposed modification by the regional representative group of the entity within—
 - (i) 1 month after the date on which the notice under **paragraph (a)** was given; or
 - (ii) any shorter period that the regional representative group of the entity may agree. 15
- Compare: 2002 No 84 Schedule 8 cl 5

Schedule 4

Water Services Entities Bill

Schedule 4
Divestment proposals

s 116

1 Interpretation

In this schedule, unless the context otherwise requires,— 5

affected elector means—

- (a) a person who is a residential elector (within the meaning of section 23 of the Local Electoral Act 2001), if the address in respect of which the person is registered is in an affected area:
- (b) a person who is a ratepayer elector (within the meaning of section 24 of the Local Electoral Act 2001), if the person is qualified as a ratepayer elector in respect of a rating unit in an affected area 10

divestment proposal means a proposal (*see section 116(2)(b) or (c)(i)*) for a water services entity to do all or any of the following in breach of **section 116(1)** but in accordance with this schedule: 15

- (a) divest its ownership or other interest in a water service:
- (b) lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its service area (if, in doing so, the entity does not retain its capacity to perform or exercise its duties, functions, or powers—*see section 116(2)(c)(ii)*) 20

Local Government Commission or **Commission** means the Local Government Commission continued under section 28 of the Local Government Act 2002

public notice, in relation to a notice of a divestment proposal given by the Local Government Commission,— 25

- (a) means a notice published—
 - (i) in 1 or more newspapers circulating in the affected area; and
 - (ii) on an Internet site maintained by, or on behalf of, the Commission; and
- (b) includes any other notice that the Commission thinks desirable in the circumstances. 30

Part 1
Divestment proposal

2 Water services entity must refer proposal to regional representative group

- (1) A divestment proposal may be made— 35
 - (a) on the water services entity’s own initiative; or

Water Services Entities Bill	Schedule 4
(b) by any other person.	
(2) A proposal made under subclause (1)(b) must be made in writing to the water services entity.	
(3) A water services entity must forward any proposal made under subclause (1)(a) or (b) to the regional representative group.	5
3 Regional representative group may, after consultation, resolve by 75% majority to refer proposal to territorial authority owners	
(1) A regional representative group forwarded a divestment proposal under clause 2 may resolve to refer the divestment proposal to the territorial authority owners.	10
(2) Before voting on whether to refer the proposal to a poll, the regional representative group must consult—	
(a) all of the territorial authority owners of the water services entity; and	
(b) mana whenua of rohe or takiwā within the area of the water services entity; and	15
(c) the Minister.	
(3) The resolution fails unless supported by a vote of not less than 75% of the regional representatives present and voting.	
(4) A regional representative group that resolves to refer a divestment proposal to territorial authority owners under this clause must notify those owners of the resolution.	20
4 Territorial authority owners may resolve unanimously to refer proposal to poll	
(1) After receiving notification of a resolution under clause 3 , the territorial authority owners may resolve to refer a divestment proposal to a poll.	25
(2) The resolution fails unless supported by a unanimous vote of all the territorial authority owners (instead of only all those present and voting).	
(3) Territorial authority owners that resolve to refer a divestment proposal to a poll under this clause must notify the Commission of the resolution.	
5 Notification of divestment proposal	30
(1) As soon as practicable after receiving notification of a resolution under clause 4 , the Commission must—	
(a) give public notice of the proposal and, in the notice, specify where copies of the proposal may be inspected; and	
(b) provide a balanced assessment of the proposal to persons, bodies, and groups that the Commission identifies as having an interest in the proposal; and	35

Schedule 4

Water Services Entities Bill

(c) take any other action that it considers necessary to inform persons, bodies, and groups that the Commission identifies as having an interest in the proposal.

(2) The costs incurred by the Commission under **subclause (1)** are to be apportioned among the affected water services entities according to the number of affected electors on the electoral rolls of the territorial authority owners of the water services entity in the manner set out in regulations. 5

Compare: 2002 No 84 Schedule 3 cl 13(1)

Part 2
Poll

10

6 Poll to be held

(1) A poll of electors on the proposal must be held in the service area.

(2) Except as otherwise provided in this Part, a poll under this clause must be held under the Local Electoral Act 2001 and the provisions of that Act apply, with any necessary modifications, to the conduct of the poll. 15

(3) The Local Government Commission must ensure that 1 electoral officer is designated to conduct the poll and to declare the official result of the poll under **clause 8**.

(4) The costs of the poll are to be apportioned among the affected water services entities on the basis of the number of affected electors on the electoral rolls of the water services entity. 20

Compare: 2002 No 84 Schedule 3 cl 26

7 Timing of poll

(1) A poll required by **clause 6** must be held on a date determined by the Local Government Commission in accordance with this clause. 25

(2) In determining the date on which a poll is to be held, the Commission must consult the electoral officer required to conduct the poll.

(3) The Commission must, as soon as practicable after complying with **subclause (2)**, give written notice of the date determined under **subclause (1)** to the Secretary, to the chief executive of each affected water services entity, and to the electoral officer required to conduct the poll. 30

(4) The electoral officer who receives written notification under **subclause (3)** must, within 7 days after receiving the notification, give public notice of—

- (a) the poll; and
- (b) the place or places at which the divestment proposal and the explanatory statement may be inspected. 35

(5) The date determined under **subclause (1)** for the conduct of the poll must,—

130

Water Services Entities Bill

Schedule 4

- (a) if written notice under **subclause (3)** is to be given on or after 28 September and before 21 November in any year, be a day no earlier than 17 February and no later than 24 February in the following year; and
- (b) if written notice under **subclause (3)** is to be given on or after 21 November and before 16 December in any year, be a day no earlier than 14 March and no later than 21 March in the following year; and 5
- (c) if written notice under **subclause (3)** is to be given on or after 16 December in any year and before 13 January in the following year, be a day no earlier than 11 April and no later than 18 April in that following year; and 10
- (d) in any other case, be a day no later than 89 days after the day on which written notice under **subclause (3)** is given to the electoral officer.

Compare: 2002 No 84 Schedule 3 cl 26

8 Official result of poll

The electoral officer must,— 15

- (a) when declaring the official result of the poll under section 86 of the Local Electoral Act 2001, include a statement of—
 - (i) the total number of electors on the roll or rolls compiled for the purpose of the poll; and
 - (ii) the total number of valid votes cast: 20
- (b) as soon as practicable after declaring the result, notify the chief executive of the department, the chief executive of the water services entity and each territorial authority in the service area, and the Local Government Commission of the result:
- (c) if 75% of votes are in favour of the proposal, notify the Minister of the result. 25

Compare: 2002 No 84 Schedule 3 cl 27

9 Effect of poll

A divestment proposal must not be implemented unless 75% of the votes cast in the poll are in favour of the proposal. 30

**Part 3
Advertising of poll**

10 Interpretation

In this subpart, unless the context otherwise requires,—
advertising means advertising in any medium 35

Schedule 4

Water Services Entities Bill

publish, in relation to advertising,—

- (a) means to bring to the notice of a person in any manner, including (but not limited to)—
 - (i) displaying in any medium:
 - (ii) distributing by any means: 5
 - (iii) delivering to an address:
 - (iv) leaving at a place:
 - (v) sending by post or otherwise:
 - (vi) printing in a newspaper or other periodical:
 - (vii) broadcasting by any means: 10
 - (viii) disseminating by means of the Internet or any other electronic medium:
 - (ix) storing electronically in a way that is accessible to the public:
 - (x) incorporating in a device for use with a computer:
 - (xi) inserting in a film or video; but 15
- (b) excludes addressing 1 or more persons face to face

specified period means the period commencing on the day after the date on which public notice of the proposal is first given under **clause 5** and ending with the close of the day on which the poll is held.

Compare: 2002 No 84 Schedule 3 cl 29 20

11 Advertising in relation to polls

- (1) A local authority or water services entity affected by a divestment proposal may not, at any time in a specified period, do anything (including publishing any advertising) that—
 - (a) involves the expenditure of the authority’s or the entity’s money or use of the authority’s or the entity’s resources; and 25
 - (b) promotes or opposes the implementation of the divestment proposal or a provision of the divestment proposal.
- (2) This clause does not apply to—
 - (a) any investigations or research undertaken by, or on behalf of, the water services entity or local authority that relate to the divestment proposal or its effects; or 30
 - (b) the making of submissions or other representations to the Commission by the water services entity or local authority; or
 - (c) the publication of any news or comment relating to the divestment proposal or the poll in any medium by any person other than the water services entity or local authority; or 35

Water Services Entities Bill		Schedule 4
	(d) anything done by a water services entity or local authority to comply with the requirements of Part 7 of the Local Government Official Information and Meetings Act 1987.	
	Compare: 2002 No 84 Schedule 3 cl 30	
12	Provision of referential information	5
(1)	Clause 11 does not preclude a local authority affected by a divestment proposal from publishing material that—	
	(a) does not expressly or impliedly promote or oppose the divestment proposal; but	
	(b) contains factual or referential material presented—	10
	(i) in a balanced way; and	
	(ii) to assist electors considering voting in a poll to make a better-informed decision.	
(2)	A local authority or water services entity may (but does not have to) seek a ruling from the Local Government Commission that material proposed to be published by the authority or the entity under subclause (1) complies with that subclause.	15
(3)	If the Local Government Commission provides a ruling that the material complies with subclause (1) , then publication of the material by the local authority or water services entity is to be treated as published in accordance with subclause (1) .	20
	Compare: 2002 No 84 Schedule 3 cl 31	
13	Authorisation of advertising	
(1)	A person may not publish advertising that promotes or opposes the implementation of the divestment proposal, or a provision of the divestment proposal, unless the advertising contains a statement setting out the name and address of the person who initiated or instigated the publication of the advertising.	25
(2)	In subclause (1) , address means,—	
	(a) in relation to an individual,—	
	(i) the full street address of the place where the individual usually lives; or	30
	(ii) the full street address of any other place where the individual can usually be contacted between the hours of 9 am and 5 pm on any working day:	
	(b) in relation to a body corporate or unincorporated,—	35
	(i) the full street address of the body’s main place of business; or	
	(ii) the full street address of the body’s head office.	

Schedule 4

Water Services Entities Bill

*Offences***14 Offence for publishing advertising in breach of clause 13**

- (1) A person commits an offence if the person intentionally fails or refuses to comply with **clause 13(1)**.
- (2) A person who commits an offence against **subclause (1)** is liable on conviction to a fine not exceeding \$20,000. 5

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Transforming the system for delivering three waters services

Summary of proposals

June 2022



**Te Tari Taiwhenua
Internal Affairs**

New Zealand Government

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Introduction

In July 2020, the Government launched the Three Waters Reform Programme with the ambition of significantly improving the safety, quality, resilience, accessibility, and performance of three waters services, in ways that are efficient and affordable for New Zealanders.

Currently, New Zealand's three waters system is not set up in a manner that will enable the achievement of this ambition, and is facing range of issues and a series of challenges that, taken together, mean service-delivery arrangements are ineffective, inefficient, and no longer fit for purpose.

The Government's objectives for this programme are to:

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

Following almost two years of intensive evidence gathering and policy development, including significant engagement and consultation with local government and iwi/Māori, the Government has developed an integrated suite of reforms that seek to transform the current system for delivering three waters services and infrastructure.

The package comprises the following core components:

- Establish four statutory, publicly owned water services entities to provide safe, reliable, and efficient water services.
- Enable the water services entities to own and operate three waters infrastructure on behalf of the communities they serve, enabling them to access cost-effective finance from capital markets to invest in maintaining and upgrading that infrastructure.
- Provide for ongoing public ownership of the new water services entities by local authorities, and statutory provisions that protect against future privatisation.
- Establish independent, competency-based boards to govern each water services entity.

- Set a clear national policy direction for the three waters sector, including expectations relating to the contribution by water services entities to any new spatial/resource-management planning processes.
- Establish consumer protection mechanisms and an economic regulation regime to ensure efficient service delivery and to drive the achievement of efficiency gains.

The reforms are being progressed through a comprehensive suite of legislation, the first component of which is the Water Services Entities Bill (the Bill) introduced to the House on 2 June 2022 and had its first reading on 7 June 2022.

The Bill establishes four publicly owned water services entities that will provide safe, reliable, and efficient water services in place of local authorities. It contains the ownership, governance, and accountability arrangements relating to those entities, and provides for transitional arrangements during an establishment period. The entities will begin delivering these services on 1 July 2024.

The Bill will be followed by further legislation to provide for the specific powers, functions, and responsibilities of the entities, economic regulation and consumer protection, and details relating to the transfer of assets, liabilities, and employees from local authorities to new water services entities.

This document was first published in June 2021 and revised in June 2022 following significant refinements to the Government's reform proposals in partnership with local government and iwi. This document serves as an overview of the policy proposals being progressed through the Three Waters Reform Programme, including background information on why reform is needed, to support public understanding of the proposals.

How are three waters services currently delivered?

The three waters (drinking water, wastewater, and stormwater) are lifeline utilities that provide essential services that are critical to public health, environmental sustainability, community wellbeing, housing and urban development, and the economic development of New Zealand's communities.

New Zealand's 67 local authorities own and operate the majority of three waters services across New Zealand. Around 85% of New Zealanders receive their three waters services from their councils (local or unitary authorities), with the remainder being provided by smaller private and community-based schemes.

Councils use a range of arrangements for delivering three waters services, from in-house business units to council-controlled organisations (e.g. Watercare in Auckland and Wellington Water). Councils also use private contractors and third-party supply arrangements to access the capabilities of water services providers, engineers, and other specialists. Overall, the sector comprises 4,900 staff who support the delivery of services to 4.3 million customers.

Three waters infrastructure

Three waters infrastructure consists of the assets and processes used to collect, store, transfer, treat, and discharge three waters. The infrastructure is complex and expensive, and much of it is underground and in an unknown condition.

Three waters represents one of New Zealand's most significant infrastructure sectors, with an estimated replacement value of more than \$70 billion. The sector includes:

- drinking water assets comprising 339 water treatment plants, 42,559 kilometres of water supply pipes, and 817 water pump stations across the 39 local authorities that participated in Water New Zealand's 2020/2021 National Performance Review.
- wastewater treatment assets comprising 327 wastewater treatment plants across New Zealand, which are owned and operated by local authorities, and associated pipes for collecting and transferring wastewater to and from these plants
- stormwater network assets 18,452 kilometres in length and 213 pump stations across the local authorities that participated in the 2020/2021 National Performance Review.

Cost of providing services

Overall, these services are expected to cost \$2 billion per year to operate, and cost councils around \$2.7 billion per annum in maintaining and upgrading these networks.¹

The approaches to charging for these services vary significantly across the country. Most local authorities levy rates for water services that are wholly or partly based on the land or capital values of landowners' properties. Some councils have put in meters and charge customers on the basis of their water use, with a mix of fixed and variable charges.

How these costs are paid for

¹ Average yearly figures based on 2021-31 Long-Term Plan estimates. The rate of annual investment has increased in the current LTPs from an historic average of \$1.5 billion, however many councils are not keeping pace with planned investment.

Different services are charged for in different ways. Fixed, targeted rates are most common for the supply of drinking water to unmetered properties, with a combination of fixed and volumetric charges common for metered properties. Wastewater tends to be charged on a fixed, targeted rate basis, and sometimes on a number of pans or volumetric basis. Stormwater has public good characteristics and is typically charged as part of a council’s general rate, as a specific targeted rate or some combination of the two.

Regulatory environment

A complex system of regulation applies to the three waters system, with responsibilities shared across multiple local and central government agencies. The regulatory environment is changing as a result of the establishment of the new water services regulator, Taumata Arowai, and the implementation of a new regulatory framework contained in the Water Services Act 2021.

The roles and responsibilities of the parties that play key roles in the regulatory system are summarised below.

Table 1: Regulatory environment roles and responsibilities

Party	Role	Responsibilities
Department of Internal Affairs	Lead policy responsibility and stewardship role in relation to local government Treaty/Tiriti partners	<ul style="list-style-type: none"> Leading the policy response to the Three Waters Review, including the service delivery reform programme Monitoring Taumata Arowai
Regional councils	Environmental regulators	<ul style="list-style-type: none"> Setting consent standards for its region Granting consents Monitoring compliance with consents Monitoring and regulating discharge and abstraction Flood protection
Taumata Arowai	Drinking water regulator Oversight of environmental regulation (after the proposed Water Services Bill is enacted)	<ul style="list-style-type: none"> Enforcement of drinking water regulatory requirements imposed under the system Monitoring of wastewater and stormwater performance Monitoring how water service providers give effect to Te Mana o te Wai
Local authorities	Urban planners	<ul style="list-style-type: none"> Urban and land use plans Growth strategy Providing water service (regulated by Taumata Arowai and regional councils) Will assume responsibilities in relation to private and community supplies (under the Water Services Bill)
Ministry of Health	Drinking water regulator (until the Water Services Bill is enacted) Treaty/Tiriti partners	<ul style="list-style-type: none"> Enforcement role in the drinking water regulatory system (until the Water Services Bill is enacted) Will continue to have responsibilities under the public health legislation, including the Health Act 1956
Ministry for the Environment	Lead responsibility for environmental policy Steward of the environmental management system Treaty/Tiriti partners	<ul style="list-style-type: none"> Sets high-level standards for environmental regulation Oversight for national environmental standards

Iwi/Māori	Treaty/Tiriti partners	<ul style="list-style-type: none"> Involved through consenting processes (Cultural Impact Assessments, community consultation, and defining and assessing Te Mana o te Wai)
-----------	------------------------	--

Recent changes to the regulatory environment

Taumata Arowai became a Crown entity in March 2021 and took over from the Ministry of Health as the dedicated new drinking water regulator when the Water Services Act commenced on 15 November 2021.

Taumata Arowai enforces current drinking water standards and, working alongside the Regional Council regulators, provides national oversight of environmental performance of wastewater and stormwater networks.

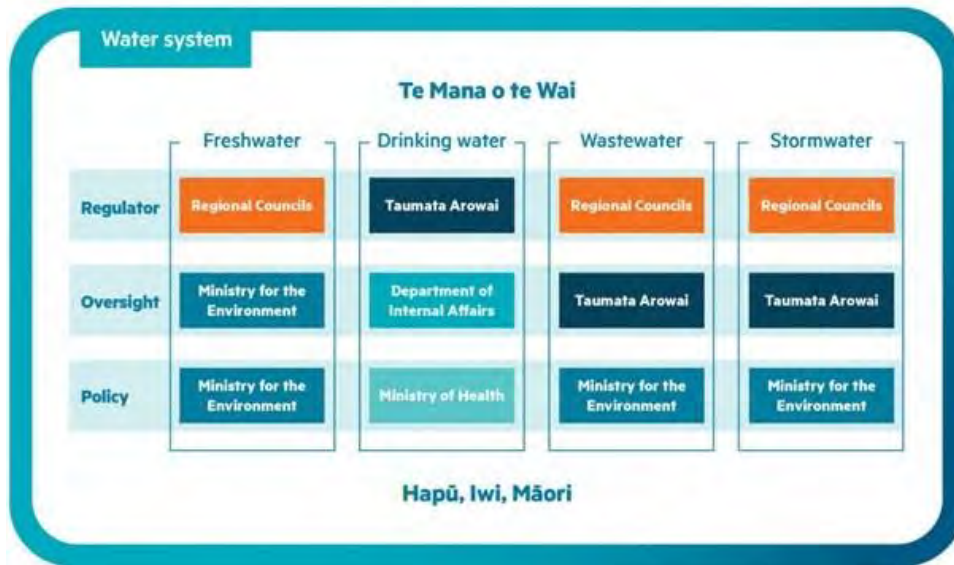
The Water Services Act provides Taumata Arowai with a comprehensive set of regulatory tools to ensure that drinking water safety standards are achieved.

The drinking water standards remain unchanged. However, in the new regulatory environment, suppliers are required to meet these standards. At present many do not. In many cases to comply with these standards may require additional infrastructure investment. Councils will no longer be able to defer crucial upgrades on the grounds of cost.

Taumata Arowai has the power to put in place directions and compliance orders to ensure that unacceptable risks to public health are resolved in a timely way. It can also issue infringement fees and prosecute where reckless or wilful behaviour creates risk to public health. These tools will enable the regulation of drinking water to be in proportion to the risk, scale and complexity of a supply.

Working alongside the Regional Council regulators, Taumata Arowai will also monitor compliance with environmental regulations at a national level and drive greater focus on the performance of wastewater and stormwater networks.

Figure 1: Overview of roles and responsibilities in the Three Waters System



Recent changes to the regulatory environment

The future operating environment for water services providers, including local authorities, will change significantly with the establishment of Taumata Arowai and the implementation of the new water services regulatory framework.

It will take some time to implement the new regulatory regime, but it can be expected to provide much greater assurance that drinking water is safe and that drinking water standards are being complied with. Key features of the new regulatory framework include:²

- all drinking water suppliers, except domestic self-suppliers, will have a duty to consistently provide safe drinking water
- stronger requirements on water suppliers to manage risks to drinking water safety
- strong compliance, monitoring and enforcement actions for Taumata Arowai
- new national environmental standards for wastewater discharges and overflows, with new obligations on network operators to manage risks to people, property, and the environment
- new requirements for reporting on the performance of wastewater and stormwater networks.

These regulatory changes will increase the pressure on local authorities to raise current levels of investment in three waters infrastructure and services. Shifting public perceptions around access to safe drinking water and environmentally friendly wastewater and stormwater practices, and tougher resource management consent requirements, are expected to be key drivers of future investment.

² These provisions are contained within the Water Services Act 2021.

Without reform, local authorities will need to make increasingly difficult decisions about how they meet these challenges, including through future rates rises, higher levels of borrowing, and scaling back or delaying other investment priorities.

Under the Water Services Act 2021, local authorities also have general obligations to ensure the safety of drinking water in their communities that extend beyond their roles in directly providing water services.³ Specifically:

- local authorities have a duty to ensure communities have access to drinking water if existing suppliers face significant problems in complying with drinking water standards
- local authorities are required to make assessments of drinking water, wastewater and sanitary services at least once every three years to ensure communities have access to safe drinking water. The scope of these assessments includes private and community supplies (excluding domestic self-supplies)
- if an assessment identifies problems with a supplier's compliance with the regulatory requirements, local authorities are required to work with suppliers and consumers to identify solutions
- local authorities have responsibilities to ensure the supply of safe drinking water if a supplier is unable to meet standards, including potentially taking over the management and operations of private or community supplies.

It will be challenging for many small suppliers to comply with these new obligations, particularly those that are being brought into the regulatory system for the first time. Local authorities will also face an added burden given that they will have a duty to intervene on behalf of suppliers that are unable to meet their obligations under the new regulatory environment.

³ Under the Government's proposed reforms, these regulatory responsibilities would transfer from local authorities to the new water services entities.

How is the current system performing?

The three waters system is critical for the health and wellbeing of New Zealanders. It is significant for the functioning of society, the health of the environment, and the performance of the economy.

While there are pockets of good performance, in many parts of New Zealand people cannot be confident that their drinking water is safe, that the three waters sector is achieving good environmental outcomes, that there is sufficient capacity to accommodate population and housing growth, that the rights and interests of iwi/Māori are being upheld, and that climate change and natural hazard risks are being managed successfully.

The evidence suggests there are persistent systemic issues facing three waters infrastructure and services that are leading to unacceptable outcomes. These outcomes include:

- poor compliance with drinking water standards
- poor health outcomes
- poor environmental outcomes
- poor customer outcomes
- a lack of resilience in the face of climate change and natural hazard risks
- persistent under-investment, leading to deteriorating assets and the accumulation of a large infrastructure deficit.

Compliance with drinking water standards

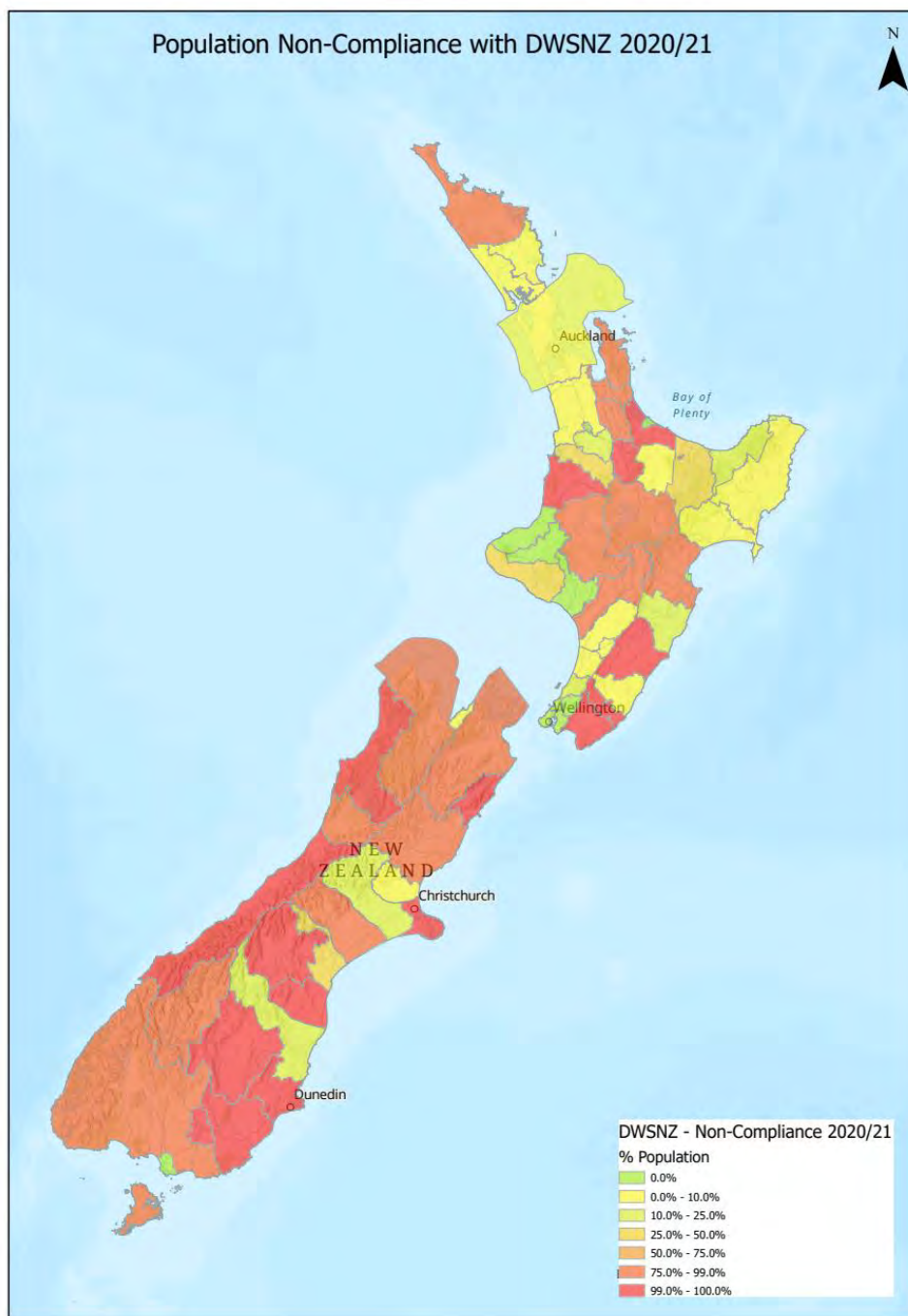
Access to safe drinking water and sanitation is a basic human right. However, many New Zealanders cannot be confident that their drinking water is safe. A recent survey, undertaken by the Infrastructure Commission with more than 23,000 New Zealanders, found that access to safe drinking water was the number one infrastructure issue.⁴

Water suppliers' compliance with drinking water standards varies significantly across the country. The map below outlines the percentage of the population within each local authority area that is served by supplies that are non-compliant with the drinking water standards, as reported by the Ministry of Health.⁵

⁴ New Zealand Infrastructure Commission, Te Waihanga (2021) Aotearoa 2050 survey results. Available at https://infracom.govt.nz/assets/Uploads/TeWaihanga_Aotearoa2050_Report.pdf.

⁵ Ministry of Health (2021). Annual Report on Drinking-water Quality 2020-21. Available at <https://www.health.govt.nz/system/files/documents/publications/annual-report-on-drinking-water-quality-2020-2021-mar22.pdf>

Figure 2: Map of compliance with Drinking Water Standards New Zealand 2020-21



Source: Beca, using data from the Ministry of Health Annual Report on Drinking Water Quality 2020-2021

The Ministry of Health also reports that there were 27 permanent and 56 temporary boil water notices in place for the reporting period (1 July 2020 – 30 June 2021), affecting roughly 40,000 people.

Health outcomes

Based on the latest Ministry of Health data, 78 percent of the population served by networked supplies received drinking water that complied with all drinking water standards.⁶ This means approximately one in five New Zealanders is supplied with drinking water that is not guaranteed to be safe from bacterial contamination.⁷

Contaminated water is a significant source of waterborne gastrointestinal illnesses, with an average of 8,000 cases or more notified each year by public health units.⁸ These numbers are likely to be an underestimation of the true incidence of illness due to the large number of visitors in small, non-compliant townships and/or the under-reporting of waterborne illnesses.

The health impacts of a failing three waters system have significant flow-on effects from an economic perspective:

- Cases of waterborne gastrointestinal illnesses have been calculated to have cost New Zealanders \$496.1 million over 40 years, principally in terms of health care and lost productivity.⁹
- In 2006, the Ministry for the Environment estimated that waterborne diseases cost New Zealand \$25 million a year.¹⁰
- The economic cost of the Havelock North outbreak to the country was calculated to be \$21 million.¹¹

⁶ Ibid.

⁷ Ministry of Health (2021). Annual Report on Drinking-water Quality 2020-21. Available at <https://www.health.govt.nz/system/files/documents/publications/annual-report-on-drinking-water-quality-2020-2021-mar22.pdf>

⁸ Environmental Health Intelligence New Zealand (2021). Notifications of potentially waterborne disease with untreated drinking water as a risk factor. https://www.ehinz.ac.nz/assets/Factsheets/Released_2021/Notification-of-Waterborne-Disease-with-Untreated-Drinking-Water-FA.pdf

⁹ Moore, et al., Cost Benefit Analysis of Raising the Quality of New Zealand Networked Drinking Water (LECG, 2010), 159. <http://srgexpert.com/wp-content/uploads/2018/02/cba-raising-quality-of-networked-drinking-water-jun20101.pdf>

¹⁰ Ministry for the Environment, Proposed National Environmental Standard for Sources of Human Drinking-Water: Resource Management Act Section 32: Analysis of the Costs and Benefits (Ministry for the Environment, March 2007), <https://www.mfe.govt.nz/sites/default/files/nes-drinking-water-section-32-mar07.pdf>

¹¹ Government Inquiry into Havelock North Drinking Water, Report of the Havelock North Drinking Water Inquiry: Stage 2 (Department of Internal Affairs, December 2017), 33. [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

Specific cases of water contamination in recent years have also dented public confidence in the system for delivering three waters services and exposed the systemic issues facing the sector. The Havelock North tragedy was the largest recorded outbreak of waterborne disease in the country, killing four people and causing illness in 5,500 of the town's 14,000 residents. Recent infrastructure failures in Wellington and the discovery of elevated levels of lead in the water supply in Dunedin provide more recent and tangible examples of the potential challenges we will continue to face across the country under the current system for delivering three waters services.

Infrastructure investment

The Office of the Auditor-General reported in 2017 that local authorities were not investing enough in three waters assets, indicating that assets could have been deteriorating to an extent that they were unable to meet the levels of service their communities expect.¹²

More recent analysis by the Water Industry Commission for Scotland (WICS), based on information provided by local authorities, indicates there has been systematic under-funding of economic depreciation by local authorities in New Zealand. This is shown in Table 2 below:

Table 2: Average spending on three waters infrastructure as a % of economic depreciation

Local authority group	Average annual spend per connected resident (based on Annual Reports from 2015 onwards)	WICS assessed economic depreciation per connected resident	% of economic depreciation
Metro	NZ\$124	NZ\$267	46%
Provincial	NZ\$128	NZ\$254	50%
Rural	NZ\$158	NZ\$253	63%
Larger rural (>10,000 residents)	NZ\$153	NZ\$237	65%
Smaller rural	NZ\$163	NZ\$266	61%

Source: Water Industry Commission for Scotland, 2021.

WICS estimates that between **\$120 billion to \$185 billion** of investment will be needed over the next 30 years to address this renewals backlog (i.e. replace and refurbish existing infrastructure), upgrade three waters assets to meet drinking water and environmental standards, and provide for future population growth.¹³ WICS reports that these figures are likely to underestimate the real cost of lifting the performance of our three waters infrastructure.

¹² Controller and Auditor -General. Introducing our work programme - Water management. October 2017 ISBN 978-0-478-44275-5. paras 2.9 -2.11. Available at <https://oag.parliament.nz/2017/water-management/docs/water-management.pdf>

¹³ Water Industry Commission for Scotland (2021). Economic analysis of water services aggregation: Final report. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/wics-final-report-economic-analysis-of-water-services-aggregation.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/wics-final-report-economic-analysis-of-water-services-aggregation.pdf)

Beca New Zealand reviewed the standards and practices that apply in Scotland and their relevance for New Zealand and concluded that WICS' estimates of the future investment requirement are conservative, as they did not include certain factors unique to New Zealand, such as giving effect to iwi/Māori aspirations and building resilience in the face of seismic risk and climate change.¹⁴

Customer outcomes

There is no globally consistent set of performance measures for evaluating the performance of three waters delivery systems.¹⁵ In New Zealand, this problem is compounded by a lack of high-quality information generally on the state and performance of three waters networks, which in itself reflects the challenges facing the sector.

WICS has used a performance measurement tool (the Overall Performance Assessment) developed by the water regulator in England and Wales (Ofwat) to measure the performance of water utilities in areas significant to customers (e.g. service disruptions, responses to complaints). Based on WICS' comparison¹⁶ of the performance of New Zealand local authorities with that of regulated water utilities in the United Kingdom (see Figure 3), it is clear that:

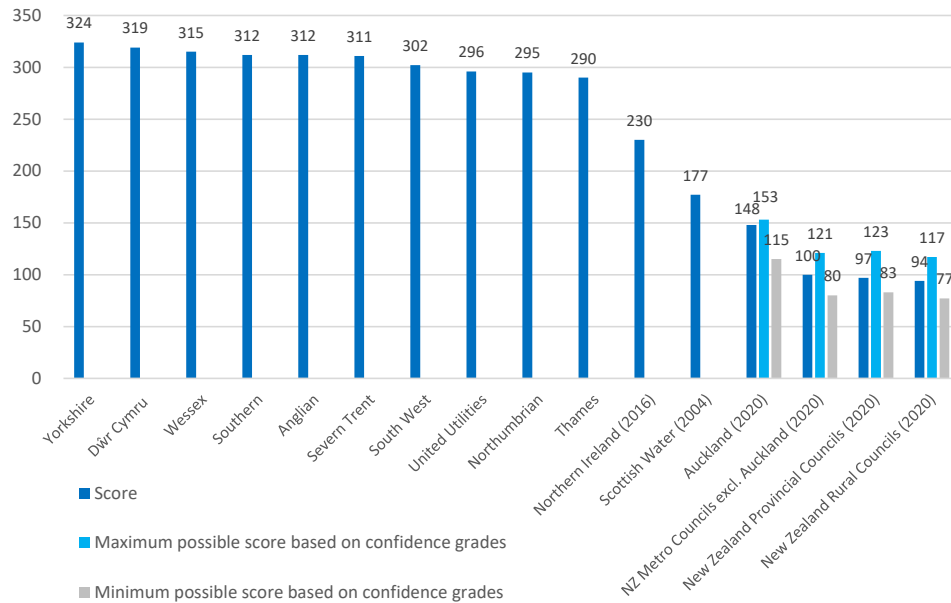
- New Zealand has a long way to go to catch up with the performance of more mature systems overseas
- as a country, our starting position is similar to that of Scottish Water prior to the most recent round of Scottish water services reforms. In the past two decades, Scottish Water has significantly lifted its performance and is now among the top-performing water services providers in the United Kingdom.

¹⁴ Beca (2021). Review of assumptions between Scotland and New Zealand three waters systems. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/beca-report-dia-three-waters-reform-wics-modelling-phase-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/beca-report-dia-three-waters-reform-wics-modelling-phase-2.pdf)

¹⁵ The closest measures used in New Zealand would be those used in the Water New Zealand National Performance Review, which helps to provide a basis for comparisons between different parts of the country.

¹⁶ The WICS assessment is indicative only as, like the Water New Zealand survey, it is based on the submissions of only a subset of local authorities in response to the Department of Internal Affairs request for information (albeit a large subset representing over 80% of the population), and the assessment also relies on councils' self-reporting. Unlike the Water New Zealand survey, there was no audit process for the Request for Information

Figure 3: Comparison of local authorities' Overall Performance Assessment scores with UK water utilities



Source: Water Industry Commission for Scotland, 2021

Environmental outcomes

Wastewater discharges

Discharges from wastewater treatment plants are harming the environment in many parts of New Zealand, particularly where multiple plants are scattered across a catchment or are operating poorly. These discharges can also cause health problems if they contain bacterial pathogens such as *E. coli* or *Campylobacter*, or protozoan pathogens such as *Cryptosporidium* or *giardia*.

Resource consents are required for the discharge of treated wastewater from treatment plants in all regions. A 2019¹⁷ report found that at that time nearly a quarter of wastewater treatment plants were operating on expired consents.

The same report noted there was a bow wave of treatment plants that would require re consenting between 2019 and 2029, with almost 35% of all treatment plants (comprising 110 plants) currently going through or expected to go through a resource consenting process in that period.

¹⁷ GHD-Boffa Miskell (2019). National Stocktake of Municipal Wastewater Treatment Plants. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/\\$file/Report-1-National-Stocktake-of-Municipal-WWTps.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/$file/Report-1-National-Stocktake-of-Municipal-WWTps.pdf)

Stormwater overflows

In urban areas, stormwater overflows are the main contributors to poor water quality, as a result of the greater proportion of impervious surfaces that increase the volume and speed of contaminant run-off. While there is growing recognition of the importance of, and efforts towards, managing stormwater quality, this is not yet widespread. Of the 41 stormwater service providers contributing to the 2020/2021 National Performance Review, 26 (63%) had stormwater catchment management plans and 23 (56%) were monitoring stormwater quality.¹⁸

As with treatment plants, formal actions in response to stormwater consent breaches are rare, but the number is gradually increasing over time. One important difference from wastewater treatment discharges is that stormwater discharges are not always consented.

Other challenges facing stormwater systems are maintenance, resilience, and climate change. There is currently a lack of consistent information on the condition of stormwater infrastructure, and also on the impacts of climate change and other natural hazards, to which stormwater systems are particularly susceptible.

Infrastructure resilience

New Zealand is facing threats to its water security. Climate change is bringing greater variations and extremes in our climate. Rural and urban areas across the country are experiencing more flooding and droughts. Water shortages are disproportionately affecting small, rural, and/or vulnerable communities, iwi/Māori, and households that depend on rainwater tanks.

In urban areas, it is estimated that 21% of water supplied to networks is lost on the way to its end use. This is more than the combined volume of water supplied by Christchurch City and Wellington Water. Opportunities for reducing water loss exist in at least 83% of serviced districts.¹⁹

When compared internationally, using the Infrastructure Leakage Index, only 5 of the councils that participated in Water New Zealand's National Performance Review had a score below 2 (a score of 1 is typically recognised as "excellent").²⁰ Most councils (16) recorded a score of between 2 and 4.

Water leakages and losses can exacerbate water shortages, especially in dry years, and can lead to water restrictions and disruptions of supply. Because of leakages and losses, water takes and water storage must also be greater than they would otherwise need to be.

¹⁸ Water New Zealand (2021). National Performance Review 2020-21. Available at <https://www.waternz.org.nz/NationalPerformanceReview>

¹⁹ Ibid.

²⁰ Ibid.

Three waters infrastructure will also be increasingly vulnerable to the effects of climate change, including sea level rise. Research commissioned by Local Government New Zealand showed that the replacement value of exposed three waters infrastructure was by far the highest cost to local authorities, exceeding the combined value of exposed roading and buildings.²¹ At 1.0 metre of sea level rise, the estimated total replacement value of exposed water infrastructure is approximately \$2.6 billion and at 1.5 metre rise, the estimated replacement value is \$4 billion. At the 3.0 metre rise, the overall estimated replacement value is over \$7 billion.

Experts consider the most significant climate change risk to New Zealand is the risk to potable water supplies (availability and quality) due to changes in rainfall, temperature, drought, extreme weather events and ongoing sea level rise.²²

Outcomes for iwi/Māori

Māori express a relationship with water as kaitiaki. Māori do not distinguish their rights to 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 the review of the three waters service delivery arrangements and other work programmes underway across government, particularly those that relate to resource management and freshwater allocation.

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 relationships 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.

A clear concern among iwi/Māori is that the system for delivering three waters needs to uphold, align with, 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 need to be acknowledged. They are suppliers and/or recipients of water services (particularly those in rural marae, papakāinga, and rural communities) and are often members of communities that are under-served by the existing three waters service delivery system and receive poor-quality three waters services or none at all.

²¹ Local Government New Zealand (2019). Vulnerable: the quantum of local government infrastructure exposed to sea level rise. <https://www.lgnz.co.nz/assets/Uploads/d566cc5291/47716-LGNZ-Sea-Level-Rise-Report-3-Proof-FINAL-compressed.pdf>

²² Based on a climate change risk assessment conducted over nine months by a diverse, multi-disciplinary team of academics and consultants. <https://environment.govt.nz/assets/Publications/Files/national-climate-change-risk-assessment-main-report.pdf>

Why is the current system not performing?

It has become clear that the current three waters system is not set up in manner that will enable us to achieve our objectives for the system, or to gain maximum benefit from the regulatory reforms that are already in train.

At the heart of the problem is the way the service delivery system is designed, governed, funded, and regulated. The root causes of the problems we see include:

- the large number of small water services providers, which limit the opportunities for realising the efficiencies that come with scale in the delivery of three waters services
- the incentives and governance structures that are not conducive to long-term decision-making in relation to three waters investment and asset management
- the affordability challenges associated with addressing the infrastructure deficit, particularly for small, rural communities
- a lack of effective system stewardship and regulation.

Fragmented system with limited opportunities to achieve benefits of scale

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 suppliers. The majority of these providers – including most councils – have relatively small populations/customer bases.

Most local authorities in New Zealand currently serve 100,000 or fewer connected ratepayers, and this creates significant inefficiencies within the system for delivering three waters, including:

- a lack of strategic and coordinated asset planning at a regional or greater level
- limited opportunities to consider catchment-level outcomes
- a lack of funding and pipeline certainty to create competitive pressures in the supply chain
- the lack of capacity and capability that tends to be associated with larger-scale entities
- a lack of innovation
- a lack of career pathways and opportunities for the workforce to specialise
- wide variations in water charges, particularly for vulnerable communities.

Achieving the benefits of reform 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.

International evidence indicates that each entity would need to serve a connected population of at least **600,000 to 800,000** to achieve the desired level of efficiency.²³ Below this point water services providers may find it difficult to fully realise the efficiency benefits that have been shown to be possible in other jurisdictions.

²³ See, for instance:

The main benefits of scale relate to:

- improved access to capital markets and borrowing at a greater level than local authorities can achieve – as a result of having stronger balance sheets and independent, professional governance and management
- shifting the provision of water services to a more financially sustainable footing – by leveraging scale to strategically plan, procure, and manage three waters infrastructure and service delivery, delivering operating efficiencies, and adopting more flexible funding and pricing mechanisms to address geographical, climate risk and intergenerational equity considerations
- improving sector capacity – by providing sufficient scale to encourage strategic workforce planning, and providing the required depth of governance, management, and specialist technical skills and experience. There is clear evidence that medium- to large-sized water services providers have greater asset management maturity and more specialised three waters asset management teams, technology, and data systems than smaller-scale providers
- the regulatory burden and benchmarking the performance of providers – including the ability to benchmark performance across a smaller number of providers adequately, without imposing significant costs (relative to the costs associated with benchmarking the performance of a large number of entities with insufficient scale).

Misaligned incentives for critical water infrastructure decisions

Local authority service providers operate in a political environment in which investment decisions are made by elected representatives who have a duty to consider broader community interests (for example, other investment priorities and the affordability of rates increases), and in a constrained financial environment, in which the main funding and financing mechanisms are via ratepayers and council borrowing.

These factors combine to limit levels of three waters investment, for example due to:

- covenants imposed by lenders that limit the debt-to-revenue ratios that councils can maintain while achieving a good credit rating and cost-effective financing
- varying attitudes to debt and rates increases across communities

-
- Klien (2017). Global study on the aggregation of Water Supply and Sanitation Utilities. <https://openknowledge.worldbank.org/bitstream/handle/10986/27981/119098-WP-P159188-PUBLIC-ADD-SERIES-50p-stat-analysis-24-8-2017-13-34-31-W.pdf?sequence=1&isAllowed=y>
 - Ferro, Lentini, and Mercadier (2011). Economies of Scale in the water sector: a survey of the empirical literature. <https://iwaponline.com/washdev/article-abstract/1/3/179/28777/Economies-of-scale-in-the-water-sector-a-survey-of?redirectedFrom=fulltext>
 - González-Gómez and García-Rubio (2008). Efficiency in the management of urban water services. What we have learned after four decades of research. https://www.researchgate.net/publication/23565871_Efficiency_in_the_management_of_urban_water_services_What_have_we_learned_after_four_decades_of_research
 - Independent Pricing and Regulatory Tribunal (2007). Literature Review: Underlying costs and industry structures of metropolitan water industries. https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/final_report_-_literature_review_-_underlying_costs_and_industry_structures_of_metropolitan_water_industries_-_september_2007.pdf

- financially constrained households (such as ratepayers on low incomes), especially in areas with high levels of deprivation
- misaligned incentives and a lack of management focus, connected with an operating environment in which three waters is just one aspect of the broader responsibilities that councils have and services that communities require.

Several reviews have highlighted the challenges associated with council elected members making decisions in relation to the management and delivery of critical, long-term water infrastructure:

- **Wellington Water.** Analysis commissioned by the Local Government Commission²⁴ showed that one of the biggest challenges for Wellington Water was the lack of collaboration and agreement across the Wellington local authorities on key priorities for investment. A more recent report by the Mayoral Water Taskforce concluded that:

“Our three waters system has for many years been largely out of sight, out of mind. This changed with the high-profile pipe failures in the wastewater network in late 2019 and early 2020, which highlighted the consequences of decades of inattention. Engineers had highlighted the problems of ageing infrastructure and growing investment requirements for years, but the lack of obvious problems meant, until recently, this had gone unaddressed.”
- **Hawke’s Bay.** A business case²⁵ for new service delivery options found there was a wide variation in the condition of the three waters assets across Hawke’s Bay, noting that direct comparisons were difficult as each council had its own approach to assessing the condition of the assets. The business case also highlighted that Wairoa’s assets were generally in a worse condition than those of other local authorities in the region. It did this not to criticise Wairoa, but rather to highlight the challenges faced by small local authorities across New Zealand that had limited resources, capability, and capacity and were forced to make choices in allocating those scarce resources.
- **West Coast.** Similar to the Hawkes’ Bay business case, a review²⁶ of three waters service delivery in the West Coast pointed to affordability as a key concern for smaller and more remote local authorities. Problems such as a low rating base, limits on loan funding, limited access to subsidies, and a focus on user pays approaches by local authorities limited what could be achieved in some communities.
- **Mangawhai community wastewater scheme.** The Office of the Auditor-General found that many of the challenges associated with this scheme, which suffered a blow out from an \$10 million initial cost estimate to more than \$60 million, were partly governance failures – but little has changed systemically to ensure that such failures do not occur again.²⁷

²⁴ Wellington City Council (2020). Mayoral Taskforce on the Three Waters report. Available at <https://wellington.govt.nz/-/media/environment-and-sustainability/water/files/2020/mayoral-taskforce-three-waters-taskforce-report.pdf?la=en&hash=3B3EC07C7DFBC70020C610AB8372E37FEB2C537E>

²⁵ Morrison Low (2020). Hawke’s Bay Three Waters: Business case of three waters service delivery options. Available at <https://www.hb3waters.nz/assets/Uploads/HB-3-Waters-Delivery-Detailed-Analysis-29.07.20-Full-Report.pdf>

²⁶ Tonkin & Taylor (2020). Three Waters Service Delivery Review.

²⁷ Office of the Auditor-General (2013). Inquiry into the Mangawhai community wastewater scheme. Available at: <https://oag.parliament.nz/2013/mangawhai/docs/oag-mangawhai.pdf>

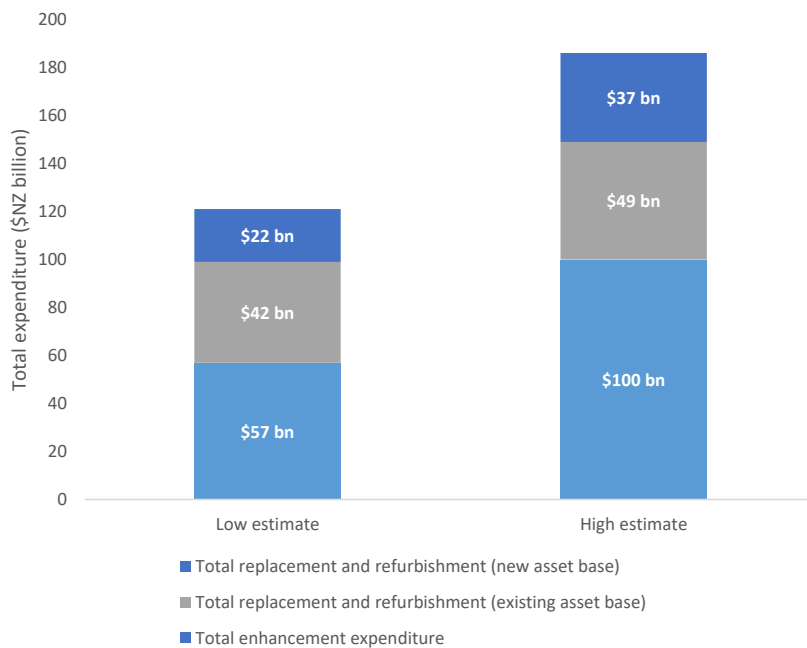
- The **Havelock North Drinking Water Inquiry**²⁸ concluded that political accountability by elected councillors in relation to three waters, while seen as an advantage in the case of local authority suppliers, was ineffectual in reality. It highlighted examples of council officers with responsibility for three waters services encountering difficulty or resistance at the governance or political level when seeking decisions relating to service delivery and investment that would require trade-offs with other local community priorities or that was deemed unaffordable.

Accumulated infrastructure deficit presents affordability challenges

Many local authorities have struggled, and continue to struggle, to fund plant and pipe infrastructure to the levels required in order to meet standards and community aspirations. As a result of persistent under-investment over a long period, many communities face a significant investment challenge to ensure three waters infrastructure meets current and future community expectations and regulatory standards.

Analysis conducted for the Department of Internal Affairs by WICS, based on information provided by local authorities, estimates a future national investment requirement in three waters infrastructure in the order of \$120 billion to \$185 billion over the next 30 to 40 years (see Figure 4 for a breakdown).

Figure 4: Estimated future capital investment requirement for three waters infrastructure



Source: Water Industry Commission for Scotland, 2021

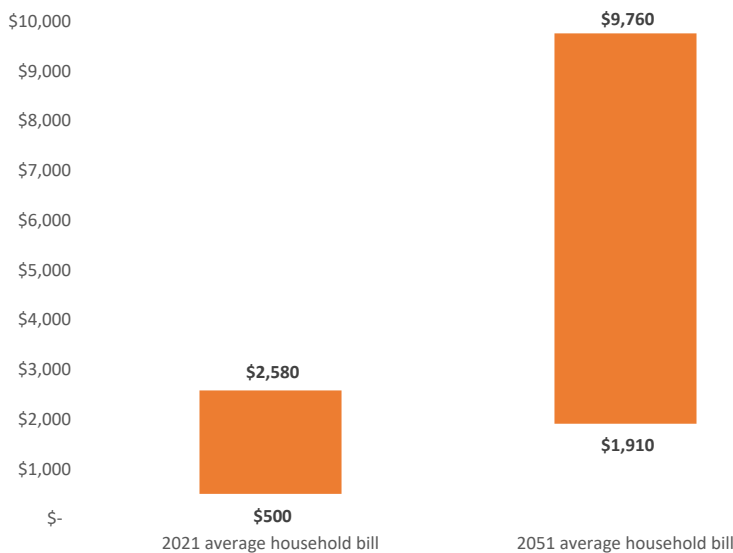
²⁸ Department of Internal Affairs (2017). Report of the Havelock North Drinking Water Inquiry: Stage 2 – [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

As illustrated in Figure 5 below, meeting these costs will be challenging for most local authorities, with average household bills needing to increase significantly.²⁹ Without reform, the real cost increases to households of meeting the required investment would be unaffordable for many smaller communities and low-income customers.

For rural local authorities, average household costs in 2019 ranged from less than \$500³⁰ per annum to \$2,600 per annum, 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.

The situation is not much better for larger provincial and metropolitan local authorities. Average household bills (in 2019) for provincial local authorities 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 metro areas, bills could reach \$1,700 to \$3,500 per annum in today’s dollars.

Figure 5: Average household bills in 2021 compared with 2051 without reform



Source: Water Industry Commission for Scotland, 2021

These findings are consistent with analysis undertaken independently by the following local authorities:

- **Auckland.** Under Auckland’s current Long-Term Plan, water charges will increase by 7% in 2022, followed by a 9.5% increase each year up to 2029.³¹

²⁹ The average household cost figures for 2051 are charted up to the 75th percentile to account for large variances in the data collected from local authorities.

³⁰ Current costs are not necessarily a good reflection of the true economic costs of service delivery, as evidence suggests many councils do not fully cover economic depreciation through current charges.

³¹ Watercare (2021). Water and wastewater prices to increase from 1 July 2021 Available at <https://www.watercare.co.nz/About-us/News-media/Water-and-wastewater-prices-to-increase-from-1-Jul>

- **Hawke's Bay.** Average three water rates could increase to over \$3,500 and \$4,000 for households in Central Hawke's Bay and Wairoa respectively.
- **Wellington.** Wellington Water proposed that the level of capital investment across the region needs to increase from \$140 million per annum to around \$240 million per annum, with consequential impacts on rates.
- **West Coast.** While not quantified, a review for West Coast councils found affordability was the highest priority challenge for Buller, Grey and Westland councils. In addition to a low rating base, contributing issues included: limits on loan funding; reliance on (uncertain) access to subsidies for investment (e.g. the Tourism Infrastructure Fund); and a broader focus on user pays limiting what could be achieved in some communities.
- **Otago/Southland.** The potential future average charges for three waters services across the region is estimated to more than double over the next 10 years, from \$1,300 to almost \$3,000.³²

Clearly, the costs of accessing safe, clean, and environmentally friendly three waters services are projected to increase significantly and would have an impact on the cost of living for New Zealanders, especially lower-income households.

Lack of effective oversight and stewardship of the three waters sector

New Zealand has 67 local authority drinking water providers, 16 regional councils, and seven government agencies that have a role in relation to the supply of safe drinking water.³³ The dispersed nature of the roles and responsibilities within the system, means no one is responsible for monitoring or overseeing the performance of the whole system.

While the Government has already taken steps to strengthen the regulatory environment – through the creation of Taumata Arowai and passage of the Water Services Act 2021 – these initial changes are primarily focused on improving the regulation of drinking water services and addressing gaps relating to how the performance of the system is monitored.

At present, existing water service providers are not subject to even a basic form of economic regulation (e.g., information disclosure), which has resulted in generally poor quality information about the condition of three waters assets and the performance of water networks around New Zealand.

The lack of effective oversight and stewardship arrangements, and weaknesses in the regulatory environment, only serve to compound the challenges noted above with how the three waters service delivery system is currently designed.

Without good quality information, there is a lack of transparency about fundamental elements of the performance of the three waters system, such as the costs of service delivery, service standards, asset condition, and required investment. This makes it difficult for customers and communities to hold water services providers to account for performance.

³² Morrison Low (2021). Otago Southland Three Waters: Issues and principles. Available at (pages 39 to 68) <https://www.goredc.govt.nz/assets/documents/meetings/2021/20210309-Council-agenda.pdf>

³³ Department of Internal Affairs (2017). Report of the Havelock North Drinking Water Inquiry, Stage 2. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

What changes are proposed to three waters services delivery?

Transformative change is required, not piecemeal solutions

The nature and extent of the challenges facing the system mean we cannot expect the current system of service delivery to respond to meet these challenges – particularly in the comprehensive and sustained manner that is required. Most councils and communities will not have the funding, or the operational capacity, to eliminate the infrastructure deficit and meet future growth requirements.

Experience over the past 30 years also indicates that widespread improvements, particularly through voluntary change and collaboration between councils, are unlikely to solve the problems. The Government has considered a wide range of options for overcoming these issues, including creating incentives for voluntary amalgamation of water services delivery, further regulatory reform (e.g., introduction of information disclosure requirements), and the provision of national funding mechanisms for water infrastructure. A brief summary of some of the alternative options considered is provided in Appendix 1.

The Government's response to these issues is a comprehensive package of reforms that collectively seek to address the underlying issues and challenges facing our three waters system. Key elements of the package of reforms include:

- establish four statutory, publicly owned water services entities to provide safe, reliable, and efficient water services
- enable the water services entities to own and operate three waters infrastructure on behalf of the communities they serve, enabling them to access cost-effective finance from capital markets to investment in maintaining and upgrading that infrastructure
- provide for ongoing public ownership of the new water services entities by local authorities, and statutory provisions that protect against future privatisation
- establish independent, competency-based boards to govern each water services entity
- set a clear national policy direction for the three waters sector, including expectations relating to the contribution by water services entities to any new spatial/resource management planning processes
- establish an economic regulation regime, to ensure efficient service delivery and to drive the achievement of efficiency gains, and consumer protection mechanisms.

Further details on each of these components of the reform package are outlined below.

Aggregation of water services delivery into four water services entities

The Government considered a range of factors when determining the number and boundaries of the proposed water services entities, including that each entity would:

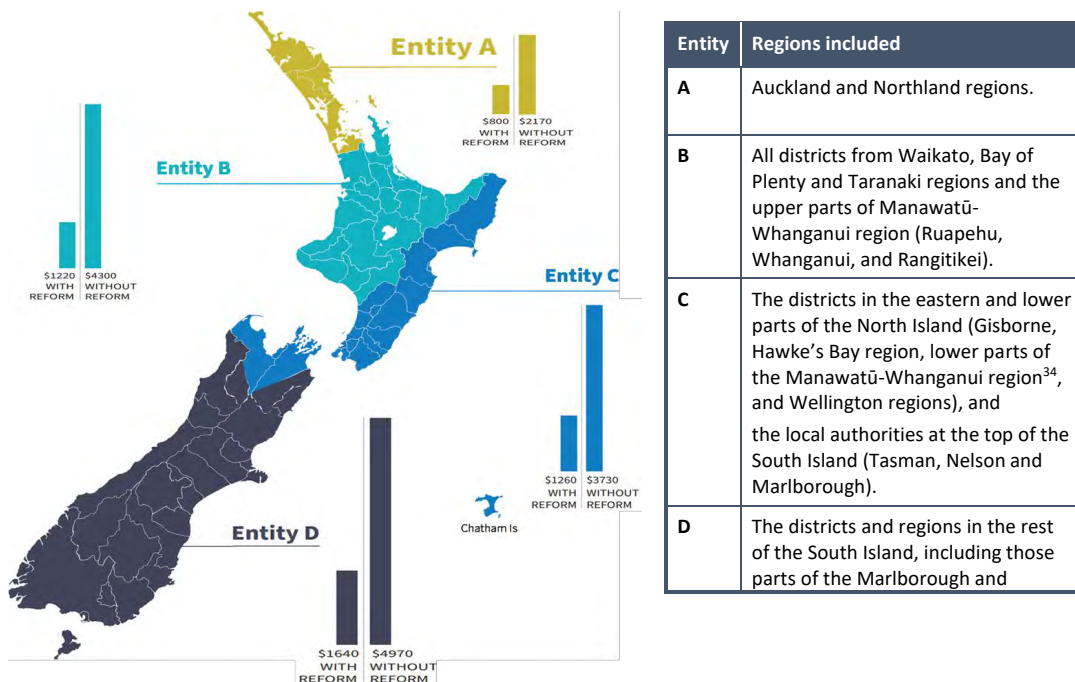
- have a sufficient asset and customer base to be financially sustainable, operate at an economically efficient scale, and deliver water services at an affordable cost to communities across the entity region

- operate effectively in relation to water catchments to achieve desired environmental outcomes, including enabling effective catchment planning and the management of associated infrastructure
- have the ability to engage meaningfully with iwi/Māori, respecting rohe/takiwā boundaries and the importance of preserving 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, wāhapū/estuaries, and the sea
- the ability to understand and reflect relevant community interests, particularly where there are existing economic or functional relationships or shared identities between neighbouring regions or communities
- have access to a skilled local workforce.

The Government weighed up more than 30 different models before deciding on the four-entity model as best balancing the range of factors noted above. In reaching this position, the Government placed significant weight on the need for entities to have sufficient asset and customer bases to be financially sustainable, operate at an economically efficient scale, and enable prices to be affordable and levels of service to be broadly comparable.

The Joint Three Waters Central/Local Government Steering Committee endorsed the conclusion that three or four entities best balanced 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 connections to communities of interest.

Figure 6: Proposed boundary configuration for new water services entities



³⁴ This includes Horowhenua, Manawatū, Palmerston North and Taranaki.

Tasman Districts that comprise the Ngāi Tahu takiwā. ³⁵
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This configuration has several advantages, including that it:

- results in broadly even populations served, outside Entity A, enabling each entity to realise the opportunities associated with scale
- combines all districts in Waikato and Bay of Plenty into a single entity, recognising the significant relationships that exist between these councils and leveraging work undertaken to date towards reform
- aligns catchments in the central North Island, in particular from the Taupō district to the Waikato region
- recognises whakapapa linkages between the North and South Islands, including iwi boundaries that span the two islands.

Under this configuration, the Hauraki Gulf marine area spans the boundaries of the two upper North Island entities. This will require them to collaborate with the relevant regional councils on an integrated catchment-management approach to the Hauraki Gulf.

The net present cost of three waters services per connected person is expected to be between \$480 to \$1,060 lower under the reforms, when compared with a 'no reform scenario'.

For rural councils, average household costs in 2018 ranged from less than \$500 per annum to \$2,600 per annum across all 67 councils, with a median average annual cost per household of \$1,300. To meet the forecast investment required, these costs are expected to need to rise by between three and 13 times in real terms over the next 30 years. This would be unaffordable for many households in some small rural communities

The situation is not much better for larger provincial and metropolitan councils, with average household costs projected to rise 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.

By comparison, with reform the average household costs are expected to fall within a range of \$800 for Entity A and \$1,640 for Entity D in real terms.

Design of the new water services entities

Water services entities will be statutory entities, with legislation prescribing their legal form and ownership arrangements, function, objectives and operating principles, entity boundaries, and ownership, governance and accountability arrangements.

Legal form and ownership by territorial authorities

Water services entities are a new public service delivery model. Each entity will be a body corporate and will be co-owned by the territorial authorities in its service area. Each local authority will be allocated shares in their entity, as a tangible expression of ownership.

³⁵ Adjustments will be made to this boundary to correspond to the Ngāi Tahu takiwā rather than conforming to local authority boundaries.

The legislation to establish the water services entities will set out strong safeguards against privatisation or loss of control of water services and significant infrastructure including:

- collective territorial authority ownership of entities to ensure appropriate oversight and influence on behalf of their communities
- joint oversight of entities by mana whenua
- clear legislative protections against loss of ownership or control, including that an entity must not use water services assets as security for any purpose, divest its ownership in a water service, or sell or lose control of significant infrastructure.

For any divestment proposal to proceed, the legislation would require:

- support from at least 75% of an entity's regional representative group
- unanimous support from its territorial authorities
- support from at least 75% of the votes cast by electors in its service area in a poll.

Function, objectives and operating principles

The function of a water services entity will be to provide safe, reliable, and efficient drinking water, wastewater, and stormwater services in its area.

The objectives of a water services entity will be to:

- deliver water services and related infrastructure in an efficient and financially sustainable manner
- protect and promote public health and the environment
- support and enable housing and urban development
- operate in accordance with best commercial and business practices
- act in the best interests of present and future consumers and communities
- deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.

To guide how the water services entities deliver their objectives and functions, entities will be required to adhere to the following operating principles:

- developing and sharing capability and technical expertise with other water services entities and across the water services sector.
- being innovative in the design and delivery of water services and infrastructure.
- being open and transparent, including in relation to the calculation and setting of prices, determining levels of service delivery to consumers and communities, and reporting on performance.
- partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can give effect to Te Mana o te Wai, and understand, support, and enable the exercise of mātauranga, tikanga, and kaitiakitanga.
- giving effect to Treaty of Waitangi settlement obligations, to the extent that the obligations apply to the duties and functions of the entities.

- partnering and engaging early and meaningfully with territorial authorities and their communities.
- cooperating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector.

Governance arrangements

Water services entities will have a two-tier governance arrangement comprising:

- a regional representative group, which provides joint oversight of the entity by an equal number of representatives of the territorial authority owners and mana whenua from within the entity's service area
- corporate governance by an independent, competency-based, professional board.

The primary role of a water services entity's regional representative group is to:

- appoint and remove the entity's board members, via a board appointment committee that is part of the regional representative group
- set strategic and performance expectations for the water services entity, and to approve the strategic direction of an entity
- monitor and review the performance of the board and entity
- approve the appointment and remuneration policy prepared by its board appointment committee.

A water services entity may also have regional advisory panels if it chooses, based on a geographic area in the entity's service area. The role of a regional advisory panel is to provide advice to the regional representative group on how to perform or exercise its duties, functions, and powers.

The board is the governing body of the water services entity. All decisions relating to the operation of a water services entity must be made by, or under the authority of, the board.

The board of a water services entity is primarily accountable for developing the strategy and associated accountability documents, including the statement of intent, and for delivering against that strategy once approved. It has responsibility for the day-to-day operations of the entity and appoints the chief executive.

Appointments to the board are required to be made based on the skills of individual members, or collective competencies across the board as a whole, rather than as representatives of councils or mana whenua.

Entity constitution

Each water services entity will have a constitution that will set out:

- the composition and internal procedures of its regional representative group, including how it will perform or exercise its functions, duties and powers
- the composition and internal procedures of any regional advisory panel, and how it will perform its advisory role to the regional representative group
- the composition and internal procedures of its board, including how it will perform or exercise its duties, functions, and powers

- funding and remuneration arrangements for an entity's regional representative group and regional advisory panels
- procedures for dispute resolution, and reviewing, amending or replacing the constitution.

Statement of strategic and performance expectations

The regional representative group must issue a statement of strategic and performance expectations, covering a 3-year period. The purpose of a statement of strategic and performance expectations is to state the regional representative group's objectives and priorities for the entity, so that it can inform and guide the decisions of the board who must give effect to the expectations.

Reporting and accountability

The Board of a water services entity is required to prepare and adopt a suite of accountability documents:

- a statement of intent, in which the strategic elements must be approved by the entity's regional representative group, and which sets out the forecast service performance and budget of the entity
- an annual report setting out the entity's actual performance and audited financial statements
- an asset management plan and funding and pricing plan, which will cover a 10 year period
- an infrastructure strategy, covering a 30 year period; and

Te Tiriti o Waitangi / the Treaty of Waitangi and Te Mana o Te Wai

All persons performing or exercising duties, functions, or powers under the legislation will be required to give effect to the principles of te Tiriti o Waitangi / the Treaty of Waitangi, and must give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to those duties, functions or powers.

A water services entity is therefore required to give effect to Te Mana o te Wai to the extent that it applies to the duties and functions of the entity. This is consistent with the approach across all legislation relating to water services, including the Taumata Arowai - the Water Services regulator Act 2020, and on those who perform or exercise functions, powers and duties under the Water Services Act 2021.

Mana whenua whose rohe or takiwa includes a freshwater body in the service area of an entity can make a Te Mana o te Wai statement for water services, and the board of a water services entity is required to respond to the statement within 2 years, including by setting out a plan for how the entity intends to perform its duty to give effect to Te Mana o te Wai.

To ensure Treaty settlements are enduring, the legislation provides that, where there is consistency between the legislation and a Treaty settlement obligation, the Treaty settlement obligation prevails.

Consumer and community engagement

A water service entity will be required to:

- establish one or more consumer forums to help gather consumer views and understand consumer needs, expectations, and service requirements
- prepare an annual consumer stocktake
- engage with its consumers and communities on its asset management plan, funding and pricing plan, and infrastructure strategy.

A summary of the ownership, governance, and accountability arrangements for the new entities are set out in Table 3 below. The structure of the new water services entities is illustrated in Figure 7.

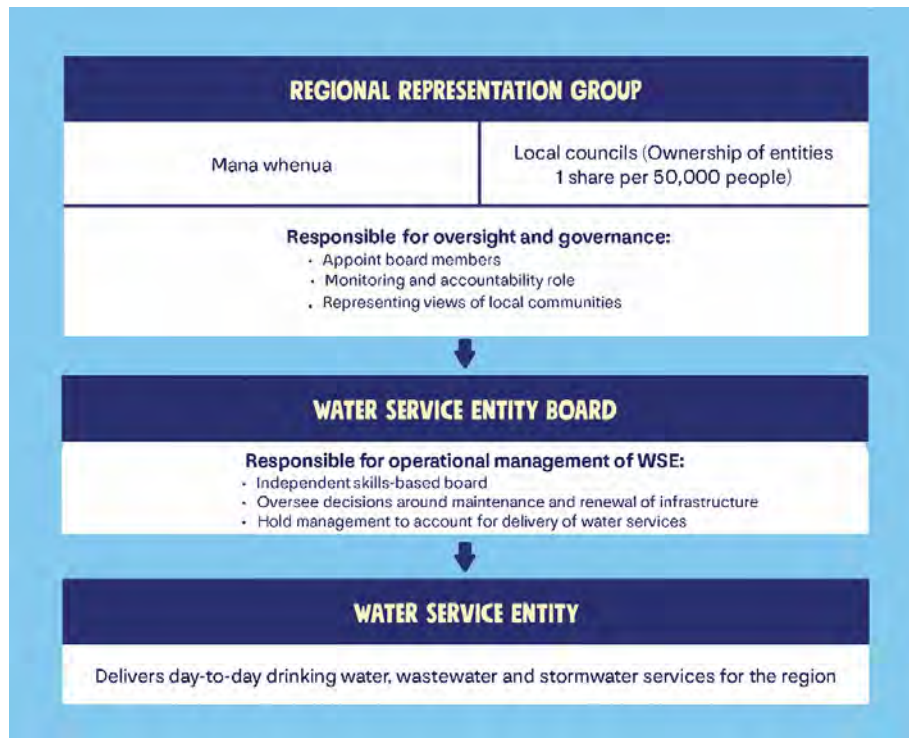
Table 3: Key design features of the new water services entities

Theme	Design features	Contribution to objectives
Ownership of the entities	<ul style="list-style-type: none"> • Local authorities are the sole owners of the entities, through shares held on behalf of their communities • Mana whenua are not owners of the entities • Protections in legislation against privatisation 	<ul style="list-style-type: none"> • Three waters assets and service delivery remain in public ownership • Each local authority will be allocated one share for each 50,000 population in its district, rounded up
Oversight of the entities	<ul style="list-style-type: none"> • Each entity will have a Regional Representative Group³⁶ that provides for an equal number of local authority owners and mana whenua • Entities may also have regional advisory boards, whose role is to advise the Regional Representative Group • The Regional Representative Group sets strategic and performance expectations for the entity, approves the statement of intent, appoints the board and monitors its performance • The entity’s board will be responsible for developing the strategy and delivery against it 	<ul style="list-style-type: none"> • Ability for local authorities and mana whenua to influence entity strategic direction • Entities are independently and professionally run

³⁶ Regional Representatives would be elected members (or a relevant and appropriately qualified senior council officer) and iwi/Māori representatives.

Theme	Design features	Contribution to objectives
Appointing board members	<ul style="list-style-type: none"> The Regional Representative Group will appoint board members via a board appointment committee, in accordance with its appointment and remuneration policy Board members will be appointed on the basis of merit, taking into account the collective or individual experience, qualifications, skills, or expertise required of members of the board 	<ul style="list-style-type: none"> Entities are operationally and financially independent from local authorities
Ownership of three waters infrastructure	<ul style="list-style-type: none"> Entities will assume ownership of three waters infrastructure, as well as associated debt and revenue, from local authorities Transferring ownership of the infrastructure will enable entities to borrow in their own right, independent of local authorities 	<ul style="list-style-type: none"> Entities have financial capacity to meet the infrastructure deficit and future investment needs Balance sheet separation
Consumer and community influence	<ul style="list-style-type: none"> Entities will be required to engage with consumers and communities on key strategies and plans that affect them Entities will be required to establish consumer forums 	<ul style="list-style-type: none"> System for delivering three waters services is responsive and accountable to consumers and communities
Charging	<ul style="list-style-type: none"> Each entity will be required to be transparent in how it calculates and sets prices, and must engage with consumers and communities on proposed prices and charges Entities will be enabled to use a range of charging instruments, many of which are already used by local authorities During the transition to the new delivery arrangements, it is anticipated that consumers will continue to be charged on a similar basis to their existing arrangements, at least in the initial years of the entities' operations 	<ul style="list-style-type: none"> Entities are operationally and financially independent from local authorities Entities have financial capacity to meet the infrastructure deficit and future investment needs

Figure 7: Water services entity structure



Stormwater

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.

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.

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.

Engagement with the local government sector has shown that while there are mixed views across the sector, there is significant support for transferring the responsibility for stormwater to the proposed water services entities. Support for the inclusion of stormwater reflects:

- a recognition among many local authorities that they will struggle to afford the increasing investment requirements for stormwater
- concern, particularly among small local authorities, about their capacity and capability to manage stormwater if drinking water and wastewater assets and functions are transferred to the proposed water services entities
- 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.
- 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.

The reforms represent an opportunity for a step change in the performance of the stormwater system by:

- bringing together the delivery of drinking water, wastewater, and stormwater to enable the new water services entities to adopt an integrated and holistic approach to managing catchments, particularly in urban areas
- leveraging the scale and financial capacity of the new entities to address the growing challenges associated with the stormwater system as a result of the continuing expansion of urban areas, the increasing frequency of high-intensity rainfall events, and a growing awareness of the environmental impacts of stormwater run-off on fresh and coastal waterbodies
- allowing an increase in investment, capability, and capacity to lift the performance of stormwater systems, ensure they are resilient, reduce impacts on water quality, enable the delivery of large-scale housing projects, and adapt to long-term challenges like climate change
- providing the opportunity to coordinate and align stormwater-management functions across the current system to enable a shift from the current reactive approach to management of the stormwater system.

Unbundling stormwater responsibilities is complex, will take time, and will require further detailed work and engagement between central and local government before future arrangements can be finalised. A Stormwater Technical Reference Group was established to consider the proposed approach to the transfer of stormwater functions to new water services entities, and its report on the transfer approach can be found [here](#).

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.

Relationship with resource management reform

The three waters service delivery reforms are part of a wider, interconnected programme of reforms. In addition to the implementation of the three waters regulatory reforms and the establishment of Taumata Arowai, there are proposed changes to the resource management system.

In the new system for delivering three waters services, local government will 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 meeting the three waters needs of all new housing developments, 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.

In parallel with the resource management reforms, it is likely that the water services entities will have statutory obligations 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).

A step change for iwi/Māori rights and interests in waters service delivery

Reform of the system for delivering three waters, and the introduction of new legislative, governance and management arrangements to deliver water services, provides an opportunity to include mechanisms for the recognition of iwi/Māori rights and interests in the new three waters system. The reform package includes the following mechanisms for protecting and promoting iwi/Māori rights and interests in the new three waters service delivery model:

Table 4: Mechanisms to protect and promote iwi/Māori rights and interests

Mechanisms	Impacts
Statutory recognition of the Treaty of Waitangi and Te Mana o te Wai in legislation	Requiring all persons performing or exercising duties, functions, or powers under the legislation must give effect to the principles of Te Tiriti and Te Mana o te Wai, to the extent that Te Mana o te Wai is applicable to those duties and functions.

Mechanisms	Impacts
Equal representation by mana whenua on the Regional Representative Group, enabling exercise of greater tino rangatiratanga than the current system allows	Iwi/Māori play a role in providing strategic influence and oversight for the new water services entities
Mana whenua enabled to make a Te Mana o te Wai statement for water services, which the board would be required to respond to within 2 years	Enable mana whenua to express kaitiakitanga in the new system, with the onus of response sitting with the water services entity
Requirements that the board of each entity, collectively, has competence relating to the Treaty of Waitangi, mātauranga Māori, tikanga Māori, and te ao Māori	The water services entities have the competency to embed Te Mana o te Wai as an objective of the entity and to uphold the principles of Te Tiriti across all its activities
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	The water services entities have the competency to embed Te Mana o te Wai as an objective of the entity and to uphold the principles of Te Tiriti across all its activities
Requirements that the entities fund and support capability and capacity of mana whenua to participate in relation to three waters service delivery	Ensuring that iwi, hapū and Māori are provided with reasonable financial and non-financial support to participate fully and meaningfully in the system for delivering three waters and to undertake the roles envisaged for them

System stewardship

The Inquiry into Havelock North Drinking Water³⁷ identified inadequacies in national policy and stewardship of the sector as contributing factors to the Havelock North tragedy.

These stewardship challenges need to be addressed, to ensure the benefits of reform are fully realised and sustained over time, and that the new system can adapt, and remain fit for purpose.

³⁷ Government Inquiry into Havelock North Drinking Water, Report of the Havelock North Drinking Water Inquiry: Stage 2 (Department of Internal Affairs, December 2017), 33.
[https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/\\$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Report-Havelock-North-Water-Inquiry-Stage-2/$file/Report-Havelock-North-Water-Inquiry-Stage-2.pdf)

National policy direction

To strengthen stewardship of the three waters system, the Water Services Entities Bill would enable the Minister to make a Government policy statement setting out the Government's overall direction and priorities for water services, to inform and guide agencies involved in, and the activities necessary and desirable for, water services. A water services entity must give effect to the statement when performing its functions.

Crown monitoring and intervention

The Bill enables the Minister to appoint a department as a Crown monitor. The role of the monitor is to:

- act as a steward to provide oversight to the water services system from a whole-of-government perspective
- tender advice to Ministers, and assist the Minister to carry out the Minister's role under the legislation.

The Bill contains a Crown intervention framework, providing the Minister with powers of intervention based on a graduated risk regime, including:

- circumstances where there is a significant or persistent failure by a water services entity to perform one or more functions or give effect to a Government policy statement
- a water services entity's failure to demonstrate prudent financial management
- a state of emergency.

These powers of intervention are based on a similar framework in the Local Government Act 2002 and include the appointment of a Crown review team, a Crown observer, or, as a last resort, a Crown manager.

Economic regulation and consumer protection

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.

Evidence from overseas jurisdictions, and other utility sectors in New Zealand shows that economic regulation can be effective in protecting and enhancing the long-term interests of consumers. Economic regulation will also help to address the current information constraints within the sector, making performance information available so consumers, communities and other stakeholders can hold suppliers to account for the quality of their services and the prices they charge.

The Government has agreed, in-principle, to the introduction of an economic regulation regime in a reformed New Zealand three waters sector. At the minimum, this will include an information disclosure regime that publishes information relating to the performance of the new water services entities.

The Ministry of Business, Employment and Innovation is undertaking further work to develop an appropriate economic regulation regime. This work will also include the development of advice and proposals relating to consumer protection mechanisms for the new three waters system, including for example disputes resolution, protections for vulnerable consumers and transparency around price-setting.

Benefits of reform

The reforms are intended to generate a wide range of benefits, which are outlined in more detail in the Department's Regulatory Impact Statement.³⁸

Health and environmental benefits

Reform is expected to facilitate a material improvement in health and environmental outcomes. This conclusion is informed by international evidence that suggests that water services entities are likely to be in a stronger position to meet new drinking water and environmental standards because of the reforms. The combination of a stronger regulatory framework and structural and governance reform has been shown to both strengthen the incentives on water service providers to improve service standards and strengthen the capacity of those providers to deliver improvements.³⁹

A further benefit of reform, particularly for urban water outcomes, is the improved ability for water services entities to address contamination of urban streams through sewer overflows and other unauthorised discharges and stormwater run-off. Improved management and investment, as well as the ability to plan on a catchment level, will enable water services entities to better manage contamination and erosion, with flow-on benefits for receiving urban water environments.

Economic benefits

Analysis by Deloitte shows that reform will impact every corner of the economy and could see GDP expand by \$14 billion to \$23 billion over the next 30 years.⁴⁰ This represents a 4.4% to 7.1% increase in the size of the New Zealand economy and an average increase in GDP per annum of between 0.3% to 0.5%.

Reform is also expected to unlock an additional 5,800 to 9,300 jobs, with the water sector workforce expected to grow by 80% over the next 30 years. Deloitte anticipate that reform will change the composition of jobs in the water sector, with the likelihood of some jobs being replaced over time. However, the reform provides significant opportunities for career advancement, including greater levels of specialisation and a lift in average wages.

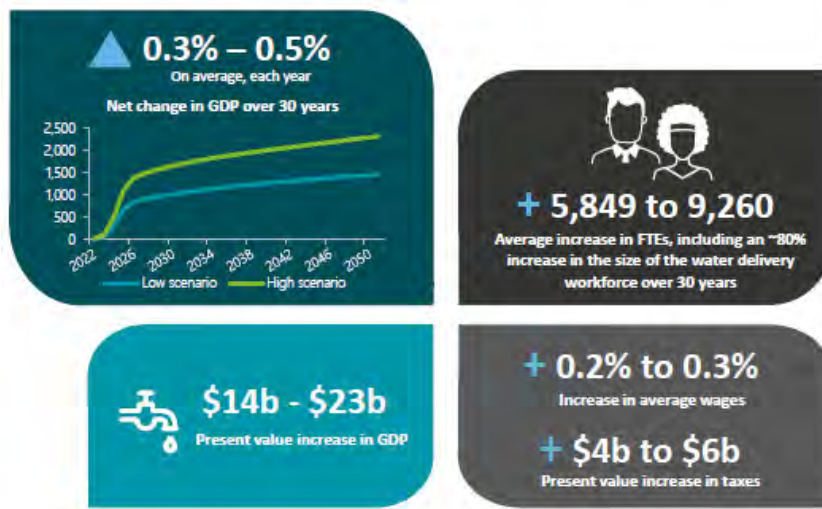
The widespread nature of the economic impacts underlines the critical role that the water sector plays in the national and regional economy. A lift in investment in the water sector therefore has multiple flow-on benefits for other parts of the economy.

³⁸ Department of Internal Affairs (2021) Regulatory Impact Statement: Decision on the reform of three waters service delivery arrangements. [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/\\$file/regulatory-impact-assessment-decision-on-the-reform-of-three-waters-service-delivery-arrangements.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/$file/regulatory-impact-assessment-decision-on-the-reform-of-three-waters-service-delivery-arrangements.pdf)

³⁹ Frontier Economics (2019). Review of experience with aggregation in the water sector. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/\\$file/Frontier-Economics-review-of-experience-with-aggregation-in-the-water-sector.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/$file/Frontier-Economics-review-of-experience-with-aggregation-in-the-water-sector.pdf)

⁴⁰ Deloitte Access Economics (2021). Industry Development Study and Economic Impact Assessment. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/deloitte-report-industry-development-study-&-economic-impact-assessment.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/deloitte-report-industry-development-study-&-economic-impact-assessment.pdf)

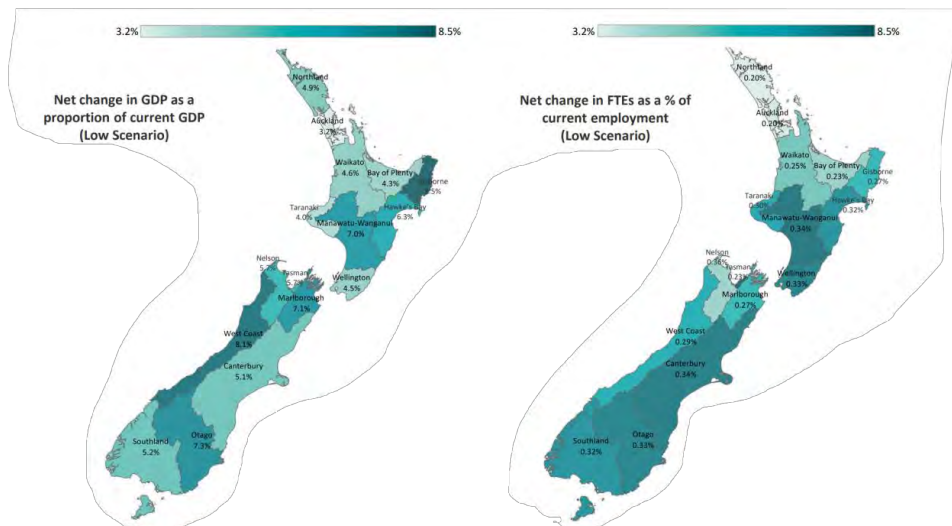
Figure 8: Summary of the potential economic benefits of reform



Source: Deloitte Access Economics, 2021

Every region in New Zealand will be positively impacted by reform but not all will be affected equally (see Figure 9). Most rural and provincial regions are estimated to benefit more than the national average through reform, experiencing larger increases in economic activity in relative terms. Metropolitan regions are also forecast to experience large increases in GDP and employment in absolute terms, particularly Auckland.

Figure 9: Regional impacts of reform on GDP and employment



Source: Deloitte Access Economics, 2021

More cost effective service delivery

Consolidating administration and overhead costs, and improving organisational and technical capability, can enable more efficient delivery and lower the operating costs of providing water services. While some of those cost savings would be balanced against increases in capital expenditure to address the likely backlog of under investments, the cost savings attributable to those financial efficiencies could result in lower water charges, compared with what they would otherwise need to rise to without reform.

Significant improvements in efficiency have been achieved in overseas jurisdictions that have pursued reform of a similar nature to that proposed in New Zealand.

- In Australia, the Productivity Commission found that service delivery reform has helped to improve efficiency and deliver significant benefits for water users and communities.⁴¹
- Frontier Economics, in its review of the experience with water services aggregation in Australia, Great Britain, Ireland and New Zealand (Auckland and Wellington) finds that there is “strong and consistent evidence” that reforms have led to significant improvements in productivity and efficiency.⁴²
- Farrierswier, in its review of WICS methodology, comments on the potential that exists for efficiency gains from amalgamating water services in New Zealand and notes significant improvements are possible through aggregation and associated reforms, including improving the ability to attract and retain skilled management and staff, more effective procurement functions, asset level optimisation and reduction in corporate overheads and duplicative functions.⁴³
- WICS reports that Scottish Water has been able to reduce its operating costs by over 50% since reform, while improving levels of service to customers and absorbing the new operating costs associated with its investment programme.⁴⁴
- A report for the United Kingdom water trade association found that reform of the water industry in England resulted in annual productivity growth of 2.1% or 64% over 24 years when adjusted for service quality improvements.⁴⁵

⁴¹ Productivity Commission (2021). National Water Reform 2020: Productivity Commission Draft Report. Available at <https://www.pc.gov.au/inquiries/completed/water-reform-2020/draft/water-reform-2020-draft.pdf>

⁴² Frontier Economics (2019). Review of experience with aggregation in the water sector. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/\\$file/Frontier-Economics-review-of-experience-with-aggregation-in-the-water-sector.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-documents/$file/Frontier-Economics-review-of-experience-with-aggregation-in-the-water-sector.pdf)

⁴³ Farrierswier (2021). Review of methodology and assumptions underpinning economic analysis of aggregation. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/farrierswier-three-waters-reform-programme-review-of-wics-methodology-and-assumptions-underpinning-economic-analysis-of-aggregation-released-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/farrierswier-three-waters-reform-programme-review-of-wics-methodology-and-assumptions-underpinning-economic-analysis-of-aggregation-released-june-2021.pdf)

⁴⁴ Water Industry Commission for Scotland (2021). Supporting Materials Part 2: Scope for Efficiency. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/wics-supporting-material-2-scope-for-efficiency.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/wics-supporting-material-2-scope-for-efficiency.pdf)

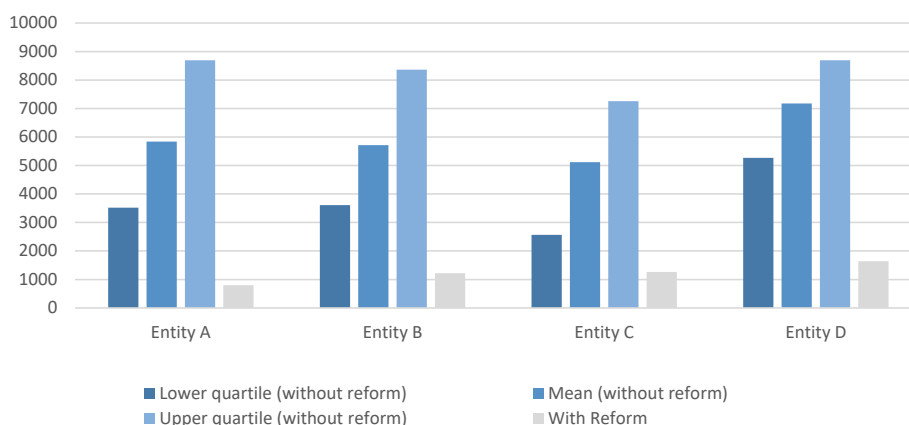
⁴⁵ Frontier Economics (2017). Productivity improvement in the water and sewerage industry in England since privatization. Available at <https://www.water.org.uk/wp-content/uploads/2018/11/Water-UK-Frontier-Productivity.pdf>

Improved affordability

WICS analysis indicates that, with reform, the net present cost of serving each connected citizen is likely to reduce by between \$500 to \$1,000 depending on the entity (in relative terms this equates to a reduction of between 45% to 49%).⁴⁶

Figure 10 below summarises the impacts reform could have on the average costs of providing three waters services per household in 2051. The distributions of costs without reform demonstrate a significant variance across neighbouring councils, with smaller rural and provincial councils in particular likely to face significantly high costs on a per-household basis. Notably the potential costs under reform demonstrate that ALL councils stand to benefit from reform.

Figure 10: Comparison of average costs per household in 2051 without and with reform



A common feature of many water service reforms has been a move to harmonise tariffs across the new service areas. In Scotland, which has one national provider, there is agreement that similar properties should pay the same amount for water services. In Auckland, when Watercare was established, all water charges were harmonised so that each community paid the same \$1.30 per unit for water services across Auckland. This process meant tariff reductions ranging from 0.6% in Manukau City to 62.9% in the rural Rodney District.

WICS analysis of current average costs for households indicates a variance of over 1200% (between a \$210 to \$2,580 average cost per household). Over time, this is estimated to reduce to a variance of around 200% with reform (i.e., average household costs (in today's dollars) are estimated to range from \$800 to \$1,640 by 2051).⁴⁷

⁴⁶ Water Industry Commission for Scotland (2021). Supporting Materials Part 3: Costs and Benefits of Reform. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/wics-supporting-material-3-costs-and-benefits-of-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/wics-supporting-material-3-costs-and-benefits-of-reform.pdf)

⁴⁷ Water Industry Commission for Scotland (2021). Supporting Materials Part 3: Costs and Benefits of Reform. Available at [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/wics-supporting-material-3-costs-and-benefits-of-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/wics-supporting-material-3-costs-and-benefits-of-reform.pdf)

While aggregation overseas has sometimes been associated with an increase in average customer bills, this has been accompanied by improvements in service standards. In particular, more remote areas have benefited from access to a broader funding base and investment that may not otherwise have been possible.

Greater financial capacity and more certain investment

More customers, a larger revenue catchment, balance sheet separation and economic regulation will provide water service providers with stronger balance sheets and greater flexibility to direct significant investment to where it is needed. A stronger balance sheet means greater investment can be made in all communities throughout New Zealand. This would improve the resilience of new water service providers, enabling them to finance the required catch-up investment, and respond to short-term shocks like earthquakes, and long-term challenges like climate change.

Engagement with credit rating agency Standard & Poor's has confirmed that under the new system and entity design arrangements, the water services entities would be deemed as financially and operationally separate from local authorities, ensuring their ability to borrow on similar terms to other utilities and operate on a financially sustainable basis over time.⁴⁸ The rating of the water entities will reflect a variety of factors but are expected to achieve issuer ratings similar to that of councils.⁴⁹

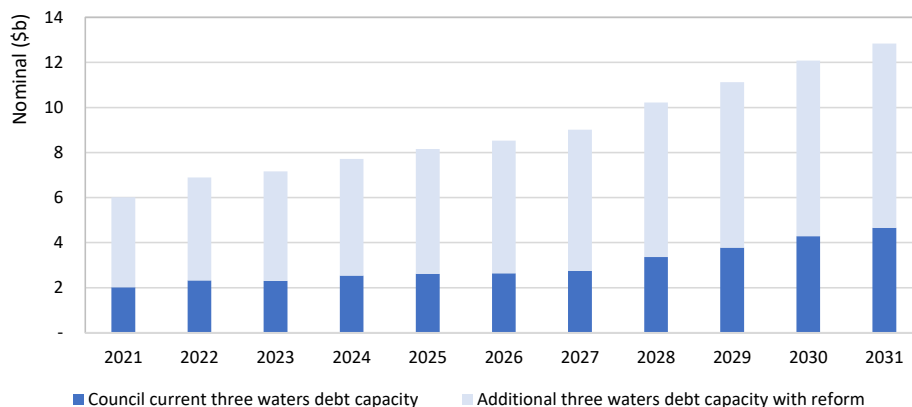
Initial analysis shows that with balance sheet separation and appropriate credit worthiness, water entities can achieve higher leverage ratios than councils, creating additional debt capacity following reform of between \$4 billion and \$8 billion over the 2021 to 2031 period.⁵⁰ We note that the conservative assumptions utilised means this may be understating the additional debt capacity for water investment following reform. International experience demonstrates that regulated water utilities are able to leverage up to 8 times water revenue while retaining an issuer rating similar to that of councils.

⁴⁸ A letter summarising the output of Standard & Poor's Rating Engagement Service can be found at: [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/\\$file/Ratings-Evaluation-Service-\(RES\)-Letter-Three-Waters-Reform-Programme-May-2022.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme-2022/$file/Ratings-Evaluation-Service-(RES)-Letter-Three-Waters-Reform-Programme-May-2022.pdf)

⁴⁹ The final credit rating of the entities will reflect a variety of factors including fiscal and economic performance, and the effectiveness of the government's institutions.

⁵⁰ Entity by entity financial projections can be found at: [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/water-services-entities-overview-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/water-services-entities-overview-30-june-2021.pdf)

Figure 11: Comparison of current council three waters debt capacity and additional debt capacity for new water services entities following reform



Initial feedback from capital markets participants has indicated that the credit profile of the water services entities would make them an attractive proposition to capital markets investors (i.e. issuers of debt, bonds etc). 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.

Strong balance sheets and economic regulation mean investment pipelines can be established with more confidence for a longer horizon and supports the development of capital works programmes. Certain investment pipelines and programmes of work will give the sector the certainty needed to invest, supporting greater sector capacity and efficiencies over time.

Creating large scale providers with strong balance sheets would also contribute positively to the supply of housing by enabling water infrastructure to be provided to new developments, which has been a big constraint for debt-limited councils in high-growth areas.

Currently within any catchment there could be several district and city councils, all making individual decisions to fund and upgrade water infrastructure. In the context of the significant wastewater investment programme required over the next 10 years, increases in scale create an opportunity to consider the best investment across boundaries. This could also enable new water services entities to rationalise existing water infrastructure and invest in new infrastructure where it can make the most impact.

Larger service providers can also unlock strategic opportunities to take a more coordinated approach, and consider our infrastructure needs at a larger scale. This has been the case in Auckland, where Watercare is building the \$1.2 billion Central Interceptor to improve the quality of Auckland waterways. It is unlikely this would have been possible under the previous seven Auckland councils.

A larger, more specialist workforce

Increasing the size and scale of water service providers would enable the industry to build technical capability and attract talent. Watercare and Wellington Water demonstrate the lift in capability that is possible with larger providers. Larger providers can attract and retain specialist staff, such as microbiologists, water engineers, data specialists, and dedicated community engagement staff, and provide career pathways for people entering the water industry.

As noted above water entities will support more certain investment pipelines and greater use of programmes of work. Watercare has demonstrated some of the benefits associated with these elements, however, there are still improvements that can be driven through greater certainty of investment. International precedent suggests this could have substantial benefits for sector capacity and efficiency generation.

Improved financial flexibility for the local government sector

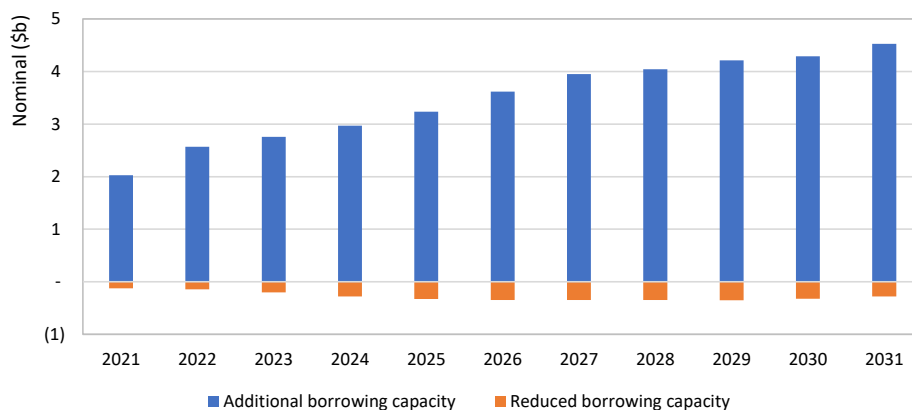
Engagement with credit rating agency Standard & Poor’s has indicated that it is unlikely that any local authority will suffer a credit rating downgrade as a result of the transfer of water services to water entities. The engagement also suggests that for some local authorities the transfer may support a credit rating upgrade immediately following the transfer.

As a general observation three waters assets are more highly leveraged than other council assets, and a transfer of three waters assets and liabilities would tend to improve a local authority’s debt to revenue ratio.

DIA have estimated that cumulatively, the additional borrowing capacity associated with non-water investment for all local authorities could represent approximately \$2.5 billion by FY24 and \$4.0 billion by FY31 (see Figure 12). This reflects information provided in the Rfl and current draft long-term plans.

Additional borrowing capacity could either be utilised by councils to support additional investment that improves the wellbeing of their communities or improving the credit rating and reducing the council cost of capital with a commensurate reduction in rates.

Figure 12: Impact on council borrowing capacity for non-water investment following the transfer of water assets



The additional borrowing capacity for each council can only be determined following a detailed financial audit of council three waters services to identify the associated debt and revenue. The Government has agreed to a package of “no worse off” funding for councils.

As the graph shows, there are a small number of councils that could experience a slight reduction in non-water related borrowing capacity following the transfer of water assets. The Government is committed to working with all councils during the transition period to ensure that councils are “no worse off” as a result of the transfer.

Establishment and transition process

The Government has introduced the Water Services Entities Bill to implement its decisions to establish four public entities to take on the delivery of drinking water, wastewater and stormwater services across New Zealand from July 2024.

The Water Services Entities Bill is the first in a suite of legislation to enact the three waters reforms. It sets out the ownership, governance, accountability arrangements relating to these entities and includes essential provisions for ongoing public ownership and engagement, and safeguards against future privatisation.

The Bill also sets out the geographical boundaries of the service delivery area for each of the four entities and provides for transitional arrangements to enable the transition and establishment activities needed to ensure these four new entities are in place to deliver services from 1 July 2024.

The Water Services Entities Bill:

- provides the legislative basis to establish the four new publicly owned water services entities, and sets out the ownership, governance, and accountability arrangements relating to these entities, as well as and setting out the framework for community and consumer engagement
- includes essential provisions for ongoing public ownership of the new entities, including safeguards against future privatisation
- provides for transitional arrangements relating to the establishment and governance of the new entities, including strategic direction, planning and reporting, employment, and the oversight powers of the Department of Internal Affairs during the establishment period.

You can read the Bill and follow its progress on the [Parliament website](#).

Further legislation to be introduced in the second half of 2022 to transfer assets and liabilities from local authorities to water services entities, and establish the powers and functions for the entities in relation to managing the provision of water services. This further legislation will integrate the entities into other regulatory systems, such as the resource management and economic regulatory regimes.

Implementing these reforms will be a highly complex and challenging process, involving a range of transition activities. Schedule 1 of the Bill provides for the transition and establishment arrangements including:

- establishing the new entities, including providing for establishment boards and chief executives
- requiring the preparation of allocation schedules that list the assets, liabilities and other matters (e.g., contracts, information) that will transfer from local government organisations to the water services entities
- requiring each entity to prepare an asset management plan and funding and pricing plan during the establishment period
- providing the process for identifying and providing employment certainty to staff eligible to transfer to the new entities
- providing the Department with certain transitional powers to enable a smooth transition and establishment process.

Appendix 1: Selection of alternative options considered

Sector-led reform

While some regions have undertaken investigations of local service-delivery-reform options (e.g. Hawke's Bay, Otago/Southland, Manawatū-Whanganui), limited progress has been made and there are statutory barriers to the aggregation of service delivery that are likely to limit the potential benefits of sector-led reform.

Continuing with a sector-led approach would require a significant, coordinated approach to reform of a scale and extent not previously seen. There are no guarantees that reforms would be delivered consistently across the country, or that the new service-delivery models would meet the Government's objectives and achieve similar benefits to the large-scale, asset-owning entities that feature in the proposed approach.

It is also not clear if sector-led reform under existing legislation would deliver the kind of transformation required to address the root causes of the challenges the sector is facing. It is likely that councils would need to establish multi-regional providers as council-controlled organisations (CCOs) as provided for through the Local Government Act 2002. This approach would have some limitations, including that:

- the current provisions in the Local Government Act are not fit for this purpose and present barriers to reform. It would likely take as long to redesign and amend the existing legislative provisions as it would to create bespoke provisions in new legislation (including some form of economic regulation)
- establishing CCOs requires the agreement of all councils, each of which would need to undertake public consultation. This would take time and create uncertainty about the outcome
- if the new entities were CCOs, it would likely have implications for financing arrangements. They may not be sufficiently separate from local government to borrow at similar rates as other utilities, for example.

National three waters fund

Officials have considered the option of establishing a national three waters fund, similar to the National Land Transport Fund⁵¹ that Waka Kotahi NZ Transport Agency administers. This could have the potential to provide a new, dedicated fund for three waters improvements, while also incentivising some voluntary service-delivery improvements.

However, there are fundamental challenges with establishing a national three waters fund, and this approach would not deliver the broader benefits associated with creating larger-scale water services providers.

⁵¹ The National Land Transport Fund collects levies and charges applied to users of the transport system, and distributes these to councils on the basis of a funding allocation formula that is decided by Waka Kotahi NZ Transport Agency. Councils bid for funding from the national fund by preparing regional transport plans that need to reflect Government policy priorities and are required to meet some of the costs through locally raised revenue (through rates, development contributions etc).

The main challenges relate to the sources and administration of funding. The National Land Transport Fund is sourced from road users through various charges, with local government contributing co-investment in addition to this (sourced largely from rates). However, water services are delivered locally and subject to different rating policies. There is no consistent user-charge regime in place that would be amenable to a centralised collection of revenue. There are several theoretical revenue-collection mechanisms that could be explored, for instance implementing a national or local levy, but all options have significant operational inefficiencies.

A newly created national fund would also require machinery to administer it, either through the creation of a separate function within an existing entity or a completely new entity altogether. This would add to the costs and complexity associated with the fund.

More importantly, even if the operational and administrative challenges noted above were addressed, a national fund would fail to address the other root causes we have identified, and any lift in investment levels would occur within a system that will continue to struggle from a lack of scale, accountability, and operational independence.

Further regulatory reform

Officials have also examined the extent to which outcomes, objectives, and 'strategic shifts' can be achieved through regulatory reform alone.

This would require a coordinated change in the regulatory system to strengthen the consideration of environmental impacts alongside the increased focus on public health that Taumata Arowai would bring. It would also require the introduction of economic regulation of local authority service provision, including much more stringent performance measurements, information disclosures, and protections for consumers than are currently the case.

This approach, on its own, is unlikely to incentivise service-delivery reforms or enable scale benefits to be achieved. In particular, it is unlikely to encourage a widespread transfer of asset ownership to standalone three waters providers, which is one of the key contributing factors to the benefits associated with reform.

Asset-owning entities have greater flexibility to borrow against their balance sheets, greater access to capital, and long-term funding certainty, and can use this certainty to develop reliable infrastructure pipelines that build supplier capability and capacity. Shared service models, which do not involve asset ownership, have a number of shortcomings in comparison. Wellington Water, for example, is still subject to the decisions of council owners, who retain asset ownership and have different views on relative priorities and charging that limit Wellington Water's ability to plan and invest strategically in its network.

While regulatory reform alone will not be sufficient to achieve the outcomes Ministers are seeking, it will form an important part of the overall reform pathway. Examples of successful international reforms indicate that a combination of quality and economic regulation, better governance models, and aggregation is a common approach that is likely to lead to the best outcomes. As noted above, it is anticipated that a system of economic regulation will be developed, in addition to the creation of Taumata Arowai.

7.5. Proposed National Policy Statement for Indigenous Biodiversity (NPS-IB)

Prepared for:	Strategy and Planning Committee
Report No.	SPS2230
Activity:	Governance Report
Author:	Warren Hanley, Senior Resource Planner Liaison Tom De Pelsemaeker, Acting Manager Policy
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] The purpose of this report is to:
- Provide Council with an overview of the key aspects of the exposure draft on the Ministry for the Environment's (MfE) National Policy Statement for Indigenous Biodiversity (NPS-IB) that was released on 9 June 2022; and
 - Seek Council's endorsement for lodging a staff submission on the exposure draft; and
 - Provide Council with an overview of key messages likely to be included in a staff submission.

EXECUTIVE SUMMARY

- [2] A new exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB) was released on 9 June 2022. This exposure draft follows an earlier draft which was consulted on in 2020.
- [3] The submission period closes 21 July 2022. MfE is seeking feedback through the exposure draft process to ensure the proposed provisions are workable. They are not seeking comments on policy directions.
- [4] Staff consider this exposure draft is an improvement on the 2019 consultation draft and are generally supportive of it. Staff also consider that ORC is well placed to give effect to many of the principles and objectives of the NPS-IB through:
- The policy framework of the proposed Regional Policy Statement (RPS) 2021;
 - ORC's Draft Biodiversity Strategy 2018 and Biodiversity Action Plan 2019; and
 - ORC's working partnerships and relationships with Kai Tahu, Otago's territorial authorities, and active community groups leading biodiversity protection and enhancements projects across Otago.
- [5] Staff have brought this paper to the Committee to inform it about the consultation as there has not been sufficient time to provide a fully developed draft submission.

- [6] This report highlights working submission points at the time of writing this report that will inform a staff submission. Any feedback from the Committee on issues in the exposure draft will be incorporated into the staff submission. Staff will report back any lodged submission to the next full council meeting in August 2022.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes this report.**
- 2) **Approves** the lodgement of a staff submission, signed by the Chief Executive under authorised delegation; on the Ministry for the Environment 2022 exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB).
- 3) **Notes** that a copy of the submission will be included in a report back to a full Council meeting in August 2022.

BACKGROUND

- [7] The first draft of the proposed NPS-IB was developed by the Biodiversity Collaborative Group between March 2017 and October 2018. The group comprised Forest and Bird, Federated Farmers, an iwi advisor to the Iwi Chairs' Forum, New Zealand Forest Owners' Association, Environmental Defence Society, and infrastructure industries.
- [8] In the following months MfE and the Department of Conservation (DoC) worked together to further develop the Biodiversity Collaborative Group's draft NPS-IB. Consultation on this draft was held between November 2019 and March 2020, including two series of nationwide hui. During this time, over 7000 submissions were received with a majority supporting the intent of the draft NPS-IB.
- [9] In general, the support for the proposed national direction expressed in these submissions outlined that the NPS-IB will:
- Help address the decline in indigenous biodiversity in New Zealand;
 - Clarify council responsibilities for implementing section 6(c) of the Resource Management Act 1991 (RMA), which requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna; and
 - Likely increase the ability of tangata whenua to exercise their rights as kaitiaki.
- [10] ORC submitted on the draft NPS-IB consultation in March 2020. This submission is attached to this report as Attachment 1.
- [11] ORC's submission was supportive of the principles, intent and general content of the draft NPS-IB. The submission also noted that the framework in the draft NPS-IB was well aligned with the ORC's Biodiversity Action Plan (BAP),¹ which would allow ORC to successfully implement both.
- [12] ORC's submission further identified the following concerns and opportunities for improvement:

¹ ORC's BAP 2019 plan builds on and refines actions from the Draft Biodiversity Strategy 2018 to set out an intended work programme.

- The NPS-IB as worded in this draft could have an impact on extractive industries.
- The NPS-IB should state Central Government's obligation to participate in partnerships with local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity. This is because it has a significant role in social, economic and cultural wellbeing
- Identification of Significant Natural Areas (SNAs) on Crown land should be led by DoC which is resourced to do so.
- The policy for managing adverse effect in plantation forests needs to clarify whether territorial or regional authorities have responsibility.
- A policy on regional targets for increasing indigenous biodiversity cover is not supported, as there are more effective ways to achieve positive outcomes.
- While the implementation of the NPS-IB rests with local government, national direction for the protection of indigenous biodiversity needs to be rationalised and integration needs to be achieved across various national direction planning instruments to enable effective, integrated management.² To achieve greater environmental and climate change resilience, a more integrated management of indigenous ecosystems and species need a better integrated approach across land, water and coast. At present, management of these issues and areas is siloed across different policy frameworks.

DISCUSSION

- [13] Following the 2020 consultation and consideration of submissions, the draft was further developed to ensure that it:
- Better provides for activities which are important for peoples' economic wellbeing, such as farming, forestry, the provision of infrastructure and energy generation; and
 - Identifies significant indigenous biodiversity, and clearly outlines the process for managing effects on it; and
 - Recognises tangata whenua as kaitiaki and allows for development of Māori land in partnership with tangata whenua, including Māori landowners; and
 - Outlines management for geothermal areas and public land.
- [14] A new exposure draft of the NPS-IB was released by MfE on 9 June 2022, with submissions closing on 21 July 2022. The full exposure draft of the NPS-IB and a summary of the exposure draft are appended to this report as Attachments 2 and 3.
- [15] The following paragraphs outline key aspects of the exposure draft, discuss how well the new exposure draft responds to the matters raised in ORC's 2020 submission points and any additional matters that deserve consideration.
- [16] Where possible, staff have included preliminary comments that may be included in a staff submission.

² National direction on management of indigenous biodiversity is currently split across proposed NPS-IB, the National Policy for Freshwater Management, National Environmental Standard for Freshwater, and the New Zealand Coastal Policy Statement.

Overview of the NPS-IB exposure draft

Objective and policies

- [17] The exposure draft of the NPS-IB includes one objective and 17 policies that seek to achieve this objective.³ The sole objective is stated in Clause 2.1 and seeks to “*protect, maintain and restore indigenous biodiversity in a way that:*
- (a) Recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and*
 - (b) Provides for the social, economic, and cultural wellbeing of people and communities now and in the future.*
- [18] The objective and policies need to be considered in all decision-making by ORC where it involves management of activities that have an impact on indigenous biodiversity.
- [19] **Recommended Submission Point:** *While the intent of the objective and policies are supported, the objective does not have the same clarity in direction that the Objective of the current National Policy Statement for Freshwater Management 2020 (NPS-FM) has (which sets a clear hierarchy of priorities). This can hamper decision-making, especially where competing values exist. In addition, the wording of some of the policies could be improved to better guide decision-making and avoid incorrect interpretation.*

Te Rito o te Harakeke

- [20] A fundamental concept that permeates the overarching approach to the management of indigenous biodiversity under the NPS-IB exposure draft is *Te Rito o te Harakeke*.⁴
- [21] This concept ensures that te ao Māori and mātauranga Māori are embedded within each aspect of the management of indigenous biodiversity under the NPS-IB. It also refers to the need to apply an integrated approach to maintaining the integrity of indigenous biodiversity by recognising:
- The intrinsic value and mauri of indigenous biodiversity and people’s connections and relationships with it;
 - The symbiotic relationship of health and wellbeing that exists between humans and indigenous biodiversity;
 - The status of iwi and hapū as kaitiaki in their rohe and the central role they have in protecting our indigenous biodiversity.
- [22] As is already the case with the concept of Te Mana o te Wai, which is fundamental to the approach for managing freshwater under the NPS-FM, local authorities are to work with tangata whenua to develop a local approach for giving effect to *Te Rito o te Harakeke*.
- [23] **Recommended Submission Point:** *Staff are supportive of the inclusion of Te Rito o te Harakeke as a fundamental concept of the NPS-IB. Key aspects of the approach of working with tangata whenua to articulate the local “expression” of a fundamental concept that is embedded within national direction, can already be seen in current ORC practice. An example of this is the development of the FMU and Rohe visions in the*

³ Part 2, Clauses 21 and 2.2 of the exposure draft of the NPS-IB.

⁴ Clauses 1.5 and 3.2 of the exposure draft of the NPS-IB.

proposed Regional Policy Statement and the work that is currently being undertaken in partnership with Kai Tahu to develop a proposed Land and Water Regional Plan.

Overall approach to implementation

- [24] Implementation of the NPS-IB will focus on local authorities applying a precautionary approach to managing the effects of subdivision, use and development on indigenous biodiversity while recognising the interactions between environments, but also providing for coordinated management across administrative boundaries and across different strategies, legislation and planning tools.⁵
- [25] Local authorities are required to involve tangata whenua as kaitiaki, in the management of indigenous biodiversity, and recognise the role of people and communities, particularly landholders, as stewards.⁶ The NPS-IB also recognises the importance of social, economic and cultural wellbeing, which can be fostered by forming strategic partnerships in the protection, maintenance and restoration of indigenous biodiversity.⁷
- [26] Various aspects of the approach to indigenous biodiversity management outlined in paragraphs 25 and 26 above, are aligned with the purpose and principles of the Resource Management Act 1991 and already embedded within the principles of more recent national direction. It is anticipated that these will be reflected, if not more strongly embedded, in the upcoming RM reforms outputs, notably the Natural and Built Environments Act (NBEA), Climate Adaptation Act, and the Spatial Planning Act (previously referred to as the Strategic Planning Act)
- [27] The RM reforms may go some way to address ORC's concerns that effective integrated management of indigenous biodiversity is spread across many regulations and that roles and responsibilities are not always as clearly defined.
- [28] ***Recommended Submission Point:*** *ORC staff supports the requirement to involve tangata whenua as kaitiaki in the management of indigenous biodiversity, and supports the recognition given to the role of people and communities as stewards. However, concerns remain that the realisation of positive outcomes for indigenous biodiversity will be frustrated by the split between the NPS-IB and other national directions and regulations and the inconsistencies between these documents.⁸ Improvements to the degree of integration between various frameworks for biodiversity management at the national level can be achieved through further amendments to the wording of the exposure draft of the NPS-IB, planned updates to current national direction (i.e. the NPS-FM) and the upcoming RM reforms.*

⁵ Clauses 3.4 and 3.7 of the exposure draft of the NPS-IB.

⁶ Clauses 3.3 and 3.5 of the exposure draft of the NPS-IB.

⁷ Clause 3.5 of the exposure draft of the NPS-IB.

⁸ Considerable differences in approach and inconsistencies in wording exist between the exposure draft of the NPS-IB and the NPS-FM. Examples include:

- The NPS-FM applies to Threatened species. The NPS-IB applies to Threatened and At Risk species.
- The NPS-IB includes references to "specific infrastructure". The NPS-FM applies the term "specified infrastructure". Both terms having similar but not identical definitions.
- The NPS-IB includes references to "improved pasture", while the recently released exposure draft for changes to the NPS-FM seeks to remove this concept to reduce ambiguity.

Identifying and managing the effects of activities on Significant Natural Areas

- [29] Subpart 2 of the exposure draft focuses on SNAs, which is one of the main instruments to spatially identify areas with significant indigenous vegetation or habitats.
- [30] Under Clause 3.9 of the exposure draft, territorial authorities would be required to undertake district-wide assessments to identify SNAs. It is further proposed that regional councils must assist territorial authorities in undertaking this task if requested by a territorial authority.⁹
- [31] While SNAs must be identified in district plans, the exposure draft requires both regional councils and territorial authorities to develop or amend their policy statements and plans to include objectives, policies and methods that seeks to avoid certain specified effects (e.g. the loss of ecosystem representation and extent, fragmentation of SNAs; a reduction in the population, size or occupancy of threatened or at risk (declining) species) on SNAs from subdivision, use or development. For other types of effects on SNAs an effects management strategy is to be applied.¹⁰
- [32] ORC is already giving effect to some of these requirements through the provisions of its proposed RPS 2021.¹¹ However, further changes to the provisions of the proposed RPS are likely to be required to ensure that its provisions fully reflect the approach to managing the effects of activities on SNAs as outlined in the exposure draft.
- [33] **Recommended Submission Point:** *ORC staff are generally supportive of the approach to avoid specific effects, while applying an effects management hierarchy with respect to other effects or specified activities. Staff also are supportive in principle of the provision that requires regional council to assist territorial authorities with district-wide assessments as it provides opportunities for information sharing and greater consistency in standards applied by district councils. However, more clarity is desired around the type and level of assistance that must be provided by regional council to territorial authorities. This will assist regional council with better preparing for this role and ensuring sufficient resources are budgeted for in order to carry out this role in an effective manner. Current budgets and work plans do not anticipate assisting Territorial Authorities on mapping and identifying SNA's.*

Exceptions to the approach for managing adverse effects on Significant Natural Areas

- [34] ORC's 2020 submission recognised that restoring indigenous biodiversity will lead to conflicts with activities that are of importance to the wellbeing of our communities'.
- [35] The exposure draft of the NPS-IB provides in Clause 3.11 for exceptions to the effects management approach outlined in paragraph 31 above. These exceptions include:

⁹ Clause 3.8(3) of the exposure draft of the NPS-IB.

¹⁰ Clauses 3.9 and 3.10 of the exposure draft of the NPS-IB.

¹¹ The proposed RPS 2021 includes the following provisions that relate to the identification, management, and protection of SNAs:

- Policy ECO-P2 – Identifying significant natural areas and taoka
- Policy ECO-P3 – Protecting significant natural areas and taoka
- Method ECO-M2 – Identification of significant natural areas
- Method ECO-M5 – District plans
- Anticipated environmental results ECO-AER4

- SNAs on Māori land (Clauses 3.12 and 3.18);
- Geothermal SNAs (Clause 3.13);
- SNAs within plantation forestry (clause 3.14)
- New uses or developments that meet specific tests (e.g. having a significant national or regional public benefit, functional or operational need or no practicable alternative location) or are for the purpose of biodiversity maintenance and restoration (Clause 3.11 (2)-(4)).

[36] Clause 3.15 also requires local authorities to make or change regional plans to ensure that existing activities identified in regional policy statements, can continue to exist as long as intensity, scale or character of these effects does not increase and do not result in loss or degradation of the ecological integrity of an SNA.

[37] Staff consider that some of the principles outlined in these NPS-IB clauses are already incorporated within the provisions of proposed RPS 2021, but that further amendments are required to achieve full alignment.¹²

[38] ***Recommended Submission Point:*** *While the need to allow for certain existing activities to continue to exist in SNAs, subject to specific conditions being met, the wording of the exposure draft allows a wide range of activities with an adverse effect on indigenous biodiversity to continue to exist without a change in practice. Staff request that these clauses are further refined to provide more specificity around the type of activities that can continue to exist in SNAs and that the policy direction in the NPS-IB is strengthened to better achieve a reduction in adverse effects on SNAs from some types of existing activities.*

Maintaining indigenous biodiversity outside SNAs

[39] The exposure draft requires that both district councils and regional councils develop or update their policy statements and plans to maintain indigenous biodiversity and manage adverse effects of new activities on indigenous biodiversity outside of SNAs (other than Maori lands).¹³

[40] Regional councils are also required to record areas outside of SNAs that are highly mobile fauna areas, and must include in their regional policy statements (where possible) a map and description of highly mobile fauna areas in the region. This must be done while working together with tangata whenua, territorial authorities, and the Department of Conservation.¹⁴ An appendix is included in the exposure draft listing species of specific highly mobile fauna.

[41] ORC is already giving effects to some of these requirements. The proposed RPS 2021 includes a method that encourage the gathering information on indigenous ecosystems and habitats outside SNAs.¹⁵ ORC's BAP focuses on contributing to the enhancement and

¹² Policy ECO-p4 'Provision for New Activities' in the Proposed RPS 2021.

¹³ Clause 3.16 of the exposure draft for the NPS-IB.

¹⁴ Clause 3.20 of the exposure draft for the NPS-IB.

¹⁵ Method ECO-M8 of the proposed RPS 2021 identifies incentives and mechanisms local authorities can use to assist achieving its policies for managing ecosystems and indigenous biodiversity. Provision 7 of

restoration of biodiversity on land within, and outside of SNAs by focusing on five key areas:

- Increase active management
- Regional leadership and coordination
- Better information for better management
- Education and community engagement
- Policy, rules and regulation

[42] **Recommended Submission Point:** *ORC staff is supportive of the intent to better manage indigenous biodiversity outside of SNAs and welcomes the inclusion in the NPS-IB of an appendix listing species of specific highly mobile fauna. However, the exposure draft of the NPS-IB does not specify the type of land to which the requirement applies. For example, it is not clear whether the requirement to identify highly mobile fauna areas includes urban areas, farm land, conservation land or water bodies managed under the NPS-FM. Given the potential financial implications of these requirements and implications on work programme, more clarity on that matter would be welcomed. Current budgets and work plans do not account for this work.*

Regional Targets to increase indigenous biodiversity cover

- [43] In its 2020 submission on an earlier draft of the NPS-IB ORC opposed the setting of regional targets for indigenous vegetation cover. This requirement has been retained in the recent exposure draft, requiring regional councils to achieve at least 10% indigenous vegetation cover for any urban or non-urban environment where this target is not being met and set these targets in policy statements.¹⁶¹⁷ ORC's proposed RPS 2021 does currently not include such targets.
- [44] The requirement to have targets set for 'any' urban or non-urban area effectively means setting targets for all of Otago, although the exposure draft does not state at what scale these targets must be set. For a large region like Otago, with a diverse range of topography, the scale of application will have significant impacts on practical implementation and resourcing needs.
- [45] ORC's 2020 submission outlined that the tenure neutral ecological prioritisation process that is set out in the BAP is a more effective approach than a blanket 10% threshold as it provides robust, measurable environmental outcomes while promoting the most efficient use of our resources.
- [46] Method ECO-M8 of the proposed RPS 2021 promotes the use of other mechanisms or incentives to assist achieving the objectives of the NPS-IB and Proposed RPS, including ORC's long running and successful ECO fund programme to support community led restoration projects.

this method encourages the "gathering information on indigenous ecosystems and habitats, including outside significant natural areas."

¹⁶ 'Urban Environment' is defined in the National Policy Statement for Urban Development 2020 as:
....any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:
 (a) *is, or is intended to be, predominantly urban in character; and*
 (b) *is, or is intended to be, part of a housing and labour market of at least 10,000 people.*

¹⁷ Clause 3.22 of the exposure draft of the NPS-IB.

- [47] **Recommended submission point:** *As currently worded the exposure draft does not allow for the prioritisation of identifying and targeting areas with greatest needs in terms of biodiversity restoration or enhancement. Further refinement of the exposure draft is requested to allow for prioritisation, enabling a more strategic use of limited resources, and the consideration of alternative approaches to achieve the restoration of threatened ecosystems, particularly for large and geographically diverse regions and ecosystems. The tenure neutral ecological prioritisation process that regional councils have, or are currently undertaking, across the country is more likely to achieve the intended outcome. Setting regional targets is currently not a budgeted or planned work stream.*

Regional biodiversity strategies

- [48] Under the exposure draft regional councils will also need to implement regional biodiversity strategies.¹⁸ This must be done in collaboration with territorial authorities, tangata whenua, communities and other identified stakeholders. The intent of these regional biodiversity strategies is to ensure greater consistency between the policy statements and plans developed by regional council and the territorial authorities within the relevant region.
- [49] **Recommended submission point:** *The requirement to develop regional biodiversity strategies that seek to align all local authorities and communities within a region behind a shared vision and agreed set of actions and methods is supported. However, the process for developing these strategies with tangata whenua, communities, and stakeholders is overly prescriptive and amendments to the exposure draft should be made to better recognise ORC's existing partnership agreement with iwi and provide more flexibility for engagement with various stakeholders.*

Information and monitoring requirements

- [50] The exposure draft requires that local authorities make or change their policy statements or plans to set minimum information requirements for resource consent applications in relation to indigenous biodiversity matters. This includes a requirement for applications to include a report prepared by a qualified and experienced ecologist.
- [51] The exposure draft further requires regional councils to work with territorial authorities, relevant agencies and tangata whenua to develop monitoring plans for indigenous biodiversity.
- [52] **Recommended submission point:** *The information requirements imposed on consent applicants have the potential to increase the complexity and cost of resource consent processes. Setting thresholds that trigger various levels of information requirements would better ensure this requirement achieves its intended outcome without causing an undue burden. Monitoring of indigenous biodiversity is supported but likely to have considerable impacts on resourcing.*

¹⁸ Clause 3.23 of the exposure draft of the NPS-IB.

Timing

[53] The exposure draft directs local authorities to give effect to the NPS-IB as soon as reasonably practicable. The following timeframes are specified in the draft:

Instrument	Requirement	Timeframe
Planning provisions for SNAs	Publicly notify any policy statement or plan or changes to give effect to SNA and Information requirements	5 years after commencement of NPS-IB
Regional Biodiversity Strategies	For regional councils with a biodiversity strategy or in the process of preparing one	Update or complete within 10 years after commencement of NPS-IB
	For regional councils with no biodiversity strategy or that are not in the process of preparing one	Initiate the preparation of a strategy within 3 years after commencement of NPS-IB. Complete the strategy within 10 years after commencement of NPS-IB.
Existing Policy statement	No requirement to update it for wording or terminology consistency	n/a

Overall assessment

[54] Despite its likely implications on budgets and existing work programmes, ORC is well placed to give effect to the NPS-IB, within the timeframes promulgated in the exposure draft.

[55] The notified proposed RPS 2021 has made significant steps towards alignment with the requirements of the exposure draft and ORC staff have a draft Biodiversity Strategy with an associated action plan to direct specific work programmes signalled in the strategy. The review and completion of the Draft Biodiversity Strategy is planned to occur after gazettal of the NPS-IB in order to maximise alignment.

[56] The proposed Land and Water Regional Plan will also be relevant in giving effect to the NPS-IB. This plan is in development and will be notified within the required timeframe. Its drafting will be guided by the requirements of the NPS-IB.

OPTIONS

[57] MfE has invited submissions on the exposure draft of the NPS-IB by 21 July 2022.

[58] Due to the timing of the release of this exposure draft staff have not had time to prepare a draft submission for council approval. Therefore, the options are:

- Option 1: ORC does not submit on the exposure drafts; or
- Option 2: ORC lodges a staff submission under delegation and reports back to Council with the full submission at its August meeting.

- [59] Option 2 is the recommended option for the following reasons:
- ORC should utilise any available opportunity through the submission process to contribute to optimising the workability and clarity of the NPS-IB provisions and ensuring the effectiveness of the NPS-IB in safeguarding indigenous biodiversity.
 - Where proposed amendments are considered to have a positive impact on Otago's wetland values, it is important to express support in a submission. This will reduce the likelihood of these positive amendments being "watered down" or reversed as a result of the submission process.
- [60] ORC's staff submission will be based on the following principles:
- Alignment with either existing council policies and strategies, including ORC's Biodiversity Strategy 2018 and Biodiversity Action Plan 2019; and
 - Alignment with the matters raised in ORC's March 2020 submission on the draft NPS-IB; and
 - Key matters and concerns raised in the paragraphs above.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [61] ORC's BAP has 5 key components:
1. *Active management based on ecological prioritisation and local aspirations*
 2. *Regional leadership and coordination*
 3. *Better information for better management*
 4. *Education and community engagement*
 5. *Rules and regulation.*
- [62] These align well with the ORC's organisational strategic directions which commit Council to taking leadership on issues of significance and importance to Otago communities and national direction. These strategic directions include actions to give effective leadership including:
- Engage with our communities and collect relevant information about wellbeing and take actions to address wellbeing issues.
 - Collaborate and deliver on biodiversity programmes and management.
 - Provide best available information on Otago's ecosystems
 - Engage with communities and iwi partners to increase collective understanding of ecosystems
- [63] Staff consider submitting on the NPS-IB is consistent with the strategic directions, and important as it aligns and supports our own strategic directions, and Biodiversity Strategy.

Financial Considerations

- [64] Submitting on national consultations is a funded activity.

- [65] Some of the responsibilities that are proposed to be imposed on ORC by the exposure draft NPS-IB are not planned and are unbudgeted.¹⁹ Staff will provide Council with a more detailed assessment on the financial implications of the NPS-IB for ORC once this NPS has been gazetted, which is scheduled to occur in late 2022.²⁰

Significance and Engagement

- [66] The consideration of the NPS-IB consultation, and any subsequent submission is consistent with He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

- [67] The NPS-IB is scheduled to be gazetted in late 2022. Once this national direction comes into effect, ORC will be required to give effect to it.

Climate Change Considerations

- [68] The exposure draft of the NPS-IB recognises that ecosystems provide for climate regulation as an important ecosystem service.²¹
- [69] Policy 4 of the exposure draft seeks to achieve ensure that indigenous biodiversity is resilient to the effects of climate change.²² The NPS-IB seeks to implement this policy by requiring that local authorities promote the resilience of indigenous biodiversity to climate change.

Communications Considerations

- [70] Any ORC staff submission would be publicly available via the Ministry, as well as the ORC.
- [71] ORC's communications team can consider if there is merit in making the submission more widely available, to communicate ORC's position to a wider audience.

NEXT STEPS

- [72] ORC staff will continue working through the review of the consultation material, draft, and lodge a staff submission by the end of the consultation period on 21 July 2022, and bring the submission to Council for noting, at the 24 August 2022 Council meeting.

ATTACHMENTS

1. ORC submission on Draft NPS-IB 13 March 2020 [7.5.1 - 11 pages]
2. NPS-IB Exposure Draft [7.5.2 - 43 pages]
3. NPS-IB Exposure Draft Summary [7.5.3 - 7 pages]

¹⁹ An example of this is the requirement under Clause 3.8(3) to assist territorial authorities with undertaking district-wide SNA assessments.

²⁰ MfE, National Policy Statement for Indigenous Biodiversity Exposure draft summary. P 7. Released June 2022.

²¹ Clause 1.6 of the exposure draft of the NPS-IB.

²² Clause 2.2 of the exposure draft of the NPS-IB.



Our Reference: A1332792

13 March 2020

Ministry for the Environment
PO Box 103623
Wellington 6143

indigenusbiodiversity@mfe.govt.nz

Dear Sir/Madam

Otago Regional Council:

Submission on the *Draft National Policy Statement for Indigenous Biodiversity (November 2019)*

Introduction

1. The continued and ongoing loss of Aotearoa's indigenous biodiversity is an issue of national and international significance that detracts from the wellbeing of all New Zealanders. Addressing and reversing the decline requires a strategic, long term approach that enables partnerships across all levels of government, and with tangata whenua and communities. This approach needs to consider the strengths, capabilities and access to resources available to iwi and different sectors, and how these strengths can be leveraged in a coordinated way. It also needs to consider where the costs and benefits of successfully implementing a National Policy Statement for Indigenous Biodiversity (NPSIB) would lie and align the responsibility for regulation and resourcing accordingly. As indigenous biodiversity is a public good of national significance, Central Government has a clear role, not just in regulation through an NPSIB, but also in resourcing its implementation both directly and through councils. This role is not clearly articulated or committed to in the draft NPSIB.

Part 1 – Key Messages

Overall support for the principles, intent and general content of the draft NPSIB

2. The Otago Regional Council (ORC) wishes to commend and support the significant work and extensive cross-sector engagement undertaken by Central Government to develop the draft NPSIB. The collaborative process on which it was based, and the imminent publication of our first NPSIB, are significant steps toward improving the management of indigenous biodiversity, particularly on private land. ORC does note that the proposed NPSIB may have an impact on extractive industries.





3. ORC's Biodiversity Action Plan (BAP)¹ sets out a programme of work to be undertaken in partnership with others. This work programme aligns well with the draft NPSIB and its implementation will support ORC to give effect to a NPSIB. The BAP has 5 key components:
1. *Active management based on ecological prioritisation and local aspirations*
 2. *Regional leadership and coordination*
 3. *Better information for better management*
 4. *Education and community engagement*
 5. *Rules and regulation.*

Roles and strengths of different government sectors need to be leveraged

4. ORC supports Hutia Te Rito as the fundamental concept underpinning the draft NPSIB, which recognises that the wellbeing of our indigenous biodiversity, our people and the wider environment are closely linked. These relationships mean that engaging tangata whenua and communities as kaitiaki and stewards is essential to improving indigenous biodiversity outcomes. Community engagement is a strength of local government, which can be leveraged for this purpose.
5. As emphasised in the *Report of the Biodiversity Collaborative Group*, which informed the draft NPSIB, Central Government investment in non-regulatory measures will be an essential part of any package to improve indigenous biodiversity outcomes.
6. The respective roles and strengths of government sectors within the biodiversity management system that can enable successful implementation of the NPSIB are outlined below.

Central Government

ORC supports:

7. *National level investment in coordinating data management and IT infrastructure*

This would enable:

- a consistent national monitoring programme - for regional data and assessments to wrap up into national data sets and reporting, a common data platform, standards and criteria are required.
- a common data platform that can be contributed to, accessed and used by all relevant sectors – this could form the platform for identifying regional priorities for land/seascape scale restoration programmes.

8. *Identification and management of Significant Natural Areas (SNAs) on Crown Land*

The Department of Conservation (DoC) has the mandate, data and expertise to undertake this.

¹ <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf>



9. *Expert advice*

Ecology expertise to assist in identifying SNAs, particularly:

- for territorial authorities with a small rating base and a large area of private land to manage; and
- if all SNAs are to be identified within 5 years.

10. *Public engagement*

Engagement with the public about:

- the value of our unique biodiversity
- why we need an NPSIB
- the benefits that are intended from the NPSIB, and
- the support that will be provided to landowners and managers to implement it.

11. *Financial incentives*

For protection of indigenous biodiversity on private land, for example towards fencing, planting and management plans.

12. *Investment in capacity, capability, IT infrastructure and processes to facilitate iwi engagement in biodiversity management*

While councils can support joint forums (e.g. Biodiversity Otago) for engaging with tangata whenua, iwi/hapū/whānau are still likely to require additional resourcing to meaningfully participate in the processes proposed in the draft NPSIB.

Regional councils

13. Regional councils are best placed to:

- Facilitate regional level partnerships and coordination for biodiversity management across iwi and agencies to enable:
 - integration of the protection of biodiversity values as part of implementing regional statutory roles and functions under the RMA; and
 - collaboration to identify and manage regional priority areas for land/sea-scape scale restoration projects.
- Coordinate active biodiversity management on private land at a regional scale.
- Facilitate regional level partnerships and coordination across iwi and agencies to identify priority areas for land/sea-scape scale restoration projects.
- Engage with and advise land owners on biodiversity management.



- Map regional biodiversity values to inform tenure-neutral ecological prioritisation.²

Territorial authorities

14. Territorial authorities are best placed to:

- Engage with communities on how they can contribute to biodiversity management in a way that improves community wellbeing.
- Identify and regulate Significant Natural Areas (SNAs)³ (Noting that Central Government investment in technical support, e.g. ecological expertise would be required to map SNAs nationally within proposed timeframe).

Support for regional biodiversity strategies being included in the NPSIB

15. ORC supports the inclusion of regional biodiversity strategies in the NPSIB because it is unclear how they would otherwise be mandated. The inclusion of Policy 3.18 will help to ensure that all regions have a regionally relevant and nationally consistent approach to biodiversity prioritisation and restoration. We note that the policy is consistent with the approach to regional strategies that most regions, including Otago, are already taking.

16. Case study: Biodiversity Otago Iwi and Interagency Group

ORC has initiated a process of regional coordination with Kai Tahu and public sector agencies (including DoC, LINZ and Otago TAs) to advance the implementation of its Biodiversity Action Plan.

The purpose of this work is to identify priority areas for, and work together on, land/seascape scale biodiversity restoration projects. The group has identified that to be most effective its work requires strategic coordination across iwi and agencies, and effective engagement with landowners and communities.

To support this process, ORC has contracted mapping of potential/original ecosystems and the habitat of threatened and at-risk species. To facilitate and enable integrated management, this mapping is being undertaken across terrestrial, freshwater and coastal environments.

This work has identified a clear need for cross agency partnerships, which include Central Government agencies, and a data-commons to support successful implementation of the NPSIB.

ORC supports the balance of protection and restoration in the draft NPSIB

17. Protecting remaining indigenous ecosystems and species should be the priority, but restoration projects particularly in urban environments, are essential to engage the hearts, minds and hands of citizens. Connecting people and places is critical to garner the

² For a description of this process see the Otago Regional Council Biodiversity Action Plan, <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf> (Action 3.1, pp. 15-16)

³ SNAs as defined in section 6(c) of the Resource Management Act (1991).



understanding, awareness and long-term political support for indigenous biodiversity protection and restoration that is required to address its decline. The draft NPSIB reflects the need for a higher priority based on protection/maintenance. However, overtime an increased focus on restoration will likely be required. It is therefore helpful to include restoration policies at this stage to signal the long-term action required to engage communities and land managers.

Integrated management is frustrated by multiple national direction documents

18. The objectives and policies of the draft NPSIB aim to improve the integrated management of indigenous biodiversity. However, currently the responsibility for such integration would rest solely with Local Government, while national direction on indigenous biodiversity will be split across at least four separate documents.⁴
19. Protecting indigenous biodiversity on private land has proved a challenging task and one that as a nation, we have not yet come to grips with. Partly this is because the roles and responsibilities of regional councils and territorial authorities in relation to indigenous biodiversity management have been poorly defined. While an NPSIB will help to address this, the levers for change sit with multiple agencies and under multiple and separate pieces of legislation. This implies that until and unless the legislative framework for the protection of indigenous biodiversity is rationalised to enable, rather than frustrate, integrated management across agencies and land tenures, truly effective and integrated management will remain elusive.
20. While we appreciate that Government would like to get the NPSIB gazetted in this electoral term, and support the terrestrial component being advanced in this timeframe, recognition is required that integrated management requires coordinated policy frameworks at Central as well as Local Government levels. A commitment is required from Central Government that it intends to work towards improved integration of biodiversity policy at national level.

Part 2 - Comments on Specific Provisions

21. ORC is supportive of the intent, fundamental concepts, objectives and policies of the NPSIB. However, the wording of objectives and policies would generally benefit from further consideration. Our specific comments focus on the implementation requirements in Part 3, and on how central government can best support, enable and incentivise successful implementation of the NPSIB and improved outcomes for indigenous biodiversity.

3.3 Tangata whenua as kaitiaki

22. ORC supports the intent of this policy and notes that the existing *Biodiversity Otago* collective provides a forum for Otago councils and iwi to engage that is more efficient for iwi/hapū/whānau than bilateral engagement with councils. ORC also has two iwi representatives on its Policy and Strategy Committee to enable tangata whenua involvement in decision-making. However, we consider that the process for iwi

⁴ The NPSIB, the National Policy for Freshwater Management, the proposed National Environmental Standard for Freshwater and the New Zealand Coastal Policy Statement.



engagement would add greater value if additional resourcing were provided to iwi for this purpose. This is an area where Central Government investment would add value.

3.5 Resilience to climate change

23. To be most effective, resilience to climate change requires integrated management across fresh water, terrestrial and coastal environments. Rivers provide natural corridors for links between the mountains and the sea. Adaption to climate change in coastal environments requires space for landwards migration of indigenous coastal ecosystems and species. This is problematic when coastal land is highly developed. Therefore, an integrated approach across land, water and the coast is essential and this needs to be enabled rather than frustrated by siloed national policy frameworks.

3.7 Social, economic and cultural wellbeing

24. In implementing this National Policy Statement, local authorities must recognise –
- d) the importance of forming partnerships between local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity;*

Consistent with Central government seeking to embed partnerships and collaboration in the NPSIB, it also needs to identify its own need to participate in that process and be included among the partners here.

3.8 Identifying significant natural areas

SNA identification on private land

25. ORC is supportive of clear and consistent national criteria for SNAs being included in the NPSIB. In principle, we support that territorial authorities are best placed to engage in this process with communities and landowners. If done well, SNA identification is an opportunity to invest in long term relationships and collaboration. We note however, that the 5-year timeframe will be challenging, particularly for territorial authorities with a small rating base and a large area of private land to manage. Central Government support and investment, particularly in providing technical support and ecological expertise, will be vital for such councils to successfully implement this policy. ORC notes that an area of significant indigenous biodiversity to Otago in the shape of a regional park may be identified and established by the Council, possibly in partnership with a TLA or mana whenua.
26. ORC has mapping underway to identify habitat of threatened and at-risk fauna across Otago. Once complete this data will be shared with territorial authorities in Otago. IT infrastructure is required to enable such data sharing and integration.

SNA identification on Crown land

ORC considers that SNA identification on Crown land is clearly the responsibility of Central Government, led by DoC, which has the existing expertise and data.



3.10 Managing adverse effects in plantation forests

27. As drafted, it is unclear whether regional councils or territorial authorities would be responsible for this policy – this needs to be clarified.

3.13 General rules applying outside SNAs

28. ORC supports the proposal that the Regional Policy Statement can set the policy framework for managing the effects of activities on indigenous biodiversity when outside of a SNA.

3.14 Identified taonga

29. See comments above on Policy 3.3 (paragraph 22).

3.15 Highly mobile fauna

30. ORC supports the identification and protection of highly mobile fauna through the NPSIB but considers that a list of 'highly mobile fauna' needs to be included to clarify this policy. ORC has work underway to map the habitat of threatened and at-risk fauna (see paragraph 25). This includes mapping the habitat of long tailed bats, which we understand is the key (but currently unstated) concern of this policy.

3.16 Restoration and enhancement

31. ORC supports the intent of this policy, but notes identifying *former wetlands* will be problematic. It is unclear who would make this determination and against what criteria.

3.17 Increasing indigenous vegetation cover

32. As currently drafted, ORC does not support the policy on regional targets. We consider this needs further work and that there are more effective ways to achieve the restoration of threatened ecosystems (i.e. with less than 10% remaining). The tenure neutral ecological prioritisation process that regional councils have, or are currently undertaking, across the country is more likely to achieve the intended outcome.⁵
33. More detailed comments on the drafting of this policy are in Appendix 1 to this submission.

3.18 Regional biodiversity strategies

34. As noted in paragraph 15 above, ORC supports the inclusion of regional biodiversity strategies in the NPSIB. The proposed purpose of regional strategies is *to promote a landscape-scale restoration and enhancement vision for the region's indigenous biodiversity*. This is consistent with the approach underway to promote regional biodiversity enhancement in Otago.

⁵ For a description of this process see the Otago Regional Council Biodiversity Action Plan, <https://www.orc.govt.nz/media/7034/final-orc-biodiversity-action-plan-july-2019.pdf> (Action 3.1, pp. 15-16)



Table 1. Draft criteria to identify sites for regional restoration projects (rankings still to be discussed):

Question	Criteria	Description	Rank
Why?	Treaty partners	Project gives effect to the principles of the Treaty of Waitangi (kaitiakitanga, tikanga Māori, mātauranga Māori) and directly involves iwi/hapu/whanau.	
Why?	Environmental co-benefits	Project presents co-benefits to other spheres of environmental management e.g. freshwater quality, climate change mitigation or adaptation, improved urban development	
Why?	Biodiversity priority	Immediacy of threats to indigenous biodiversity and level of threatened and at-risk species and ecosystems present in the landscape. Threatened Environments Classification.	
Why?	Benefit for local communities	The projects potential to contribute to the wellbeing of the local communities.	
Who?	Range of agencies and land tenures	Project applies across a range of land ownership e.g. public conservation land, private land, leasehold land, local government land, Māori land; and strategically benefits a range of agencies.	
Who?	Involvement of local private landowners	The potential or actual involvement of local landowners who have 'skin in the game' and the potential to improve ecological sustainability.	
Where?	Building on existing initiatives	The presence of other biodiversity and environmental initiatives in the project area that can be leveraged to build a larger project and achieve scale.	
Where?	Equitable geographic distribution	Does the project add to the spread of projects across the region or further concentrate them in one area?	
When?	Partner and project readiness	The extent to which there is political and social appetite, and resourcing for the project.	
When?	Outcome horizon	How quickly can we expect to see measurable benefits?	

Rank: 1= low; 2 = medium; 3 = high

3.19 Assessment of environmental effects

35. ORC supports the inclusion of this policy in the NPSIB, however, we note that:

- IT infrastructure to enable information sharing across agencies will be essential to support its implementation;
- guidance on standard assessment methods will be required; and
- additional resourcing will be required to identify and map the attributes that need to be assessed.

3.20 Monitoring by regional councils

36. ORC supports the Local Government New Zealand position on this policy and considers that Central Government needs to invest in, and support, this process for the following reasons:



- To ensure nationwide comparability of results and long-term trends, the same methods, measures and nomenclature, analysis and interpretation of results must be developed and set at a national level.
- Methods and time frames for monitoring need to be standardised between councils and nationally to ensure robust nation-wide analysis can be undertaken.
- Resourcing at local government level will be severely constrained, both within Local Government and for iwi. There will be insufficient trained people to collaborate and to undertake this task.
- An adaptive management process is required to respond to monitoring results and put in place action plans – this will need to be co-designed with local government to ensure biodiversity targets are met.



Appendix 1.

Comments on the drafting of *Policy 3.17 Increasing indigenous vegetation cover*

While ORC does not support the inclusion of this policy in the NPSIB for the reasons outlined in paragraph 32 of its submission, our comments on issues with the current drafting are below.

While the purpose of this policy is to restore *ecosystems* that are depleted below 10% of their original extent, the Policy 3.17 itself focuses on increasing *indigenous vegetation cover* (IVC). These two concepts are not equivalent.

While IVC may be a proxy and a good start, pittosporum hedges or sedge planted traffic islands are not ecosystems, but they are vegetation cover and will likely be part of the accounting (as councils will want to ensure they are seen to contribute, and are likely to have this data to hand).

ORC suggests that the difference between the two terms be clarified and also explicitly identify that cover is a start, i.e. 10% IVC may be functionally 1% of an ecosystem.

A **definition** is needed for a number of terms which are bolded below.

Policy 3.17 Increasing indigenous vegetation cover

(1) Every regional council must assess the percentage of the urban and rural areas in its region that have indigenous vegetation cover

This sentence is poorly worded. Suggest *“Every regional council must assess the percentage of **indigenous vegetation cover** within **urban, Rural, and other non-urban areas** in its region”*

The definition of ‘areas’ also needs some serious consideration because there may be a number of urban areas in a region, the space between them will be one large contiguous rural area.

The ‘chopping up’ of areas will significantly impact the percentage cover resulting (a textbook modifiable area unit problem), and therefore requires guidance in the NPSIB. Urban Areas should also be able to be split up.

ORC suggests ecological district/catchments or former ecosystem type (or a combination thereof) be used to subset urban, rural and other areas into usefully functional ecological sub areas.

*(2) The regional council must specify which areas it will treat as **urban** for the purposes of this clause (which must be predominantly urban in character) and which it will treat as **rural**, (which must be predominantly rural in character) and **non-urban** (which must be predominantly non-urban and non-rural in character).*

Again, this sentence is poorly worded. ORC suggests the term urban be retained, but the opposite of urban is NOT rural, rural covers farming landscapes not natural ones. There needs to be three categories to separate urban, rural and other (which will be the conservation estate and therefore near 100%), reflecting that rural areas should not be ‘carried’ by the conservation estate.

(3) The assessment of the percentage of indigenous vegetation cover may be done by a desktop analysis, by ground truthing or both.



(4) For urban areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in that area to at least 10 per cent of the area.

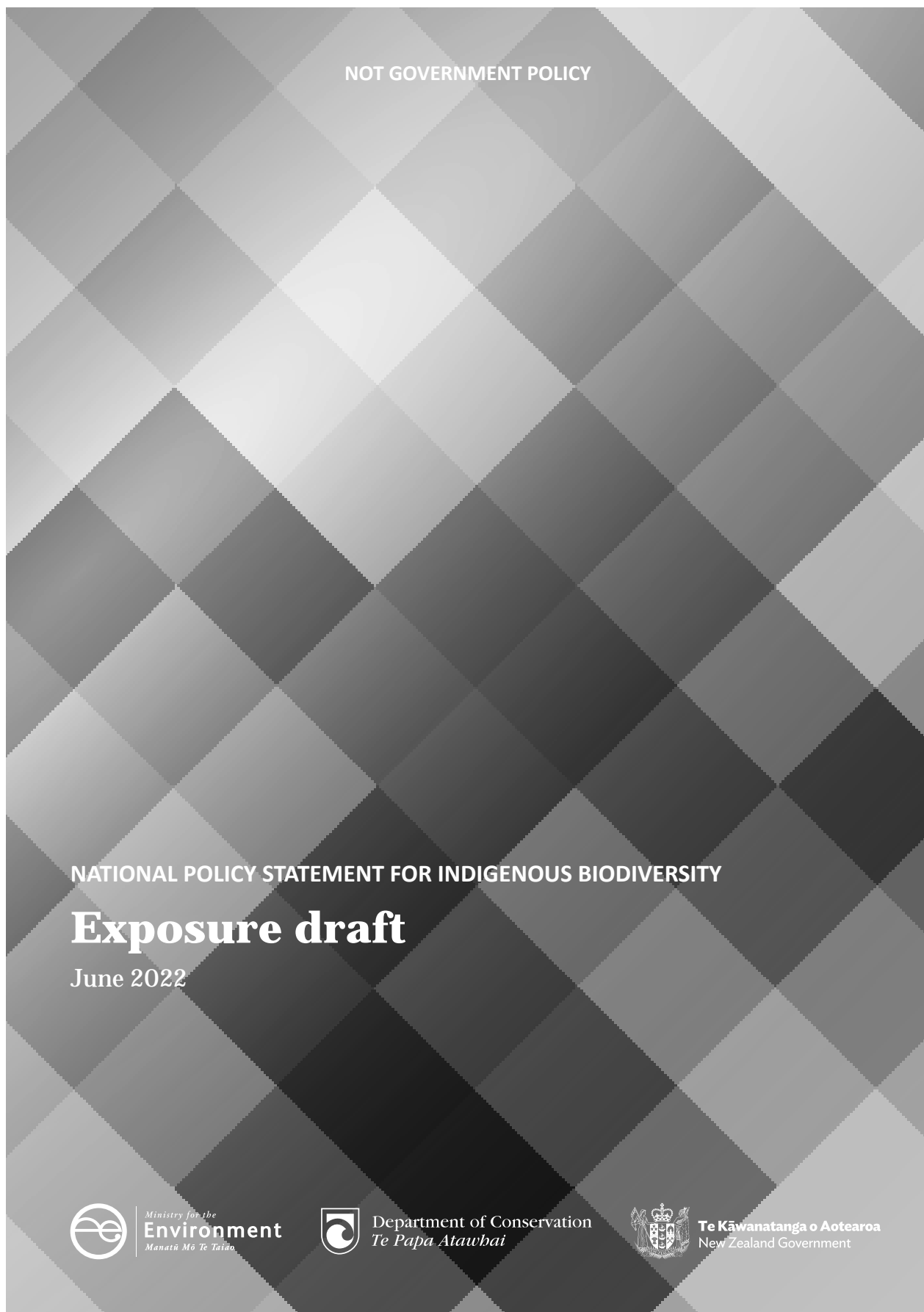
(5) For rural areas, if the assessment indicates an area has less than 10 per cent indigenous vegetation cover, the regional council must include in its regional policy statement a target (expressed as a percentage figure within a specified time) for increasing indigenous vegetation cover in the area.

Given the suggested separation between urban, rural and other areas, ORC does not agree with the distinction – rural area ecosystems less than 10% are by definition highly degraded – should they not also contribute to rectifying the problem?

Yours sincerely

A handwritten signature in black ink, appearing to read "G Elsum", written over a light grey circular stamp.

Gwyneth Elsum
General Manager Strategy, Policy & Science



EXPOSURE DRAFT – NOT GOVERNMENT POLICY

Draft National Policy Statement for Indigenous Biodiversity

Authority

This National Policy Statement was approved by the Governor-General under section 52(2) of the Resource Management Act 1991 on [to come] and is published by the Minister for the Environment under section 54 of that Act.

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Part 1: Preliminary provisions

1.1 Title

- (1) This is the National Policy Statement for Indigenous Biodiversity 2021.

1.2 Commencement

- (1) This National Policy Statement comes into force on [to come].

1.3 Application

- (1) This National Policy Statement applies to indigenous biodiversity throughout Aotearoa New Zealand, other than indigenous biodiversity in the coastal marine area and aquatic indigenous biodiversity.
- (2) However:
 - (a) geothermal ecosystems are covered by this National Policy Statement, whether or not they are or include water bodies (see clause 3.13); and
 - (b) specified highly mobile fauna are covered by this National Policy Statement, whether or not they use the coastal marine area or water bodies for part of their life cycle (see clause 3.20); and
 - (c) provisions relating to restoration extend to include wetlands (see clauses 3.21 and 3.22); and
 - (d) regional biodiversity strategies may extend to include the coastal marine area and water bodies (see clause 3.23).

1.4 Relationship with New Zealand Coastal Policy Statement

- (1) Both the New Zealand Coastal Policy Statement and this National Policy Statement apply in the terrestrial coastal environment.
- (2) If there is a conflict between the provisions of this National Policy Statement and the New Zealand Coastal Policy Statement 2010 (or any later New Zealand Coastal Policy Statement issued under the Act), the New Zealand Coastal Policy Statement prevails.

1.5 Fundamental concepts

- (1) The following are descriptions of terms that cannot adequately be described by a short definition. To give effect to this National Policy Statement it is important to understand these concepts fully.

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(2) Te Rito o te Harakeke

Hutia te rito o te harakeke
 Kei hea te kōmako, e kō?
 Kī mai ki ahau
 He aha te mea nui o te ao?
 Māku e kī atu
 he tangata, he tangata, he tangata

When the centre of the flax bush is picked
 Where will the bellbird sing?
 You ask me
 What is the greatest thing in the world?
 My reply is
 It is people, it is people, it is people.

Te Rito o te Harakeke is a concept that refers to the need to maintain the integrity of indigenous biodiversity. It recognises the intrinsic value and mauri of indigenous biodiversity as well as people's connections and relationships with it.

It recognises that our health and wellbeing are dependent on the health and wellbeing of indigenous biodiversity and that in return we have a responsibility to care for it. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community.

Te Rito o te Harakeke comprises six essential elements to guide tangata whenua and local authorities in managing indigenous biodiversity and developing objectives, policies, and methods for giving effect to Te Rito o te Harakeke:

- (a) the intrinsic value and mauri of indigenous biodiversity:
- (b) the bond between people and indigenous biodiversity through whakapapa (familial) relationships and mutual interdependence:
- (c) the responsibility of care that tangata whenua have as kaitiaki, and that other New Zealanders have as stewards, of indigenous biodiversity:
- (d) the connectivity between indigenous biodiversity and the wider environment:
- (e) the incorporation of te ao Māori and mātauranga Māori:
- (f) the requirement for engagement with tangata whenua.

(3) Maintenance of indigenous biodiversity

The maintenance of indigenous biodiversity requires at least no reduction, as from the commencement date, in the following:

- (a) the size of populations of indigenous species:
- (b) indigenous species occupancy across their natural range:

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- (c) the properties and function of ecosystems and habitats:
- (d) the full range and extent of ecosystems and habitats:
- (e) connectivity between, and buffering around, ecosystems:
- (f) the resilience and adaptability of ecosystems.

(4) Effects management hierarchy

The effects management hierarchy is an approach to managing the adverse effects of an activity. It requires that:

- (a) adverse effects are avoided where practicable; and
- (b) where adverse effects cannot be demonstrably avoided, they are minimised where practicable; and
- (c) where adverse effects cannot be demonstrably minimised, they are remedied where practicable; and
- (d) where more than minor residual adverse effects cannot be demonstrably avoided, minimised, or remedied, biodiversity offsetting is provided where possible; and
- (e) where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; and
- (f) if biodiversity compensation is not appropriate, the activity itself is avoided.

The terms 'biodiversity offset' and 'biodiversity compensation' are defined in clause 1.6, and the principles for their application are in Appendices 3 and 4.

1.6 Interpretation

- (1) In this National Policy Statement:

Act means the Resource Management Act 1991

acknowledged taonga means indigenous species, populations, or ecosystems that are identified as taonga by tangata whenua under clause 3.19

biodiversity compensation means a conservation outcome that complies with the principles in Appendix 4 and results from actions that are intended to compensate for any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, remediation, and biodiversity offset measures have been sequentially applied

biodiversity offset means a measurable conservation outcome that complies with the principles in Appendix 3 and results from actions that:

- (a) redress any more than minor residual adverse effects on indigenous biodiversity after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied; and

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- (b) achieve a measurable net gain in type, amount, and condition (structure and quality) of indigenous biodiversity compared to that lost

buffer refers to a defined space between core areas of ecological value and the wider landscape that helps to reduce external pressures; and **buffering** has a corresponding meaning

commencement date means the date on which this National Policy Statement comes into force

connectivity refers to the structural or functional links or connections between habitats and ecosystems that provide for the movement of species and processes among and between the habitats or ecosystems

ecological district means:

- (a) in relation to geothermal ecosystems in the Taupō Volcanic Zone, the Taupō Volcanic Zone; and
- (b) for all other areas, the ecological districts as shown in McEwen, W Mary (ed), 1987. *Ecological regions and districts of New Zealand*. Wellington: Department of Conservation

ecological integrity means the extent to which an ecosystem is able to support and maintain its:

- (a) composition (being its natural diversity of indigenous species, habitats, and communities); and
- (b) structure (being its biotic and abiotic physical features); and
- (c) functions (being its ecological and physical processes)

ecosystem means the complexes of organisms and their associated physical environment within an area (and comprise: a biotic complex, an abiotic environment or complex, the interactions between the biotic and abiotic complexes, and a physical space in which these operate)

ecosystem functions are the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem

ecosystem services are the benefits obtained from ecosystems such as:

- (a) supporting services (eg, nutrient cycling, soil formation, habitat creation):
- (b) provisioning services (eg, food, freshwater, wood, fibre, fuel):
- (c) regulating services (eg, water purification, climate regulation, flood regulation, disease regulation):
- (d) cultural services (eg, aesthetic, spiritual, educational, recreational)

effects management hierarchy has the meaning in clause 1.5(4)

existing activity means a subdivision, use or development that is:

- (a) lawfully established at the commencement date; but

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- (b) not a land use covered by section 10 of the Act

fragmentation, in relation to indigenous biodiversity, refers to the fragmentation of habitat that results in a loss of connectivity and an altered spatial configuration of habitat for a given amount of habitat loss

functional need means the need for a proposed activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment

geothermal ecosystem means a dynamic life-supporting system made up of a group of living organisms that are adapted to, and reliant on, geothermal resources

geothermal SNA means an SNA that includes one or more geothermal ecosystems

geothermal system means a system, defined by scientific investigation, that:

- (a) comprises:
- (i) geothermal energy, stored as water or steam; and
 - (ii) the rocks confining it; and
 - (iii) associated water, steam, and gas emissions; and
 - (iv) the geothermal surface features resulting from those emissions; and
- (b) is believed to have no hydrological connection to another system

habitat means the area or environment where an organism or ecological community lives or occurs naturally for some or all of its life cycle, or as part of its seasonal feeding or breeding pattern

Te Rito o te Harakeke has the meaning given in clause 1.5(2)

identified taonga means acknowledged taonga that are identified in a district plan (as provided for in clause 3.19)

indigenous biodiversity means the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats

indigenous vegetation means vascular and non-vascular plants that, in relation to a particular area, are native to the ecological district in which that area is located

highly mobile fauna area means an area outside an SNA that is identified under clause 3.20 as an area used by specified highly mobile fauna

land environment means a land environment identified in the *Land Environments of New Zealand (LENZ) Classification System* (Leathwick et al., 2003, as maintained by Manaaki Whenua Landcare Research)

maintenance, in relation to indigenous biodiversity, has the meaning in clause 1.5(3)

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Māori lands means land that is any of the following:

- (a) Māori customary land and Māori freehold land (as defined in Te Ture Whenua Māori Act 1993):
- (b) any Māori reservation established under Te Ture Whenua Māori Act 1993 or its predecessors:
- (c) Treaty settlement land:
- (d) former Māori land or general land (as defined in Te Ture Whenua Māori Act 1993) owned by Māori that has at any time been acquired by the Crown or any local or public body for a public work or other public purpose, and has been subsequently returned to its former Māori owners or their successors and remains in their ownership:
- (e) general land (as defined in Te Ture Whenua Māori Act 1993) owned by Māori that was previously Māori freehold land, has ceased to have that status under an order of the Māori Land Court made on or after 1 July 1993 or under Part 1 of the Māori Affairs Amendment Act 1967, but remains in the ownership of the same whānau or hapū:
- (f) land held by or on behalf of an iwi or a hapū if the land was transferred from the Crown, a Crown body, or a local authority with the intention of returning the land to the holders of mana whenua over the land

mātauranga Māori means Māori customary knowledge, traditional knowledge, or intergenerational knowledge

mosaic means a pattern of two or more interspersed ecosystems, communities or habitats that contribute to the cumulative value of ecosystems in a landscape

natural range, in relation to a species, refers to the geographical area within which that species can be expected to be found naturally (without human intervention)

new subdivision, use, or development means a subdivision, use, or development that is not an existing activity nor an activity captured by section 10 of the Act

operational need means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical, or operational characteristics or constraints

plantation forest has the meaning in the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017

policy statements and plans includes regional policy statements and proposed regional policy statements, and regional plans, district plans, and proposed plans

public conservation land means land within the boundaries of any area of land held or managed under the [Conservation Act 1987](#) or any other Act specified in [Schedule 1](#) of that Act (other than land held for administrative purposes)

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publish, in relation to an obligation on a local authority to publish material, means to make the material freely available to the public on the local authority's internet website or another web-based platform

reconstruction means reintroducing and maintaining appropriate biota to recreate an ecosystem that would not regenerate or recolonise even with best practice restoration interventions

resilience, in relation to an ecosystem, means the ability of the ecosystem to recover from and absorb disturbances, and its capacity to reorganise into similar ecosystems

restoration means the active intervention and management of modified or degraded habitats, ecosystems, landforms, and landscapes in order to maintain or reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities, and may include enhancement activities

sequence means a series of ecosystems or communities, often physically connected, that replace one another through space

SNA, or **significant natural area**, means:

- (a) any area that, on the commencement date, is identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); and
- (b) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1

species includes taxa

specific infrastructure means any of the following:

- (a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002):
- (b) regionally significant infrastructure that is identified as such in a regional policy statement or regional plan:
- (c) any public flood control, flood protection, or drainage works carried out:
 - (i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or
 - (ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908:
- (d) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990

specified highly mobile fauna means the Threatened or At Risk species of highly mobile fauna that are identified in Appendix 2

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terrestrial environment means land and associated natural and physical resources above mean high-water springs, excluding land covered by water, water bodies and freshwater ecosystems (as those terms are used in the National Policy Statement for Freshwater Management 2019) and the coastal marine area

Treaty settlement land means land held by a post-settlement governance entity (as defined in the Urban Development Act 2020) where the land was transferred or vested and held (including land held in the name of a person such as a tipuna of the claimant group, rather than the entity itself):

- (a) as part of redress for the settlement of Treaty of Waitangi claims; or
- (b) by the exercise of rights under a Treaty settlement Act or Treaty settlement deed

Threatened, At Risk, and At Risk (Declining) have, at any time, the meanings given in the *New Zealand Threat Classification System Manual* (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008, Science & Technical Publishing, Department of Conservation, Wellington), available at:

<https://www.doc.govt.nz/globalassets/documents/science-and-technical/sap244.pdf>, or its current successor publication.

urban environment has the meaning in clause 1.4 of the National Policy Statement on Urban Development 2020.

- (2) Terms defined in the Act and used in this National Policy Statement have the meanings in the Act, except as otherwise specified.

1.7 Incorporation by reference

- (1) Clause 2(1) of Schedule 1AA of the Act does not apply to any material incorporated by reference in this National Policy statement.
- (2) All material incorporated by reference in this National Policy Statement is available at [to come].

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Part 2: Objective and policies

2.1 Objective

- (1) The objective of this National Policy Statement is to protect, maintain, and restore indigenous biodiversity in a way that:
 - (a) recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and
 - (b) provides for the social, economic, and cultural wellbeing of people and communities now and in the future.

2.2 Policies

Policy 1: Indigenous biodiversity is managed in a way that gives effect to Te Rito o te Harakeke.

Policy 2: Tangata whenua are recognised as kaitiaki, and enabled to exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:

- (a) enabling tangata whenua to manage indigenous biodiversity on their land; and
- (b) the identification and protection of indigenous species, populations and ecosystems that are taonga.

Policy 3: A precautionary approach is adopted when considering adverse effects on indigenous biodiversity.

Policy 4: Indigenous biodiversity is resilient to the effects of climate change.

Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.

Policy 6: Significant indigenous vegetation and significant habitats of indigenous fauna are identified as significant natural areas (SNAs) using a consistent approach.

Policy 7: SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.

Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.

Policy 9: Certain existing activities are provided for within and outside SNAs.

Policy 10: Activities that contribute to New Zealand's social, economic, cultural, and environmental well-being are recognised and provided for.

Policy 11: Geothermal SNAs are protected at a level that reflects their vulnerability, or in accordance with any pre-existing underlying geothermal system classification.

Policy 12: Indigenous biodiversity is managed within plantation forestry.

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Policy 13: Restoration of indigenous biodiversity is promoted and provided for.

Policy 14: Increased indigenous vegetation cover is promoted in both urban and non-urban environments.

Policy 15: Areas outside SNAs that support specified highly mobile fauna are identified and managed to maintain their populations across their natural range, and information and awareness of specified highly mobile fauna is improved.

Policy 16: Regional biodiversity strategies are developed and implemented to maintain and restore indigenous biodiversity at a landscape scale.

Policy 17: There is improved information and regular monitoring of indigenous biodiversity.

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Part 3: Implementation

3.1 Overview of Part

- (1) This Part sets out a non-exhaustive list of things that local authorities must do to give effect to the Objective and Policies in Part 2 of this National Policy Statement, but nothing in this Part limits the general obligation under the Act to give effect to that Objective and those Policies.
- (2) Nothing in this Part limits a local authority's functions and duties under the Act in relation to indigenous biodiversity.
- (3) In this Part:
 - (a) Subpart 1 sets out general approaches to implementing this National Policy Statement, and in particular how to give effect to Te Rito o te Harakeke:
 - (b) Subpart 2 sets out provisions relating to the identification of SNAs, the management of adverse effects on SNAs, and the general management of indigenous biodiversity outside SNAs:
 - (c) Subpart 3 sets out additional specific requirements relating to indigenous biodiversity.

Subpart 1 – Approaches to implementing this National Policy Statement

3.2 Te Rito o te Harakeke

- (1) Local authorities must engage with communities and tangata whenua to determine how to give effect to Te Rito o te Harakeke and its six essential elements in their regions and districts.
- (2) Giving effect to Te Rito o te Harakeke requires, at a minimum, that local authorities:
 - (a) recognise and provide for:
 - (i) te hauora o te koiora (the health of indigenous biodiversity); and
 - (ii) te hauora o te taonga (the health of taonga); and
 - (iii) te hauora o te taiao (the health of the wider environment); and
 - (iv) the interrelationships between those three hauora and te hauora o te tangata (the health of the people); and
 - (b) recognise that the protection, maintenance, and restoration of indigenous biodiversity requires:
 - (i) kaitiakitanga (including as provided for in clause 3.3) and stewardship; and
 - (ii) identifying the local approach to giving effect to Te Rito o te Harakeke; and

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- (iii) adopting an integrated approach ki uta ki tai (as provided for in clause 3.4); and
- (c) taking steps to ensure that indigenous biodiversity is maintained and restored for the health, enjoyment and use by all New Zealanders, now and in the future.

3.3 Tangata whenua as kaitiaki

- (1) Every local authority must actively involve tangata whenua (to the extent they wish to be involved) in the management of indigenous biodiversity, and in particular:
 - (a) when identifying the local approach to giving effect to Te Rito o te Harakeke; and
 - (b) in the processes (including decision-making processes) for managing the implementation of this National Policy Statement; and
 - (c) when making or changing policy statements and plans that relate to indigenous biodiversity.
- (2) When involving tangata whenua as required by subclause (1), and particularly when making or changing objectives, policies, or methods to give effect to this National Policy Statement, local authorities must:
 - (a) ensure that consultation with tangata whenua:
 - (i) is early, meaningful and, as far as practicable, in accordance with tikanga Māori; and
 - (ii) has regard to the different levels of whānau, hapū, and iwi decision-making structures; and
 - (b) recognise and value the role of tangata whenua as kaitiaki of indigenous biodiversity; and
 - (c) provide specific opportunities for the exercise of kaitiaki, such as, for example, by bringing cultural understanding to monitoring; and
 - (d) allow for the sustainable customary use of indigenous biodiversity in accordance with tikanga.
- (3) Local authorities must work with tangata whenua to investigate the use of mechanisms available under the Act to involve tangata whenua in the management of, and decision-making about, indigenous biodiversity, such as:
 - (a) transfers or delegations of power under section 33 of the Act:
 - (b) joint management agreements under section 36B of the Act:
 - (c) mana whakahono a rohe (iwi participation arrangements) under subpart 2 of Part 5 of the Act.
- (4) When a local authority considers the use of mechanisms to involve tangata whenua in the management of indigenous biodiversity the local authority must:

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- (a) record the matters considered and the reasons for any decisions reached, or for not making a decision; and
 - (b) publish those matters and reasons as soon as practicable, unless publication would be contrary to any legal obligation.
- (5) Local authorities must, with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, take all reasonable steps to incorporate mātauranga Māori relating to indigenous biodiversity when implementing this National Policy Statement.
- (6) Local authorities must develop processes for managing information provided by tangata whenua (including providing for how it may remain confidential if required by tangata whenua), particularly in relation to the identification and management of species, populations, and ecosystems as taonga (in accordance with clause 3.19).

3.4 Integrated approach

- (1) Local authorities must manage indigenous biodiversity and the effects on it from subdivision, use and development in an integrated way, which means:
- (a) recognising the interactions ki uta ki tai (from the mountains to the sea) between the terrestrial environment, freshwater, and the coastal marine area; and
 - (b) providing for the coordinated management and control of subdivision, use and development, as it affects indigenous biodiversity across administrative boundaries; and
 - (c) considering the requirements of strategies and other planning tools required or provided for in legislation and relevant to indigenous biodiversity.

3.5 Social, economic, and cultural wellbeing

- (1) Local authorities must consider:
- (a) that the protection, maintenance, and restoration of indigenous biodiversity contributes to the social, economic, and cultural wellbeing of people and communities; and
 - (b) that the protection, maintenance, and restoration of indigenous biodiversity does not preclude subdivision, use and development in appropriate places and forms; and
 - (c) that people and communities are critical to protecting, maintaining, and restoring indigenous biodiversity; and
 - (d) the importance of forming partnerships in protecting, maintaining, and restoring indigenous biodiversity; and
 - (e) the importance of respecting and fostering the contribution of tangata whenua as kaitiaki and of people and communities, particularly landowners, as stewards of indigenous biodiversity; and

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- (f) the value of supporting people and communities in understanding, connecting to, and enjoying indigenous biodiversity.

3.6 Resilience to climate change

- (1) Local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by:
 - (a) providing for the maintenance of ecological integrity through natural adjustments of habitats and ecosystems; and
 - (b) considering the effects of climate change when making decisions on:
 - (i) restoration proposals; and
 - (ii) managing and reducing new and existing biosecurity risks; and
 - (c) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.

3.7 Precautionary approach

- (1) Local authorities must adopt a precautionary approach toward proposed activities where:
 - (a) the effects on indigenous biodiversity are uncertain, unknown, or little understood; but
 - (b) those effects are potentially significantly adverse.

Subpart 2 – Significant natural areas

3.8 Assessing areas that qualify as significant natural areas

- (1) Every territorial authority must undertake a district-wide assessment of the land in its district to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs.
- (2) The assessment must be done using the assessment criteria in Appendix 1 and in accordance with the following principles:
 - (a) **partnership:** territorial authorities seek to engage with tangata whenua and landowners early, and must share information about indigenous biodiversity, potential management options, and any support and incentives that may be available:
 - (b) **transparency:** territorial authorities clearly inform tangata whenua and landowners about how information gathered will be used and make existing information, draft assessments and other relevant information available to tangata whenua and relevant landowners for review:

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- (c) **quality:** wherever practicable, the values and extent of natural areas are verified by physical inspection:
 - (d) **access:** if a physical inspection is required, permission of the landowner is first sought and the powers of entry under section 333 of the Act are used only as a last resort:
 - (e) **consistency:** the criteria in Appendix 1 are applied consistently, regardless of who owns the land:
 - (f) **boundaries:** the boundaries of areas of significant indigenous vegetation or significant habitat of indigenous fauna are determined without regard to artificial margins (such as property boundaries) that would affect the extent or ecological integrity of the area identified.
- (3) If requested by a territorial authority, the relevant regional council must assist the territorial authority in undertaking its district-wide assessment.
- (4) A territorial authority need not comply with subclause (1) in respect of any SNA referred to in paragraph (a) of the definition of SNA (ie, an area already identified as an SNA at the commencement date) if, within 4 years after the commencement date, a suitably qualified ecologist confirms that, and how, the area qualifies as an SNA under the criteria in Appendix 1.
- (5) If a territorial authority becomes aware (as a result of a resource consent application, notice of requirement or any other means) that an area may be an area of significant indigenous vegetation or significant habitat of indigenous fauna that qualifies as an SNA, the territorial authority must:
- (a) conduct an assessment of the area in accordance with subclause (2) as soon as practicable; and
 - (b) if a new SNA is identified as a result, include it in the next plan or plan change notified by the territorial authority.
- (6) If a suitably qualified ecologist confirms that an area that qualifies as an SNA comprises or contains a geothermal ecosystem, the SNA is a geothermal SNA.

3.9 Identifying SNAs in district plans

- (1) A territorial authority must notify any plan or plan change to include each area in its district that is identified as qualifying as an SNA.
- (2) The notified plan or plan change must include:
- (a) the location of the SNA and a description of its attributes; and
 - (b) a map of the area; and
 - (c) specify whether the SNA is a geothermal SNA.

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- (3) When a territorial authority does its 10-yearly plan review, it must assess its district in accordance with clause 3.8 (1) and (2) to determine whether changes are needed.

3.10 Managing adverse effects on SNAs of new subdivision, use, and development

- (1) This clause applies to all SNAs, except as provided in clause 3.11.
- (2) Local authorities must make or change their policy statements and plans to include objectives, policies, and methods that require that the following adverse effects on SNAs of any new subdivision, use, or development are avoided:
 - (a) loss of ecosystem representation and extent:
 - (b) disruption to sequences, mosaics, or ecosystem function:
 - (c) fragmentation of SNAs or the or loss of buffers or connections within an SNA:
 - (d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:
 - (e) a reduction in the population size or occupancy of Threatened, At Risk (Declining) species that use an SNA for any part of their life cycle.
- (3) Local authorities must make or change their policy statements and plans to require that all adverse effects on SNAs of new subdivision, use, or development, other than the adverse effects identified in subclause (2), must be managed by applying the effects management hierarchy.
- (4) Every local authority must make or change its plan to ensure that, where adverse effects on an SNA are required to be managed by applying the effects management hierarchy, an application is not granted unless:
 - (a) the decision-maker is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied; and
 - (b) any consent is granted subject to conditions that apply the effects management hierarchy.

3.11 Exceptions to clause 3.10

- (1) Clause 3.10 does not apply to the following, and adverse effects on SNAs of new subdivision, use, and development are managed instead as required by the clause indicated:
 - (a) SNAs on Māori Lands (see clause 3.18):
 - (b) geothermal SNAs (see clause 3.13):
 - (c) SNAs within a plantation forest (see clause 3.14).

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- (2) Clause 3.10(2) does not apply, and all adverse effects on an SNA must be managed instead in accordance with clause 3.10(3) and (4):
- (a) if a new use or development is required for the purposes of any of the following;
 - (i) specific infrastructure that provides significant national or regional public benefit; or
 - (ii) mineral extraction that provides significant national public benefit that could not otherwise be achieved domestically; or
 - (iii) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved domestically; and
 - (b) there is a functional or operational need for the new use or development to be in that particular location; and
 - (c) there are no practicable alternative locations for the new use, or development.
- (3) Clause 3.10(2) does not apply, and all adverse effects on an SNA must be managed instead in accordance with clause 3.10(3) and (4), if:
- (a) a new use or development is associated with a single dwelling on an allotment created before the commencement date; and
 - (b) there is no location within the existing allotment where a single residential dwelling and essential associated on-site infrastructure can be constructed in a manner that avoids the adverse effects specified in clause 3.10(2).
- (4) Clause 3.10(2) does not apply to an SNA, and all adverse effects on the SNA must be managed instead in accordance with clause 3.10(3) and (4), or any other appropriate management approach, if:
- (a) the use or development is for the purpose of maintaining or restoring an SNA (provided it does not involve the permanent destruction of significant habitat of indigenous biodiversity); or
 - (b) the use or development:
 - (i) is in an area of indigenous vegetation or habitat of indigenous fauna (other than an area managed under the Forests Act 1949) that was established and is managed primarily for a purpose other than the maintenance or restoration of indigenous biodiversity; and
 - (ii) the losses are necessary to meet that purpose.
- (5) Clause 3.10 does not apply to adverse effects on an SNA:
- (a) from any use or development required to address a very high risk to public health or safety; or

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- (b) if the SNA is solely because of the presence of a kānuka or manuka species that is threatened exclusively on the basis of myrtle rust; or
- (c) from the sustainable customary use of indigenous biodiversity conducted in accordance with tikanga; or
- (d) from work or activity of the Crown on public conservation land, provided that the work or activity:
 - (i) is undertaken in a way that is consistent with any applicable conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act; and
 - (ii) does not have a significant adverse effect beyond the boundary of the public conservation land.
- (e) from work within Te Urewera of Te Urewera Board, the chief executive of Tūhoe Te Uru Taumatua, or the Director-General of Conservation, provided that the work:
 - (i) is for the purpose of managing Te Urewera under the Te Urewera Act 2014 and is consistent with the Te Urewera Act and the management plan under that Act; and
 - (ii) does not have a significant adverse effect on the environment beyond the boundary of Te Urewera.

3.12 SNAs on Māori lands

- (1) SNAs on Māori Lands must be managed in accordance with clause 3.18, except that:
 - (a) geothermal SNAs on Māori lands must be managed in accordance with clause 3.13; and
 - (b) SNAs within plantation forests must be managed in accordance with clause 3.14.

3.13 Geothermal SNAs

- (1) Every local authority that has a geothermal SNA in its region or district must work with tangata whenua to make or change its policy statements and plans to include objectives, policies, and methods that, in relation to any new subdivision, use, and development:
 - (a) provide a level of protection of the geothermal SNA:
 - (i) that:
 - (A) reflects the vulnerability of the geothermal SNA to use or development; or
 - (B) in the case of a local authority that has (at the commencement date) classified its geothermal systems, is consistent with the geothermal system classification in which the geothermal SNA is located; and

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- (ii) that has regard to the practicability of applying the approach in clause 3.10(2) and (3) to the geothermal SNA; and
 - (iii) that, in the case of a geothermal SNA on Māori lands, provides for new occupation, use, and development that enables tangata whenua to use and develop geothermal resources in a manner consistent with the vulnerability of the geothermal SNA to use or development, or consistent with the geothermal system classification in which the geothermal SNA is located (as applicable), and in accordance with tikanga; and
- (b) require the decision-maker on any resource consent application to:
- (i) have particular regard to the adverse effects described in clause 3.10(2) when managing adverse effects on the geothermal SNAs; and
 - (ii) consider any practicable measures for the restoration of the geothermal SNAs.
- (2) Any assessment of the vulnerability of a geothermal SNA must be undertaken by a suitably qualified expert.
- (3) Local authorities must publish:
- (a) the basis on which the objectives, policies, and methods relating to the management of each geothermal SNA was decided; and
 - (b) the nature and extent of involvement of tangata whenua in developing those objectives, policies, and methods.
- (4) In relation to a geothermal SNA, this clause prevails over any other provision of this National Policy Statement that might apply to the SNA, other than clause 3.15 (about existing activities), which applies to geothermal SNAs in the same way as it applies to other SNAs.

3.14 Plantation forests with SNAs

- (1) An SNA that is within a plantation forest must be managed over the course of consecutive rotations of production in the manner necessary to maintain the long-term populations of any Threatened or At Risk species in the SNA.
- (2) Local authorities must make or change their policy statements and plans to include objectives, policies, and methods to give effect to the requirements of subclause (1).

3.15 Existing activities affecting SNAs

- (1) Regional councils must identify in their policy statements the existing activities, or types of existing activities, that this clause applies to.
- (2) Local authorities must make or change their plans to ensure that the existing activities identified in relevant regional policy statements may continue as long as the effects on any SNA (including cumulative effects):

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- (a) are no greater in intensity, scale, or character over time than at the commencement date; and
 - (b) do not result in the loss of extent or degradation of ecological integrity of the SNA.
- (3) If an existing activity does not meet the conditions described in subclause (2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10.

3.16 Maintaining indigenous biodiversity outside SNAs

- (1) This clause applies to all areas outside SNAs, other than Māori lands (because clause 3.18 applies instead).
- (2) Local authorities must take steps to maintain indigenous biodiversity in areas to which this clause applies, including by making or changing their policy statements and plans to:
- (a) apply the effects management hierarchy to any adverse effects on indigenous biodiversity of a new subdivision, use, or development that may be irreversible; and
 - (b) providing appropriate controls to manage other adverse effects on indigenous biodiversity of a new subdivision, use and development.

3.17 Maintenance of improved pasture

- (1) This clause applies to the maintenance of improved pasture where it may affect an SNA.
- (2) Local authorities must allow the maintenance of improved pasture to continue if:
- (a) there is adequate evidence to demonstrate that the maintenance of improved pasture is part of a regular cycle of periodic maintenance of that pasture; and
 - (b) any adverse effects of the maintenance of improved pasture on an SNA are no greater in intensity, scale, or character than the effects of activities previously undertaken as part of the regular cycle of periodic maintenance of that pasture; and
 - (c) the improved pasture has not itself become an SNA; and
 - (d) the land is not a depositional landform that has not been cultivated; and
 - (e) the maintenance of improved pasture will not adversely affect a Threatened or At Risk (Declining) species.
- (3) In this clause:

maintenance of improved pasture includes the removal of indigenous vegetation for the purpose of maintaining the improved pasture, whether the removal is by way of cutting, crushing, applying chemicals, draining, burning, cultivating, over-planting, applying seed of exotic pasture species, mob stocking, or making changes to soils, hydrology, or landforms

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depositional landform means a landform that is alluvial (matter deposited by water, eg, fans, river flats, and terraces), colluvial (matter deposited by gravity at the base of hillslopes, eg, talus), or glacial (matter deposited by glaciers, eg, moraines and outwash)

improved pasture means an area of land where exotic pasture species have been deliberately sown or maintained for the purpose of pasture production, and species composition and growth has been modified and is being managed for livestock grazing.

Subpart 3 – Specific requirements

3.18 Māori lands

- (1) Local authorities must work in partnership with tangata whenua and Māori landowners to develop, and include in policy statements and plans, objectives, policies, and methods that, to the extent practicable:
 - (a) maintain and restore indigenous biodiversity on Māori lands; and
 - (b) protect SNAs and identified taonga on Māori lands.
- (2) Objectives, policies, and methods developed under this clause must, to the extent practicable:
 - (a) enable new occupation, use, and development of Māori lands to support the social, cultural, and economic wellbeing of tangata whenua; and
 - (b) enable the provision of new papakāinga, marae and ancillary community facilities, dwellings, and associated infrastructure; and
 - (c) apply or allow alternative approaches to, or locations for, new occupation, use, and development that avoid, minimise, or remedy adverse effects on SNAs and identified taonga on Māori lands, and apply options for offsetting and compensation; and
 - (d) recognise and be responsive to the fact that there may be no or limited alternative locations for tangata whenua to occupy, use, and develop their lands.
- (3) The decision-maker on any resource consent application must, when considering matters affecting Māori lands, take into account all the matters in subclause (2).
- (4) Subclauses (2) and (3) do not apply to Māori lands to the extent that the land is set aside under legislation for full or partial legal protection for the purpose of protecting indigenous biodiversity on that land. 'Legal protection' includes covenants and land status such as are available under the Reserves Act, Conservation Act, National Parks Act (or equivalent)'.
- (5) Local authorities must consider and realise opportunities to provide incentives for the protection and maintenance of indigenous biodiversity, and the protection of SNAs and identified taonga, on Māori lands.

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3.19 Identified taonga

- (1) Every territorial authority must work together with tangata whenua (using an agreed process) to determine the indigenous species, populations, and ecosystems in the district that are taonga; and these are acknowledged taonga.
- (2) Local authorities must recognise that tangata whenua have the right not to determine the indigenous species, populations and ecosystems that are taonga, and to choose the level of detail at which any acknowledged taonga, or their location or values, are described.
- (3) If tangata whenua agree, territorial authorities must identify acknowledged taonga in their district plans by:
 - (a) describing the taonga and, to the extent agreed by tangata whenua, mapping their location and describing their values; and
 - (b) describing, to the extent agreed by tangata whenua, the historical, cultural, and spiritual relationship of tangata whenua with the taonga.
- (4) Local authorities must work together with tangata whenua to protect both acknowledged and identified taonga as far as practicable and involve tangata whenua (to the extent that they wish to be involved) in the management of identified taonga.
- (5) In managing effects on identified taonga, local authorities must recognise that the possible adverse effects on identified taonga include effects on:
 - (a) the mauri of the taonga;
 - (b) the values of the taonga as identified by tangata whenua;
 - (c) the historical, cultural, and spiritual relationship of tangata whenua with the taonga, as identified by tangata whenua.
- (6) Local authorities must make or change their policy statements and plans as necessary to ensure that the sustainable customary use of identified taonga by tangata whenua in accordance with tikanga and in a manner consistent with the protection of the identified taonga is provided for.
- (7) To avoid doubt, no species, population, or ecosystem in the coastal marine area, and no aquatic species or population in water bodies, can be determined to be taonga under this clause (see clause 1.3).

3.20 Specified highly mobile fauna

- (1) Every regional council must record areas outside SNAs that are highly mobile fauna areas, by working together with tangata whenua (in the manner required by clause 3.3), territorial authorities in its region, and the Department of Conservation.
- (2) If it will help manage specified highly mobile fauna, regional councils must include in their regional policy statements (where possible) a map and description of each highly mobile fauna area in its region.

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- (3) Local authorities must include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.
- (4) Local authorities must provide information to their communities about:
 - (a) specified highly mobile fauna and their habitats; and
 - (b) best practice techniques for managing adverse effects on any specified highly mobile fauna and their habitats in their regions and districts.

3.21 Restoration

- (1) Local authorities must include objectives, policies, and methods in their policy statements and plans to promote the restoration of indigenous biodiversity, including through reconstruction of areas.
- (2) The objectives, policies, and methods must prioritise all the following for restoration:
 - (a) SNAs whose ecological integrity is degraded:
 - (b) threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:
 - (c) areas that provide important connectivity or buffering functions:
 - (d) wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:
 - (e) any national priorities for indigenous biodiversity protection.
- (3) Local authorities must consider providing incentives for restoration in priority areas referred to in subclause (2), and in particular where those areas are on Māori lands, in recognition of the opportunity cost of maintaining indigenous biodiversity on that land.
- (4) Local authorities must consider imposing or reviewing restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration.

3.22 Increasing indigenous vegetation cover

- (1) Every regional council must assess the percentage of indigenous vegetation cover in:
 - (a) each of its urban environments; and
 - (b) its non-urban environments.
- (2) The assessment may be done by a desktop analysis, by ground truthing, or both, and must be done in collaboration with relevant territorial authorities.

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- (3) Regional councils must:
 - (a) set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation; and
 - (b) consider setting targets of higher than 10% for other areas, to increase their percentage of indigenous vegetation cover; and
 - (c) include any indigenous vegetation cover targets in their regional policy statements.
- (4) Local authorities must promote the increase of indigenous vegetation cover in their regions and districts through objectives, policies, and methods in their policy statements and plans:
 - (a) having regard to any targets set under subclause (3) by regional councils; and
 - (b) giving priority to all the following:
 - (i) areas referred to in clause 3.21(2):
 - (ii) ensuring species richness:
 - (iii) restoration at a landscape scale across the region.

3.23 Regional biodiversity strategies

- (1) Every regional council must prepare a regional biodiversity strategy that complies with Appendix 5 in collaboration with territorial authorities, tangata whenua, communities and other identified stakeholders.
- (2) Local authorities must have regard to the relevant regional biodiversity strategy when developing restoration objectives, policies, and methods for inclusion in regional policy statements and plans.

3.24 Information requirements

- (1) Every local authority must make or change its policy statements or plans to require that if a resource consent application is required in relation to an indigenous biodiversity matter, the application is not considered unless it includes a report that:
 - (a) is prepared by a qualified and experienced ecologist; and
 - (b) complies with subclause (2); and
 - (c) is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.
- (2) The report by the ecologist must:
 - (a) include a description of the adverse effects of the proposal on indigenous biodiversity and how those effects will be managed using the effects management hierarchy; and

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- (b) identify any effects on identified taonga; and
- (c) identify the ecosystem services associated with indigenous biodiversity at the site; and
- (d) include an assessment of the ecological integrity and connectivity within and beyond the site; and
- (e) include mātauranga Māori and tikanga Māori assessment methodology, where relevant; and
- (f) if biodiversity offsetting is proposed, set out:
 - (i) a detailed plan of what is proposed, including a quantified loss and gain calculation, the currency used in the calculation, and the data that informs the calculation and plan; and
 - (ii) a description of how the relevant principles in Appendix 3 of the National Policy Statement for Indigenous Biodiversity have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving a net gain in biodiversity values:
- (g) if biodiversity compensation is proposed, set out:
 - (i) a detailed plan of what is proposed; and
 - (ii) a description of how the relevant principles in Appendix 4 of the National Policy Statement for Indigenous Biodiversity have been addressed; and
 - (iii) an assessment of the likely success of the plan in achieving its outcomes.

3.25 Monitoring by regional councils

- (1) Regional councils must work with territorial authorities, relevant agencies and tangata whenua to develop a monitoring plan for indigenous biodiversity in their regions and each of their districts.
- (2) Every monitoring plan must:
 - (a) establish methods and timeframes for monitoring:
 - (i) the maintenance of indigenous biodiversity in, and the ecological integrity and physical extent of, SNAs; and
 - (ii) the maintenance of identified taonga; and
 - (iii) the achievement of restoration objectives established under clause 3.21; and
 - (iv) the percentage of indigenous vegetation cover in urban and non-urban environments in its region, as required under clause 3.22.

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- (b) use best practice methods, or nationally agreed standards or methods, for monitoring areas that allow for comparability; and
 - (c) to the extent possible, where tangata whenua agree, use scientific monitoring methods and mātauranga Māori and tikanga Māori monitoring methods equally; and
 - (d) recognise the importance of long-term trends in monitoring results, and the relationship between results and the overall state of indigenous biodiversity; and
 - (e) establish methods, such as action plans, for responding to monitoring that indicates the objectives of this National Policy Statement will not be met.
- (3) Methods and timeframes may include different methods and timeframes relating to SNAs and identified taonga but, if national monitoring methods are available, must use those methods.

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Part 4: Timing

4.1 Timing generally

- (1) Every local authority must give effect to this National Policy Statement as soon as reasonably practicable.
- (2) Local authorities must publicly notify any changes to their policy statements and plans that are necessary to give effect to this National Policy Statement within 8 years after the commencement date.

4.2 Timing for planning provisions for SNAs

- (1) Local authorities must publicly notify any policy statement or plan or changes to these necessary to give effect to subpart 2 of Part 3 (Significant Natural Areas) and clause 3.24 (Information requirements) within 5 years after the commencement date.

4.3 Timing for regional biodiversity strategies

- (1) A regional council that, at the commencement date, has or is in the processes of preparing a regional biodiversity strategy must update or complete the strategy within 10 years after the commencement date.
- (2) A regional council that, at the commencement date, has not prepared or begun to prepare a regional biodiversity strategy must initiate preparation of a strategy within 3 years after the commencement date, and must complete it within 10 years after the commencement date.

4.4 Existing policy statements and plans

- (1) To the extent that policy statements and plans already (at the commencement date) give effect to this National Policy Statement, local authorities are not obliged to make changes to wording or terminology merely for consistency with it.
- (2) In case of dispute, the onus is on the local authority to show that, despite the different wording or terminology used, their policy statement or plan does implement this National Policy Statement.
- (3) However, if a local authority chooses to amend an operative policy statement or plan by merely changing wording or terminology for consistency with this National Policy Statement, the amendment is to be treated as the correction of a minor error (and therefore, under clause 20A of Schedule 1 of the Act, the amendment can be made without using a process in that Schedule).

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Appendix 1: Criteria for identifying areas that qualify as significant natural areas

1 Direction on approach

- (1) This appendix sets out the criteria for identifying significant indigenous vegetation or significant habitats of indigenous fauna in a specific area, so that the area qualifies as an SNA.
- (2) An area qualifies as a significant natural area if it meets any one of the attributes of the following four criteria:
 - (a) representativeness:
 - (b) diversity and pattern:
 - (c) rarity and distinctiveness:
 - (d) ecological context.

2 Context for assessment

- (1) The context for an assessment of an area is:
 - (a) its ecological district; and
 - (b) in the context of the rarity assessment only, its land environment.

3 Manner and form of assessment

- (1) Every assessment must include at least:
 - (a) a map of the area; and
 - (b) a description of its significant attributes, including for each criterion a description of the attribute (as specified below) that applies; and
 - (c) a description of the indigenous vegetation, indigenous fauna, habitat, and ecosystems present; and
 - (d) additional information such as the key threats, pressures, and management requirements.
- (2) An assessment under this appendix must be conducted by a suitably qualified ecologist (which, in the case of an assessment of a geothermal ecosystem, requires an ecologist with geothermal expertise).

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A Representativeness criterion

- (1) Representativeness is the extent to which the indigenous vegetation or habitat of indigenous fauna in an area is typical or characteristic of the indigenous biodiversity of the relevant ecological district.

Key assessment principles

- (2) Representativeness may include commonplace indigenous vegetation and the habitats of indigenous fauna, which is where most indigenous biodiversity is present. It may also include degraded indigenous vegetation, ecosystems and habitats that are typical of what remains in depleted ecological districts. It is not restricted to the best or most representative examples, and it is not a measure of how well that indigenous vegetation or habitat is protected elsewhere in the ecological district.
- (3) Significant indigenous vegetation has ecological integrity typical of the indigenous vegetation of the ecological district in the present-day environment. It includes seral (regenerating) indigenous vegetation that is recovering following natural or induced disturbance, provided species composition is typical of that type of indigenous vegetation.
- (4) Significant indigenous fauna habitat is that which supports the typical suite of indigenous animals that would occur in the present-day environment. Habitat of indigenous fauna may be indigenous or exotic.
- (5) The application of this criterion should result in identification of indigenous vegetation and habitats that are representative of the full range and extent of ecological diversity across all environmental gradients in an ecological district, such as climate, altitude, landform, and soil sequences. The ecological character and pattern of the indigenous vegetation in the ecological district should be described by reference to the types of indigenous vegetation and the landforms on which it occurs.

Attributes of representativeness

- (6) An area that qualifies as an SNA under this criterion has at least one of the following attributes:
- (a) indigenous vegetation that has ecological integrity that is typical of the character of the ecological district:
 - (b) habitat that supports a typical suite of indigenous fauna that is characteristic of the habitat type in the ecological district and retains at least a moderate range of species expected for that habitat type in the ecological district.

B Diversity and pattern criterion

- (1) Diversity and pattern is the extent to which the expected range of diversity and pattern of biological and physical components within the relevant ecological district is present in an area.

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Key assessment principles

- (2) **Diversity of biological components** is expressed in the variation of species, communities, and ecosystems. Biological diversity is associated with variation in physical components, such as geology, soils/substrate, aspect/exposure, altitude/depth, temperature, and salinity.
- (3) **Pattern** includes changes along environmental and landform gradients such as ecotones and sequences.
- (4) **Natural areas** that have a wider range of species, habitats or communities or wider environmental variation due to ecotones, gradients, and sequences in the context of the ecological district, rate more highly under this criterion.

Attributes of diversity and pattern

- (5) An area that qualifies as a significant natural area under this criterion has at least one of the following attributes:
 - (a) at least a moderate diversity of indigenous species, vegetation, habitats of indigenous fauna or communities in the context of the ecological district:
 - (b) presence of indigenous ecotones, complete or partial gradients or sequences.

C Rarity and distinctiveness criterion

- (1) Rarity and distinctiveness is the presence of rare or distinctive indigenous taxa, habitats of indigenous fauna, indigenous vegetation or ecosystems.

Key assessment principles

- (2) **Rarity** is the scarcity (natural or induced) of indigenous elements: species, habitats, vegetation, or ecosystems. Rarity includes elements that are uncommon or threatened.
- (3) **The list of Threatened and At Risk species** is regularly updated by the Department of Conservation. Rarity at a regional or ecological district scale is defined by regional or district lists or determined by expert ecological advice. The significance of nationally listed Threatened and At Risk species should not be downgraded just because they are common within a region or ecological district.
- (4) **Depletion of indigenous vegetation or ecosystems** is assessed using ecological districts and land environments.
- (5) **Distinctiveness** includes distribution limits, type localities, local endemism, relict distributions, and special ecological or scientific features.

Attributes of rarity and distinctiveness

- (6) An area that qualifies as an SNA under this criterion has at least one of the following attributes:
 - (a) provides habitat for an indigenous species that is listed as Threatened or At Risk (Declining) in the New Zealand Threat Classification System lists:

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- (b) an indigenous vegetation type or an indigenous species that is uncommon within the region or ecological district:
- (c) an indigenous species or plant community at or near its natural distributional limit:
- (d) indigenous vegetation that has been reduced to less than 20 per cent of its pre-human extent in the ecological district, region, or land environment:
- (e) indigenous vegetation or habitat of indigenous fauna occurring on naturally uncommon ecosystems:
- (f) the type locality of an indigenous species:
- (g) the presence of a distinctive assemblage or community of indigenous species:
- (h) the presence of a special ecological or scientific feature.

D Ecological context criterion

- (1) Ecological context is the extent to which the size, shape, and configuration of an area within the wider surrounding landscape contributes to its ability to maintain indigenous biodiversity or affects the ability of the surrounding landscape to maintain its indigenous biodiversity.

Key assessment principles

- (2) Ecological context has two main assessment principles:
- (a) the characteristics that help maintain indigenous biodiversity (such as size, shape, and configuration) in the area; and
 - (b) the contribution the area makes to protecting indigenous biodiversity in the wider landscape (such as by linking, connecting to or buffering other natural areas, providing ‘stepping stones’ of habitat or maintaining ecological integrity).

Attributes of ecological context

- (3) An area that qualifies as an SNA under this criterion has at least one of the following attributes:
- (a) at least moderate size and a compact shape, in the context of the relevant ecological district:
 - (b) well-buffered relative to remaining habitats in the relevant ecological district:
 - (c) provides an important full or partial buffer to or link between, one or more important habitats of indigenous fauna or significant natural areas:
 - (d) important for the natural functioning of an ecosystem relative to remaining habitats in the ecological district.

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Appendix 2: Specified highly mobile fauna

Scientific name	Common name	Ecosystem	Threat category
<i>Anarhynchus frontalis</i>	ngutu parore/wrybill	coastal/riverine	Threatened (Nationally Vulnerable)
<i>Anas chlorotis</i>	pāteke/brown teal	wetland/riverine	At Risk (Recovering)
<i>Anas superciliosa superciliosa</i>	pārera/grey duck	wetland/riverine	Threatened (Nationally Critical)
<i>Anthus novaeseelandiae novaeseelandiae</i>	pīhoihoi/NZ pipit	forest/open	At Risk (Declining)
<i>Apteryx australis</i> "northern Fiordland"	northern Fiordland tokoeka	forest/open	Threatened (Nationally Vulnerable)
<i>Apteryx australis australis</i>	southern Fiordland tokoeka	forest/open	Threatened (Nationally Endangered)
<i>Apteryx haastii</i>	roa/great spotted kiwi	forest/open	Threatened (Nationally Vulnerable)
<i>Ardea modesta</i>	kotuku/white heron	wetland/riverine	Threatened (Nationally Critical)
<i>Botaurus poiciloptilus</i>	matuku/bittern	wetland/riverine	Threatened (Nationally Critical)
<i>Bowdleria punctata stewartiana</i>	mātātā/Stewart Island fernbird	wetland/riverine	Threatened (Nationally Vulnerable)
<i>Bowdleria punctata punctata</i>	koroātito/South Island fernbird	wetland/riverine	At Risk (Declining)
<i>Bowdleria punctata vealeae</i>	mātātā/North Island fernbird	wetland/riverine	At Risk (Declining)
<i>Calidris canutus rogersi</i>	huahou/lesser knot	coastal/riverine	Threatened (Nationally Vulnerable)
<i>Chalinolobus tuberculatus</i>	pekapeka/long-tailed bat	forest/open	Threatened (Nationally Critical)
<i>Charadrius bicinctus bicinctus</i>	pohowera/banded dotterel	coastal/riverine	Threatened (Nationally Vulnerable)
<i>Charadrius obscurus aquilonius</i>	tūtiriwhatu/northern NZ dotterel	coastal/riverine	At Risk (Recovering)

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Scientific name	Common name	Ecosystem	Threat category
<i>Charadrius obscurus obscurus</i>	tūtiriwhatu/southern NZ dotterel	coastal/riverine	Threatened (Nationally Critical)
<i>Chlidonias albobristatus</i>	tara pirohe/black-fronted tern	coastal/riverine	Threatened (Nationally Endangered)
<i>Egretta sacra sacra</i>	matuku moana/reef heron	coastal/riverine	Threatened (Nationally Endangered)
<i>Falco novaeseelandiae ferox</i>	kārearea/bush falcon	forest/open	At Risk (Recovering)
<i>Falco novaeseelandiae novaeseelandiae</i>	kārearea/eastern falcon	forest/open	At Risk (Recovering)
<i>Falco novaeseelandiae</i> "southern"	kārearea/southern falcon	forest/open	Threatened (Nationally Vulnerable)
<i>Gallirallus australis greyi</i>	North Island weka	forest/open	At Risk (Recovering)
<i>Gallirallus philippensis assimilis</i>	moho pererū/banded rail	wetland/riverine	At Risk (Declining)
<i>Haematopus finschi</i>	tōrea/South Island pied oystercatcher	coastal/riverine	At Risk (Declining)
<i>Haematopus unicolor</i>	tōrea tai/variable oystercatcher	coastal/riverine	At Risk (Recovering)
<i>Himantopus novaeseelandiae</i>	kakī/black stilt	wetland/riverine	Threatened (Nationally Critical)
<i>Hydroprogne caspia</i>	taranui/Caspian tern	coastal/riverine	Threatened (Nationally Vulnerable)
<i>Hymenolaimus malacorhynchos</i>	whio/blue duck	riverine	Threatened (Nationally Vulnerable)
<i>Larus bulleri</i>	tarāpukā/black-billed gull	coastal/riverine	Threatened (Nationally Critical)
<i>Larus novaehollandiae scopulinus</i>	tarāpunga/red-billed gull	coastal/riverine	At Risk (Declining)
<i>Limosa lapponica baueri</i>	kuaka/eastern bar-tailed godwit	coastal/riverine	At Risk (Declining)
<i>Mystacina tuberculata aupourica</i>	pekapeka/northern short-tailed bat	forest/open	Threatened (Nationally Endangered)

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Scientific name	Common name	Ecosystem	Threat category
<i>Mystacina tuberculata rhyacobia</i>	pekapeka/central short-tailed bat	forest/open	At Risk (Declining)
<i>Mystacina tuberculata tuberculata</i>	pekapeka/southern short-tailed bat	forest/open	At Risk (Recovering)
<i>Nestor meridionalis meridionalis</i>	kākā/South Island kākā	forest/open	Threatened (Nationally Vulnerable)
<i>Nestor meridionalis septentrionalis</i>	kākā/North Island kākā	forest/open	At Risk (Recovering)
<i>Nestor notabilis</i>	kea	forest/open	Threatened (Nationally Endangered)
<i>Petroica australis australis</i>	kakariwai/South Island robin	forest/open	At Risk (Declining)
<i>Phalacrocorax varius varius</i>	kāruhiruhi/pied shag	coastal/riverine	At Risk (Recovering)
<i>Podiceps cristatus australis</i>	kāmana/southern crested grebe	wetland/riverine	Threatened (Nationally Vulnerable)
<i>Poliiocephalus rufopectus</i>	weweia/NZ dabchick	wetland/riverine	At Risk (Recovering)
<i>Porzana pusilla affinis</i>	koitareke/marsh crane	wetland/riverine	At Risk (Declining)
<i>Porzana tabuensis</i>	pūweto/spotless crane	wetland/riverine	At Risk (Declining)
<i>Sterna striata striata</i>	tara/white-fronted tern	coastal/riverine	At Risk (Declining)
<i>Sternula nereis davisae</i>	tara iti/NZ fairy tern	coastal/riverine	Threatened (Nationally Critical)
<i>Thinornis novaeseelandiae</i>	tuturuatu/NZ shore plover	coastal/riverine	Threatened (Nationally Critical)
<i>Xenicus gilviventris</i> "northern"	pīwauwau/northern rock wren	forest/open	Threatened (Nationally Critical)
<i>Xenicus gilviventris</i> "southern"	pīwauwau/southern rock wren	forest/open	Threatened (Nationally Endangered)

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Appendix 3: Principles for biodiversity offsetting

The following sets out a framework of principles for the use of biodiversity offsets. These principles represent a standard for biodiversity offsetting and must be complied with for an action to qualify as a biodiversity offset.

1. **Adherence to effects management hierarchy:** A biodiversity offset is a commitment to redress any more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.
2. **When biodiversity offsetting is not appropriate:** Biodiversity offsets are not appropriate in situations where biodiversity values cannot be offset to achieve a net gain outcome, and if biodiversity values are adversely affected, they will be permanently lost. This principle reflects a standard of acceptability for demonstrating, and then achieving, a net gain in biodiversity values. Examples of where an offset would be inappropriate include where:
 - (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected;
 - (b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse;
 - (c) there are no technically feasible options by which to secure gains within acceptable timeframe.
3. **Net gain:** The biodiversity values to be lost through the activity to which the offset applies are counterbalanced and exceeded by the proposed offsetting activity, so that the result is a net gain when compared to that lost. Net gain is demonstrated by a like-for-like quantitative loss/gain calculation of the following, and is achieved when the ecological values at the offset site exceed those being lost at the impact site across indigenous biodiversity:
 - (a) types of indigenous biodiversity, including when indigenous species depend on introduced species for their persistence; and
 - (b) amount; and
 - (c) condition.
4. **Additionality:** A biodiversity offset achieves gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the offset, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.
5. **Leakage:** Offset design and implementation avoids displacing activities that are harmful to indigenous biodiversity to other locations.

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6. **Landscape context:** Biodiversity offset actions are undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district, and consider the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.
7. **Long-term outcomes:** Biodiversity offsets are managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity.
8. **Time lags:** The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the offset site is minimised so that the calculated gains are achieved within the consent period.
9. **Science and mātauranga Māori:** The design and implementation of a biodiversity offset is a documented process informed by science and mātauranga Māori where available.
10. **Stakeholder participation:** Opportunity for the effective and early participation of stakeholders is demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementing, and monitoring.
11. **Transparency:** The design and implementation of a biodiversity offset, and communication of its results to the public, is undertaken in a transparent and timely manner.

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Appendix 4: Principles for biodiversity compensation

The following sets out a framework of principles for the use of biodiversity compensation. These principles represent a standard for biodiversity compensation and must be complied with for an action to qualify as biodiversity compensation.

1. **Adherence to effects management hierarchy:** Biodiversity compensation is a commitment to redress more than minor residual adverse impacts, and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.
2. **When biodiversity compensation is not appropriate:** Biodiversity compensation is not appropriate where indigenous biodiversity values are not able to be compensated for, for example because:
 - (a) the indigenous biodiversity affected is irreplaceable or vulnerable; or
 - (b) effects on indigenous biodiversity are uncertain, unknown, or little understood, but potential effects are significantly adverse; or
 - (c) there are no technically feasible options by which to secure proposed gains within acceptable timeframes.
3. **Scale of biodiversity compensation:** The values to be lost through the activity to which the biodiversity compensation applies are addressed by positive effects to indigenous biodiversity, (including when indigenous species depend on introduced species for their persistence), that outweigh the adverse effects on indigenous biodiversity.
4. **Additionality:** Biodiversity compensation achieves gains in indigenous biodiversity that are above and beyond gains that would have occurred in the absence of the compensation, such as gains that are additional to any minimisation and remediation undertaken in relation to the adverse effects of the activity.
5. **Leakage:** The design and implementation avoid displacing activities or environmental factors that are harmful to indigenous biodiversity in other locations.
6. **Landscape context:** Biodiversity compensation actions are undertaken where this will result in the best ecological outcome, preferably close to the impact site or within the same ecological district. The actions consider the landscape context of both the impact site and the compensation site, taking into account interactions between species, habitats and ecosystems, spatial connections, and ecosystem function.
7. **Long-term outcomes:** Biodiversity compensation is managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.

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8. **Time lags:** The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the compensation site is minimised.
9. **Trading up:** When trading up forms part of biodiversity compensation, the proposal demonstrates that the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal also shows the values lost are not to Threatened or At Risk species or to species considered vulnerable or irreplaceable.
10. **Financial contributions:** Financial contributions are only considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. Any contributions related to the indigenous biodiversity impacts must be directly linked to an intended indigenous biodiversity gain or benefit.
11. **Science and mātauranga Māori:** The design and implementation of biodiversity compensation is a documented process informed by science and mātauranga Māori where available.
12. **Stakeholder participation:** Opportunity for the effective and early participation of stakeholders is demonstrated when planning for biodiversity compensation, including its evaluation, selection, design, implementation, and monitoring.
13. **Transparency:** The design and implementation of biodiversity compensation, and communication of its results to the public, is undertaken in a transparent and timely manner.

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Appendix 5: Regional biodiversity strategies

1. The purpose of a regional biodiversity strategy is to promote the landscape-scale restoration of the region's indigenous biodiversity.
2. To achieve its purpose, the regional biodiversity strategy of a region must:
 - (a) set out a landscape-scale vision for the restoration of the region's indigenous biodiversity; and
 - (b) recognise and provide for Te Rito o te Harakeke; and
 - (c) provide for resilience to biological and environmental changes, including those associated with climate change; and
 - (d) recognise biological and physical connections within, and between, the terrestrial environment, water bodies, and the coastal marine area; and
 - (e) support the achievement of any national priorities for indigenous biodiversity protection; and
 - (f) record:
 - (i) the actions and methods intended to promote the maintenance and restoration of indigenous biodiversity, and increase in indigenous vegetation cover, in the region;
 - (ii) actions that will be undertaken by local or central government;
 - (iii) actions that the community, including tangata whenua, will be supported or encouraged to undertake; and
 - (iv) how those actions will be resourced.
 - (g) specify milestones for achieving the strategy's purpose; and
 - (h) specify how progress on achieving the strategy's purpose is to be monitored and reported on and measures to be taken if milestones are not being met.
3. A regional biodiversity strategy may also:
 - (a) include measures that are intended to implement other objectives, such as biosecurity, climate mitigation, amenity, or freshwater outcomes, where those measures also contribute to protection and restoration of indigenous biodiversity; and
 - (b) identify areas intended for restoration in accordance with clause 3.21; and
 - (c) identify areas in which indigenous vegetation cover is proposed to be increased, in accordance with clause 3.22.

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4. The following must be taken into account when developing a regional biodiversity strategy:
 - (a) opportunities to engage the community, including tangata whenua, in conservation and, in particular, to connect urban people and communities to indigenous biodiversity:
 - (b) opportunities for partnerships with the QEII Trust, Ngā Whenua Rāhui and others:
 - (c) considering incentive opportunities specific to Māori lands:
 - (d) co-benefits, including for water quality and freshwater habitats, carbon sequestration and hazard mitigation:
 - (e) alignment with strategies under other legislation.

DRAFT



National Policy Statement for Indigenous Biodiversity

Exposure draft summary

This document supports the release of an exposure draft National Policy Statement for Indigenous Biodiversity (NPSIB). It provides background about why we need the NPSIB, how the NPSIB has been developed and changed since consultation, and also provides a high-level summary of the provisions contained within the NPSIB. Those wishing to gain a deeper understanding of the NPSIB should read the full exposure draft.

Why does indigenous biodiversity matter?

Indigenous biodiversity is all the living organisms that occur naturally in Aotearoa New Zealand, and the ecological complexes of which they are a part. Indigenous biodiversity includes mountain forests, regenerating bush, native scrub and grasslands, and native animals that make their homes there and in our productive landscapes and cities.

As New Zealanders, biodiversity is part of our identity. However, the indigenous plants and animals of New Zealand are in decline. Thousands of our native species have been identified as threatened with, or at risk of, extinction. Some of these native plants and animals will disappear forever if we don't work together to increase our national efforts to reverse the decline and restore what has been lost.

We have flora and fauna with unique qualities that are irreplaceable and found nowhere else in the world. This makes our indigenous biodiversity important, not only nationally, but internationally. Indigenous biodiversity is our inheritance and our responsibility.

Iwi, hapū and whānau have distinct and special connections to their land and the environment in their rohe. In te ao Māori, identity, wellbeing, knowledge and how the culture is nourished, are indivisible from the health of Papatūānuku (Earth mother). Humans are embedded in the environment, not distinct from it.

Our economic success also relies on our natural environment. It gives us a competitive advantage that underpins two of New Zealand's key industries, tourism and primary production. Indigenous biodiversity contributes to the success of farming, forestry and horticulture through ecosystem

services such as clean water, nutrient cycling, pollination, and protection from flooding. Safeguarding ecosystems and the services they provide is important for our future prosperity. Maintaining indigenous biodiversity and promoting its restoration has a positive impact on climate change adaptation and mitigation.

The need for a National Policy Statement

The Resource Management Act 1991 (RMA) provides the main framework for maintaining and protecting indigenous biodiversity from adverse effects on private land (through sections 5, 6, 7, 30 and 31).

However, these provisions don't provide detailed direction and are often subject to different interpretation, application and monitoring by councils. This has led to repeat litigation costs, confusion, uncertainty and an undervaluing of biodiversity in decision making. We continue to lose our indigenous biodiversity and taonga – regardless of current efforts to protect and restore them.

The objective of the NPSIB is to protect, maintain and restore indigenous biodiversity in a way that:

- a) recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and
- b) provides for the social, economic and cultural wellbeing of people and communities, now and into the future.

Managing Significant Natural Areas (SNAs) and other provisions in the NPSIB will ensure indigenous biodiversity is maintained overall, including no reductions in:

- the size of populations of indigenous species
- indigenous species occupancy across their natural range
- the properties and function of ecosystems and habitats
- the full range and extent of ecosystems and habitats
- connectivity between, and buffering around, ecosystems
- the resilience and adaptability of ecosystems.

The NPSIB is consistent with the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. The NPSIB contains provisions which require:

- the identification of SNAs, consistently and comprehensively, using a set of ecological criteria which are well known to councils already. This will follow a robust process which involves partnering with landowners early, and the transparent sharing of information
- landowners to be recognised as stewards, and tangata whenua as kaitiaki, of indigenous biodiversity
- a nationally clear and consistent approach for managing and protecting indigenous biodiversity, which provides certainty and supports landowners' efforts to protect indigenous biodiversity
- a management approach for protecting SNAs focussed on managing the adverse effects of new subdivision, use and development
- existing uses to be provided for, where appropriate
- a consenting pathway for specific new uses where effects on indigenous biodiversity can be managed

- councils to work together with tangata whenua to identify and protect taonga species to the extent that tangata whenua would like this to occur
- the establishment of a more flexible regime for use and development of Māori land. This includes direction for councils to work in partnership with Māori landowners when developing resource management provisions to maintain and restore indigenous biodiversity and enable development and papakāinga (housing).

Creating a National Policy Statement

The need for a National Policy Statement for Indigenous Biodiversity has been recognised since as early as 2000. The most recent attempt to create a National Policy Statement was in 2011, but was not progressed due to a lack of stakeholder agreement.

The first draft of the current proposed NPSIB was developed by the Biodiversity Collaborative Group between March 2017 and October 2018. The group comprised Forest and Bird, Federated Farmers, an iwi advisor to the Iwi Chairs' Forum, New Zealand Forest Owners' Association, Environmental Defence Society, and infrastructure industries.

The Ministry for the Environment and the Department of Conservation have worked together to further develop the Biodiversity Collaborative Group's draft National Policy Statement.

Changes to the proposed NPSIB from feedback

Consultation was held on a proposed NPSIB between November 2019 and March 2020, including two series of nationwide hui. During this time, over 7000 submissions were received with a majority supporting the intent of the NPSIB. Support for the policy outlined that it will:

- help address the decline in indigenous biodiversity in New Zealand
- clarify council responsibilities for implementing section 6(c) of the RMA, which requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
- likely increase the ability of tangata whenua to exercise their rights as kaitiaki.

Read the [summary of the submissions](#).

Changes have been made to the proposed NPSIB in response to public consultation, what we heard at hui, and the submissions received. Changes were made as a result of specific submitter concerns about certain policies as well as to better translate original policy direction. This has culminated in the creation of the Draft National Policy Statement for Indigenous Biodiversity exposure draft which has been publicly released.

Changes have been made in response to feedback to ensure that the NPSIB:

- adequately provides for activities which are important for peoples' economic wellbeing, such as farming, forestry and the provision of infrastructure and energy
- identifies indigenous biodiversity which is significant, and clearly outlines the process for managing effects on it without requiring SNAs to be split into 'high' and 'medium' categories
- recognises tangata whenua as kaitiaki and allows for development of Māori land in partnership with tangata whenua, including Māori landowners
- outlines management for geothermal areas and public land which previously only had placeholders.

Policy summary

Te Rito o te Harakeke

The NPSIB has Te Rito o te Harakeke as a fundamental concept to achieve an integrated and holistic approach to maintaining indigenous biodiversity. Te Rito o te Harakeke refers to the need to maintain the integrity of indigenous biodiversity. It recognises the intrinsic value and mauri of indigenous biodiversity as well as people's connections and relationships with it.

It recognises that our health and wellbeing are dependent on the health and wellbeing of indigenous biodiversity and that in return we have a responsibility to care for our indigenous biodiversity. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community.

It acknowledges the status of iwi and hapū as kaitiaki in their rohe and the central role they have in protecting our indigenous biodiversity. It connects to all parts of the NPSIB and how it would be implemented by councils and communities on the ground.

Councils will work with tangata whenua to develop a local approach for giving effect to Te Rito o te Harakeke, identifying and protecting taonga species, and recognising te ao Māori in biodiversity management.

All land tenures are covered

The NPSIB will affect the management of biodiversity on all types of land including public, private and Māori land. Much of New Zealand's indigenous biodiversity is on privately owned and managed land.

This includes ecosystems that are poorly, if at all, represented within public conservation land, such as lowland ecosystems. The NPSIB seeks actions from councils and landowners to show the vital role we all play in ensuring indigenous biodiversity is maintained.

Many farmers and other landowners all over the country are already doing outstanding work either voluntarily, in partnership with organisations such as the Queen Elizabeth II Trust (QEII) and Ngā Whenua Rāhui, or in partnership with their local council. Partnering with organisations such as QEII allows landowners to protect land with important biodiversity values through legal covenants in perpetuity, regardless of future changes in ownership. These covenants are similar to SNAs identified through the NPSIB, but there are some key differences. Covenants:

- may be used to help protect significant natural areas, but can also protect cultural values
- can protect biodiversity which is not yet significant, but has potential to be
- have strict restrictions on future use and development
- frequently require fencing and pest control.

Partnerships and collaboration between landowners, tangata whenua, communities, councils and public agencies is critical to the success of this National Policy Statement.

Regional councils will need to implement regional biodiversity strategies from mountains to seas to align communities behind a shared set of priorities and provide a strong link to [Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020](#).

Significant Natural Areas

The NPSIB requires councils to consistently identify areas with significant vegetation and habitats of significant indigenous fauna. Councils will need to manage their protection through regional and district plans, and consent processes under the RMA. The intent of these provisions is not to identify all indigenous biodiversity but to ensure the indigenous biodiversity that is most significant and precious is identified and protected.

SNAs would be identified by councils and ecologists working with landowners, using standard significance criteria outlined in the NPSIB and which are already widely used by councils. The NPSIB includes principles for councils to follow when identifying SNAs, such as: partnership and transparency. Councils will need to be clear about how information will be used, involve landowners early in the process, and outline support that is available to those with SNAs.

The NPSIB includes provisions to avoid and manage adverse effects from new activities that impact on the identified Significant Natural Areas. The intent is not to stop any new development from occurring, but to ensure that new uses and developments are able to avoid and manage any adverse effects they may have on significant indigenous biodiversity.

Identified taonga species

Previously there has not been a clear RMA process for hapū and iwi to proactively identify their kaitiaki responsibility to taonga species and ecosystems. The NPSIB sets out a framework to enable councils and tangata whenua to work together to identify ecological taonga by describing and mapping, or simply describing the taonga and its values. They can then work together to develop appropriate management controls which involve tangata whenua in managing these taonga to the extent they wish to be involved.

It is up to tangata whenua to determine at each stage of the process the extent of information provided, or its inclusion in plans. The NPSB also requires councils to develop processes to manage information provided about taonga species and to ensure confidentiality where required. Provision is made for the sustainable customary use of identified taonga species according to tikanga and consistent with their protection.

Other important biodiversity

Indigenous biodiversity that exists outside of SNAs is also important. Councils will be required to maintain indigenous biodiversity and manage adverse effects of new activities on indigenous biodiversity outside of SNAs.

The NPSIB also requires regional councils to record areas outside of SNAs that are highly mobile fauna areas, working together with tangata whenua, territorial authorities, and the Department of Conservation. This will increase knowledge of specified highly mobile fauna which are often difficult to detect, or only spend certain parts of the year in an area, but are threatened or at risk and impacted by land-use activities.

Managing particular land-use activities

For the following activities, the NPSIB has some specific management approaches that are different from SNAs in general.

For pastoral farming, some areas may be identified as SNAs (eg, gullies with indigenous forest, shrubland remnants, and grasslands with threatened species present). Farming will continue and councils will work with landholders to advise and support them on how to best manage SNAs to protect their values. Where maintenance of improved pasture is required, it will be able to continue within some parameters.

Some areas in plantation forests also have the potential to be identified as SNAs, as threatened or at-risk fauna may establish populations in these plantations. These areas of the productive forest must then be managed over the course of consecutive rotations so populations of these threatened or at-risk species are maintained. This ensures harvest is still able to occur. Areas of indigenous vegetation that are within the bounds of a plantation forest but do not constitute part of the harvestable forest and have been identified as SNAs, must be managed according to the standard SNA management approach.

Māori land, which includes treaty settlement land, has specific management provisions for local authorities to work in partnership with tangata whenua and Māori landowners to develop objectives, policies and rules which balance the maintenance and protection of indigenous biodiversity on Māori land, with the development of that land. This recognises the historic limitations to development on this land, as well as the prevalence of existing indigenous biodiversity on Māori land. However, these provisions do not apply to land that is also subject to legislation to protect indigenous biodiversity such as the Reserves Act 1977 or the National Parks Act 1980.

Mining and aggregate activities, as well as specified infrastructure, have a more permissive effects management regime which recognises their importance as an economic activity, as well as the fact they are often locationally constrained.

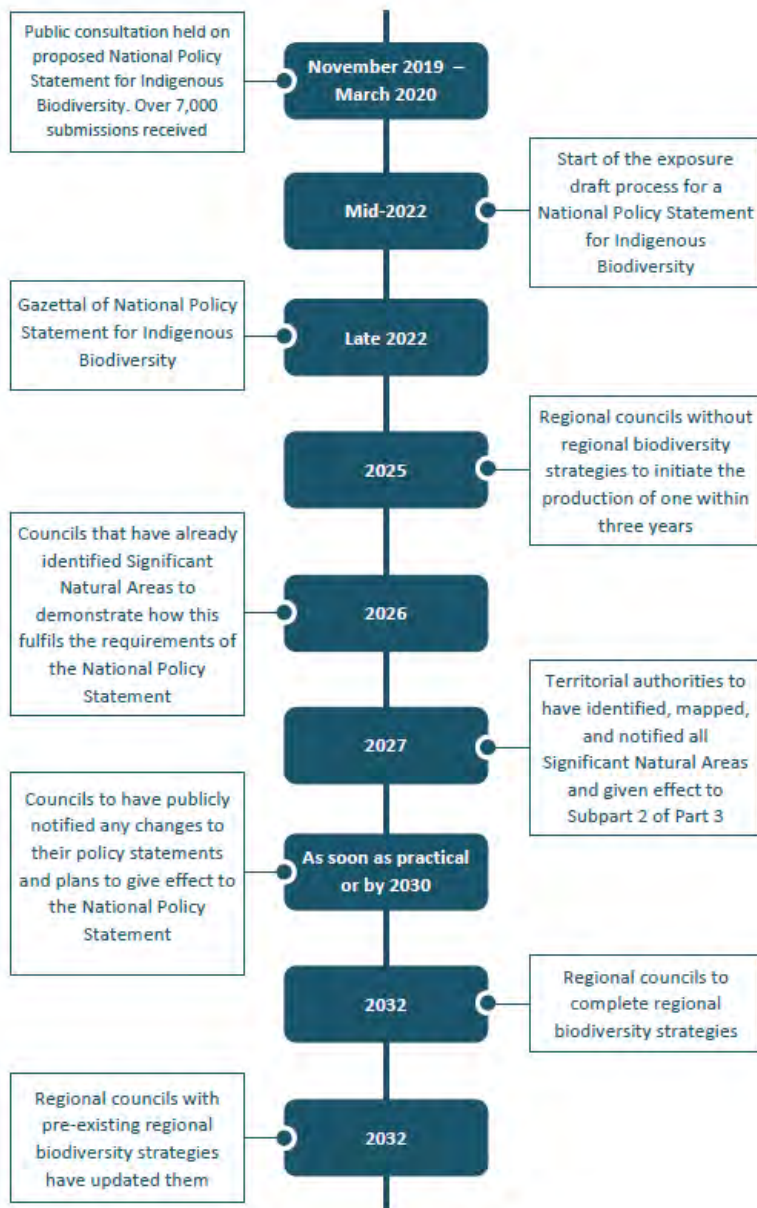
Geothermal SNAs also have a specific management regime. Councils will be required to develop plan provisions that provide a level of protection for a geothermal SNA that reflects the vulnerability of a geothermal SNA to use and development, or that reflects geothermal system classification where councils already have this management approach in place.

Restoring indigenous biodiversity

Restoration is an important part of maintaining New Zealand's indigenous biodiversity. Some ecosystems in New Zealand have suffered so much loss the only way they can be maintained is through restoration and reconstruction. In 2014, there were 71 identified rare ecosystems, with 45 of them threatened with collapse. Wetlands are now only about 10 per cent of their pre-human extent.

The NPSIB will require councils to promote restoration of degraded SNAs, threatened and rare ecosystems, important buffering or connectivity areas, wetlands, urban areas or other areas that align with national priorities.

Timeline



Published in June 2022 by the
 Ministry for the Environment – Manatū Mō Te Taiao
 Publication number: INFO 1057



7.6. Summary of feedback received and policy guidance derived from region wide policy direction and guidance workshop April 2022

Prepared for:	Strategy and Planning Committee
Report No.	SPS2227
Activity:	Governance Report
Author:	Sam Walton, Policy Analyst Land and Freshwater Tom De Pelsemaeker, Acting Manager Policy
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] The purpose of this paper is:
- To provide the Otago Regional Council's (ORC) Strategy and Planning Committee with a summary of the feedback and policy guidance on regionwide issues obtained from Councillors and Iwi representatives during a series of workshops held between 29 September 2021 and 13 April 2022. This feedback and policy guidance will inform the development of the proposed Land and Water Regional Plan (LWRP).
 - To seek endorsement from the Strategy and Planning Committee of the proposed policy guidance recommended by ORC's staff for outstanding regionwide issues.

EXECUTIVE SUMMARY

- [2] Policy guidance from Councillors and Iwi representatives on management approaches for addressing resource management issues in Otago forms an important input for the development of regionwide provisions in the proposed LWRP.
- [3] Between 29 September 2021 and 13 April 2022, ORC Policy staff held workshops for the members of the Strategy and Planning Committee on a wide range of regionwide issues and topics, while also collecting written feedback on these matters.
- [4] While much of the policy guidance and feedback received from Councillors and Iwi representatives is clear, there are still a few topics where further feedback and policy guidance from Councillors and Iwi representatives is required.
- [5] This paper sets out policy guidance recommended by ORC's staff for three remaining outstanding regionwide issues:
- The management of industrial discharges in the LWRP.
 - Providing for water storage for the purpose of Renewable Energy Generation (REG) in the LWRP.
 - Overall approach to drafting the regionwide provisions of the LWRP – Use of short-term consents versus consent review processes.
- [6] An overview of the policy guidance confirmed by the members of the Strategy and Planning Committee during workshops held between September 2021 and April 2022 is appended to this report.
-

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Notes** the policy guidance confirmed by Councillors and Iwi representatives on the Strategy and Planning Committee during workshops held between 29 September 2021 and 13 April 2022 and appended as Attachment 1.
- 3) **Adopts** the recommended policy guidance for:
 - a. *Management of industrial discharges in the proposed Land and Water Regional Plan.*
 - b. *Providing for water storage for the purpose of Renewable Energy Generation in the proposed Land and Water Regional Plan.*
 - c. *The approach with respect to the use of short-term consents and consent review processes in the proposed Land and Water Regional Plan.*

BACKGROUND

- [7] Policy guidance from Councillors and Iwi representatives on management approaches for addressing resource management issues in Otago forms an important input for the development of regionwide provisions in the proposed Land and Water Regional Plan (LWRP).
- [8] During the second half of 2021, ORC Policy staff held workshops for the members of the Strategy and Planning Committee (including the two Iwi representatives) on a wide range of regionwide issues and topics. In December 2021, ORC Policy staff summarised the feedback and policy guidance received from Councillors and Iwi representatives during these workshops and invited them to provide further comments on each topic.
- [9] Feedback was received in January 2022, and while much of the policy guidance received from the members of the Strategy and Planning Committee was clear, there were still a few regionwide topics where further discussion with Councillors and Iwi representatives was required to distil clear policy guidance.
- [10] On 13 April 2022, a further workshop was held as part of the Strategy and Planning Committee on the topics where clear guidance on regionwide issues and topics was not provided. At this workshop, an overview of the policy guidance confirmed by members of the Strategy and Planning Committee prior to 13 April 2022 workshop was tabled. This overview is included in Attachment 1.
- [11] During the 13 April 2022 workshop, members of the Strategy and Planning Committee were also invited to provide further guidance on the outstanding topics. As a result of this workshop, the outstanding topics were narrowed further, with only a small number of topics not having clear policy guidance.

DISCUSSION

- [12] The discussion section in this report is divided into two main parts.
- [13] The first part of the discussion section provides a brief summary of the feedback and the policy guidance obtained from Councillors and Iwi representatives on the Strategy and Planning Committee during the 13 April 2022 workshop.

- [14] The second part of the discussion section sets out in detail the remaining outstanding issues where the members of the Strategy and Planning Committee expressed divergent views or requested further information on the option(s) available. For each of these matters the paper sets out a policy position recommended by staff and, where appropriate, a summary of any supporting information requested.

Regionwide issues and topics with settled policy from the Strategy and Planning Committee

- [15] The regionwide issues and topics discussed at the 13 April 2022 workshop that staff received consistent feedback and policy guidance on include:
- a. **Discharges:** Principles that apply to discharge management.
 - b. **Augmented flows:** Circumstances and activities where it is supported or considered appropriate.
 - c. **Allocation regimes:** Efficient supply infrastructure.
 - d. **Wetlands:** Restoration focus.
 - e. **Flow sharing:** Support via conditions or agreement amongst consent holders.
 - f. **Gravel and mineral extraction:** Giving effect to the hierarchy of obligation in the NPS-FM and Te Mana o te Wai (TMOTW).

- [16] The tables in Attachment 2 outline in detail the Councillor and Iwi representative feedback on these various regionwide issues, as recorded by staff in the left column. The policy guidance derived from this feedback and from the discussions at the Strategy and Planning Committee workshop is displayed in the right column.

Outstanding issues: regionwide issues and topics where more information was requested, or members of the Strategy and Planning Committee expressed divergent views

- [17] The regionwide issues for which currently no clear policy guidance exists, or where the members of the Strategy and Planning Committee expressed diverging views, or requested further information on the available management option(s), are as follows:

Industrial Discharges

What principles should apply to the management of industrial discharges?	
Cr/ Iwi rep feedback	Recommended policy guidance (staff derived)
<ul style="list-style-type: none"> • Where is the policy at with respect to the management of industrial discharges? 	<p>It is recommended to apply the same approach for the management of industrial discharges under the new LWRP is that proposed for other types of discharges. This approach will be based on the following principles:</p> <ul style="list-style-type: none"> • A proactive approach • Comprehensive and integrated approach • Preference for discharges to land • Avoidance of unauthorised discharges • Mandatory improvement to discharge practice/ management • Restrictive; tight discharge limits • No consents unless discharges are treated to high standard.

Overall approach to drafting

Issue: Using consent reviews, as opposed to consent duration to bring freshwater take and use consents into line with LWRP environmental outcomes.	
Cr/ Iwi rep feedback	Further information
<ul style="list-style-type: none"> • Incentivise longer-term consents and provide for easier consent pathways where: <ul style="list-style-type: none"> ○ evidence is provided that the landholder is contributing towards achieving the environmental outcomes in the plan; and ○ the activity is undertaken within the context of catchment-wide approach to water management (i.e., catchment group). • Incentivise/support the development of catchment plans. • Provide for non-regulatory tools. • Provide certainty by granting consents while allowing landholders to adapt to changing conditions. • Preference for consent reviews as opposed to arbitrary short-term duration. • Make use of both consent review processes and short-term consents as mechanisms to achieve environmental outcomes, rather than solely relying on short term consent only. 	<ul style="list-style-type: none"> • Maximum consent terms of 35 years are no longer widespread practice across New Zealand. • In some instances, using the review process under s128 of the RMA (Resource Management Act) may go some way towards achieving environmental outcomes, but may not be sufficient to fully achieve these for following reasons: <ul style="list-style-type: none"> ○ Where the effects of an activity are shown to be detrimental, the s128 review process does not provide ORC with the authority to stop an activity until the consent expires. ○ The ability to impose more effective consent conditions to safeguard the health of freshwater is constrained by the requirement to consider the financial viability of the activity under s131 of the RMA.
	Recommended policy guidance (staff derived)
	<ul style="list-style-type: none"> • Bring the maximum duration for consents granted by ORC in line with planning practice elsewhere in New Zealand (15 to 20 years). • As a general principle, consent terms should be proportionate to: <ul style="list-style-type: none"> ○ the degree of environmental risk and uncertainty associated with the activity; and ○ the state of the source water body or receiving environment. • Where environmental degradation (water quality) and overallocation (water quantity) exist consider applying catchment expiry dates to ensure progress is made towards achieving environmental outcomes within the timeframes set by the visions in the (proposed) Regional Policy Statement (RPS). • Depending on the circumstances, consent review processes and short-term consents can be used as a means of achieving the environmental outcomes set in the LWRP and the visions in the (proposed) RPS. For example, consent review processes can be used where the environmental outcomes for the source/receiving waterbody are being achieved and the health of the water body will not be degraded by the (cumulative) effects of the

	<p>activity.</p> <p>Preference for short term consents should be given where:</p> <ul style="list-style-type: none"> ○ The target attribute states, limits and environmental outcomes for key values have not been set in the LWRP; or ○ The environmental outcomes for the source/receiving waterbody are not being achieved and the water body is currently degraded. <ul style="list-style-type: none"> ● When making decisions on resource consent applications, consent durations and the need for review conditions, consideration should be given to the degree to which applicant can provide evidence of being able to make a meaningful and positive contribution towards improving environmental health of the source/receiving waterbody and maintaining the environmental outcomes or achieving these within required timeframes. (This evidence can include catchment plans and non-regulatory tools).
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Water storage

Should all renewable energy generation (REG) be provided for, or only low impact renewable options?	
Cr/ Iwi rep feedback	Further information
<ul style="list-style-type: none"> ● Smaller/medium schemes can be encouraged provided the effects on values e.g., biodiversity, biosecurity, and ecosystems, are minimal and/or mitigated. ● Would not want to discourage REG. ● Encourage resilience. ● Encourage water storage. ● Preference for low impact schemes, but awareness of Central Government priorities ● Over time, there needs to be a discussion on giving effect to the NPS-FM hierarchy of obligations. ● Policy – if allocation available, then preference for non-consumptive takes. 	<p>NPS Freshwater Management 2020</p> <p>Clause 1.3: Te Mana o te Wai</p> <p><i>(1) ... refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. ...</i></p> <p><i>(2) ... relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this NPS.</i></p> <p>Clause 2.1 Objective</p> <p><i>(1) ... natural and physical resources are managed in a way that prioritises:</i></p> <p><i>(a) first, the health and well-being of water bodies and freshwater ecosystems</i></p> <p><i>(b) second, the health needs of people (such as drinking water)</i></p> <p><i>(c) third, the ability of people and communities to provide for their social, economic, and cultural well-</i></p>

<ul style="list-style-type: none"> • Efficiency is key. 	<p><i>being, now and in the future.</i>¹</p> <p>Clause 2.2 Policy 7: <i>The loss of river extent and values is avoided to the extent practicable.</i></p> <p>NPS Renewable Energy Generation (NPS-REG) 2011 Objective: <i>To recognise the national significance of renewable electricity generation activities by providing for the development, operation, maintenance and upgrading of new and existing renewable electricity generation activities, such that the proportion of NZ’s electricity generated from renewable energy sources increases to a level that meets or exceeds the NZ Government’s national target for renewable electricity generation.</i></p> <p>Preamble of the NPS-REG: <i>“...this national policy statement does not apply to the allocation and prioritisation of freshwater as these are matters for regional councils to address in a catchment or regional context and may be subject to the development of national guidance in the future.”</i></p>
	<p style="text-align: center;">Recommended policy guidance (staff derived)</p> <ul style="list-style-type: none"> • Not an overall avoid policy, however: <ul style="list-style-type: none"> ○ Incentivise small and medium hydro schemes where the environmental effects are minimal and/or mitigated ○ Give preference to resilient and low-impact REG schemes. ○ Extend the principle of efficiency in resource use, to the use of water for REG. • Ensure consistency with national climate change targets, the direction set in the NPS-REG and the concept of TMOTW in the NPS-FM by <ul style="list-style-type: none"> ○ Giving effect to the NPS-REG objective. ○ Recognising that the provision of REG is subordinate to the duty to look after the health and well-being of water bodies and freshwater ecosystems as a first priority (TMOTW). • Provided allocation of water is available, non-consumptive takes are preferred.

¹ NPSFM’s s32 analysis report p 46 states:
... renewable electricity generation, which is important for meeting the health needs of people (clause (b)) as well as enabling communities to provide for their social, cultural and economic well-being, now and into the future (clause (c))

OPTIONS

- [18] As discussed in the introduction of this report, ORC staff require clear policy guidance on a small number of outstanding topics outlined above to develop regionwide provisions for the LWRP.
- [19] ORC staff seek that the Strategy and Planning Committee endorses the recommended policy guidance on outstanding topics as outlined in the tables included under paragraph 17 of this report.
- [20] The other option would be for the recommended policy guidance not to be endorsed. The consequences of that would be further work would be required from staff, and it would impact on the consultation and engagement programme on the region wide provisions, which is set to commence later in the 2022.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [21] ORC is responsible for implementing new national direction and regulations, including by notifying new or updated RPSs and regional plans that set out how ORC will give effect to the relevant higher order documents. ORC has committed to a work programme with the Minister for the Environment which includes notifying a new LWRP by December 2023.
- [22] The policy guidance provided by the Strategy and Planning Committee is an important input in the development of the LWRP and will enable it to be fit for purpose and give effect to the NPS-FM.
- [23] The new LWRP will contribute to fulfilling Council's objectives under ORC's Strategic Directions of leading environmental management in Otago, in partnership with mana whenua; promoting collaboration with territorial authorities and others to achieve resilient and sustainable communities; and promoting a healthy and resilient environment whose capacity for sustaining life and ecosystem health is enhanced and sustained.

Financial Considerations

- [24] The Policy Team administers existing budgets for the development of the LWRP. Any expenditures associated with the development of the LWRP are funded from these budgets.
- [25] There are no direct financial implications on the existing budget flowing on from the policy guidance on regionwide issues provided by the Strategy and Planning Committee or from adopting the staff recommendations with respect to the policy guidance for any outstanding regionwide issues.

Significance and Engagement Considerations

- [26] This step in the development of the LWRP does not trigger ORC's *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*. If the policy guidance is confirmed, this policy guidance will be used for targeted consultation and engagement on the region wide provisions. This consultation and engagement is consistent with the requirements in the NPS-FM.

Legislative and Risk Considerations

- [27] The development of a new LWRP is a requirement of the NPS-FM. The proposed LWRP will be developed in accordance with the process and other requirements prescribed by the NPS-FM and the Resource Management Act 1991 (RMA).
- [28] Consideration of policy guidance provided by Councillors and Iwi representatives at the initial stages of the development of the LWRP assists with ensuring that community and mana whenua concerns and expectations are accurately captured and addressed and reduces the risk of delays in the timely notification of the LWRP.

Climate Change Considerations

- [29] Recognition of climate change and its effects on the health and wellbeing of the people and environment of Otago is one of the matters to which the LWRP needs to respond in order to give effect to the NPS-FM, in particular Policy 4: *Freshwater is managed as part of New Zealand's integrated response to climate change*.
- [30] Previous workshops have considered climate change and how it may affect regionwide matters that will be addressed in the LWRP. Councillors have provided feedback and policy guidance particularly with respect to the management of natural hazards.

Communications Considerations

- [31] There are no communications implications to be considered for this step in the development of the LWRP.

NEXT STEPS

- [32] ORC staff will use the policy guidance obtained from the Strategy and Planning Committee as an input in the development of the regionwide provisions for the proposed LWRP.

ATTACHMENTS

1. Otago Land and Water Regional Plan - Settled Region Wide topics and issues 12 April 2022 [7.6.1 - 38 pages]
2. Feedback from 13 April 2022 Workshop [7.6.2 - 4 pages]

Otago Land and Water Regional Plan

Overview of regionwide issues and topics where no further direction on long-term outcomes and management approaches is sought

Councillor Workshop 13 April 2022

Background

Over the period September 2021 – November 2021 a series of Councillor workshops were held seeking feedback on long-term outcomes and strategic management approach for diverse regionwide topics and issues. The feedback received provides guidance to ORC policy staff when developing the policy directions to be set by the regionwide provisions in the new Land and Water Regional Plan (LWRP), which is currently under development and scheduled to be notified by 31 December 2023.

In December 2021, ORC staff provided councillors and Iwi representatives on the Strategy and Planning (S&P) Committee with a compilation of the guidance for future policy directions for the various regionwide topics/issues obtained from the previous Councillor workshops. Councillors and Iwi representatives then had the opportunity to confirm the guidance and to provide additional feedback on the proposed policy directions. In addition, Aukaha and Te Ao Marama staff have also provided feedback on the guidance provided by councillors and Iwi representatives on the S&P Committee compiled after conclusion of the September 2021 to November 2021 workshops.

Through this process some of the guidance for future policy direction provided by councillors and Iwi representatives on the S&P Committee has been confirmed by ORC staff as guidance for the development of regionwide provisions in the LWRP. This has been the case where there has been clear agreement between the guidance provided by Councillors and mana whenua.

Purpose of this paper

This paper provides a summary of the regionwide topics and issues that were discussed during these previous workshops and where the feedback received has given ORC staff policy direction for the long-term outcomes and strategic management to be developed and set as regionwide provisions in the new LWRP. Appendix 1 provides a more comprehensive overview of all feedback:

- provided by ORC councillors and Iwi representatives on the Strategy and Planning Committee;
- ORC staff responses; and
- Further comments by Aukaha and Te Ao Mamara staff.

This paper and its Appendix (Appendix 1) do not include topics and issues that still require further input from Councillors and Mana Whenua.¹ Therefore, the topics and issues outlined in this paper will not be the focus of discussion at the Strategy and Planning Committee scheduled for 13 April 2022.

¹ See paper with overview of regionwide issues and topics where further direction on long-term outcomes and management approach is sought.

Regionwide topics/issues where ORC staff have guidance and direction

Biodiversity

- Scope (freshwater and terrestrial)
- Outcome focused

Land use controls

- Activity management
- Outcome and activity focused

Wetlands²

- Overall direction supported regarding protection and restoration

Natural features and landscapes

- General support and feedback noted

Gravel and mineral extraction²

- Providing a framework for gravel extraction management

Natural Hazards

- Active management of activities
- Apply a precautionary approach

Soils

- Outcome focused, avoid a reactionary approach

Discharges²

- Use all activity classifications.
- Avoid further degradation (land and water) and restoration where it is degraded.

Water storage

- Encourage off-stream storage, discourage on-stream.

Allocation regime²

- Create a more dynamic allocation system and create clear environmental bottom lines.

Overall approach to drafting

- A permissive approach is no longer appropriate.
- Use all activity status classifications.

² While the guidance for the future policy direction for the stated aspects of this regionwide topic/issue has been confirmed, other aspects of this topic need further discussion during the 13 April 2022 workshop.

Appendix 1 – LWRP Regionwide topics/issues where no further direction on long term outcomes and management approaches is sought (overview of previous workshop feedback, proposed policy direction and ORC, Aukaha and Te Ao Marama staff comments)

**[red = no clear policy direction, Orange= unclear/inconsistent, green = Policy direction confirmed by Councillor feedback, blue = Aukaha and Te Ao Marama comments]*

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Biodiversity

<p><i>Should all freshwater and terrestrial biodiversity be managed under the Land and Water Regional Plan (LWRP)?</i></p> <p><i>What aspects of terrestrial biodiversity (if any) should be managed through the LWRP?</i></p> <p><i>What aspects of freshwater biodiversity should be managed through the LWRP?</i></p> <p><i>Should biodiversity be managed at a small scale (i.e. size of building platforms) or at wider scale (i.e. catchment scale)?</i></p> <p><i>Should the LWRP be focussing only on threatened or declining species?</i></p> <p><i>How much emphasis should be put in the LWRP on restoration?</i></p>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> The LWRP is one of the tools that will assist to achieve the outcomes promoted in the ANZBS [Te Mana O Te Taiao: Aotearoa New Zealand Biodiversity Strategy] and needs to recognise some of the key aspects of the ANZBS (i.e., through collaboration with key stakeholders). Need to identify which strategies do we want to be consistent with and how we are going to implement these i.e., through LWRP, through other strategies/tools or combination of these. Need to make sure that strategies are not contradicting each other. Take holistic view i.e., consider downstream ecosystems (Discharges to the ocean do massive harm). Feedback from Biodiversity team: Hawkes Bay has a useful biodiversity inventory. This would be a useful tool for Council to develop. Suggested approach would be to put in place interim measures while developing this inventory and do a plan change later to backfill LWRP. Avoid the risk of reductionism by applying a systematic view to resource management. Don't want to use LWRP as a sledgehammer to achieve restoration, better use it as one of the tools (including collaboration). Proposed steps: 	<p>Take a holistic view and avoid a reductionist approach to resource management.</p> <p>Focus on wider biodiversity values and ecosystems (including downstream ecosystems), rather than on specific species (i.e. threatened species).</p>	<ol style="list-style-type: none"> As an overview, FW and Terr biodiversity should be managed under the LWRP at a wider scale and should not focus only on threatened or declining species. There should be substantial effort on restoration because this will meet other goals as well. Threatened species is more linked to the NPSIB I suspect whereas biodiversity under the LWRP should be of a broader scale 	<p>Policy direction confirmed. Further comments noted re 'restoration' which is consistent with RPS, i.e. ECO-O2 and ECO-P8.</p>	<p>Support broader ecosystem/habitat approach, focus on restoration, and alignment with other strategies. Likely requirements in the proposed Indigenous Biodiversity NPS relating to taoka species and habitats should also be reflected</p> <p>Consider LWRP should have broader focus on management of terrestrial/freshwater biodiversity, (although we note this may be at odds with responsibilities assigned in RPS methods). Effects on habitats that cross boundaries between land/ freshwater and coast also need to be factored in.</p>	<p>Agree that all freshwater and terrestrial biodiversity should be managed under the Land and Water Regional Plan (LWRP) – this is consistent with ki uta ki tai, te mana o te wai, te hauora o te wai, te taiao and te tangata</p>

<ul style="list-style-type: none"> o Establish the facts – what is the state of Otago’s biodiversity (i.e. mapping). o Establish what obligations are (under law). o Understand what other agencies are doing (TAs, DOC). o Look at what ORC is doing. o Look after existing biodiversity, best strategies to protect and enhance. o Establish links between existing biodiversity pockets or ecosystems. o Address management gaps o Restore degraded ecosystems/biodiversity values. o Move away from activities that threaten diversity. · Focus on threatened or endangered species <ul style="list-style-type: none"> o Encourage all biodiversity not just threatened/endangered. o Threatened/endangered – higher bar more common – lower the bar. o Higher bar should be applied to threatened species or rare ecosystems. This criterion can be applied when identifying management approaches. o Cherry-picking species is risky. o Micromanaging species is problematic. o Need overarching view that supports biodiversity and wider ecosystems. o Focus on ecosystems rather than on species. · ORC’s responsibilities – active management: <ul style="list-style-type: none"> o Proposed Regional Policy Statement (PRPS) provides ORC with the option of becoming more active in this space – look to achieve practical management approaches that result in concrete changes on the ground. o The draft National Policy Statement Indigenous Biodiversity (NPSIB) also provides ORC with responsibility in management of indigenous biodiversity. PRPS and Draft NPSIB 	<p>Develop a biodiversity inventory.</p>	<p>An inventory would help identify ‘what biodiversity’ is at the catchment level</p>	<p>Policy direction confirmed. Further comment noted re catchment level biodiversity identification.</p>	<p>While an inventory would be useful, we also need better understanding of effects of land use activities, discharges, water extraction etc on species and habitats</p>	<p>Agree that an inventory would help, and overall need to increase knowledge of taonga species populations and habitats (ie kōura/kēwai, kākahi) through monitoring for example and support catchment communities, including mana whenua, in their efforts to protect and restore terrestrial and instream biodiversity. Relationship between LWRP and catchment action plans, must work together and with other agencies.</p>
	<p>Set interim measures in the LWRP while developing this inventory (see above).</p> <p>Do a plan change to the LWRP to insert a comprehensive regime in the plan post 2025.</p>	<p>The LWRP should act as a tool to facilitate action to communicate for community action and reduce silo approach</p>	<p>Comment noted. Plan can encourage non regulatory action, but biodiversity management needs to be broader than LWRP to avoid silos. No change in policy direction required.</p>	<p>Agree biodiversity management needs to be broader than LWRP, but we also consider the LWRP should not be too narrowly a regulatory plan and should also promote/ facilitate non-regulatory action.</p>	
	<p>Ensure the LWRP will assist with achieving the outcomes promoted in the Te Mana o te Taiao – Aotearoa New Zealand Biodiversity strategy (ANZBS).</p> <p>Recognise key aspects of ANZBS in the LWRP (i.e., stakeholder collaboration).</p>	<p>Yes, the LWRP is a key tool to promote and encourage action on biodiversity loss</p>	<p>Policy direction confirmed.</p>		
	<p>Develop provisions that:</p> <ul style="list-style-type: none"> · Establish links between existing biodiversity pockets or ecosystems. · Address management gaps. · Enable restoration of degraded ecosystems/biodiversity values (but don’t require restoration in all circumstances). 	<p>Biodiversity action requires leaders, champions and connectors, a community wide approach, the LWRP should have a framework that includes collective action and initiatives</p>	<p>Policy direction confirmed. Further comment noted re LWRP providing a framework for collaborative approach to biodiversity action.</p>	<p>Support, and note that the LWRP framework also needs to recognise the kaitiaki role of Kāi Tahu (as distinct from community collaboration).</p>	<p>Apply hauora principles to management of biodiversity in order to prioritise the health and wellbeing of indigenous species and habitats, so that activities are required to demonstrate how they are supporting biodiversity rather than a traditional effects based</p>

<p>expected to be gazetted before the end of 2022.</p> <ul style="list-style-type: none"> · Questions: <ul style="list-style-type: none"> ○ What space should ORC fill? ○ What was the output of previous meetings? ○ What role does Council (LWRP) want in management of biodiversity? Council reserved option. ○ Are we going beyond water? Managing terrestrial biodiversity significant burden potentially. ○ Need to determine where we want to be on the scale. See ECO-M1 of the PRPS [1] · What we need: <ul style="list-style-type: none"> ○ More clarity around how far ORC wants to/can go in terms of managing land and how far we manage land. ○ Understand what biodiversity values we have before we decide what we want to manage. ○ To consider the ability to enable, encourage or force land use change that result in increased biodiversity. 	<ul style="list-style-type: none"> · Look after existing diversity. · Control activities that threaten biodiversity · Enable practical and effective management approaches that result in concrete changes on the ground. · Set a higher bar for activities that impact on threatened /endangered species or rare ecosystems (apply lower bar for activities with effects on more 'common' biodiversity values) 				<p>approach. Requirement to demonstrate how biodiversity will be protected or restored will change mindset about native species and habitats, beyond ranking areas or species as high or low value. For example, mānuka and kānuka are highly valued taonga species, whilst relatively common. Our remaining biodiversity whether common or not should not be sacrificed as it all remains precious to Ngāi Tahu ki Murihiku and much has already been lost. Ngāi Tahu ki Murihiku must be involved in identifying appropriate criteria when identifying management approaches</p>
<ul style="list-style-type: none"> · Considerations: <ul style="list-style-type: none"> ○ Climate change. ○ Fire control in Central Otago. ○ Correlations between land, biodiversity, water quality, climate change. ○ Spraying of grassed road verges/reserve. ○ Rich biodiversity values in tussock country. ○ Restoration plays an important role: communicative educational role. 	<p>Set criteria that can be applied when identifying management approaches.</p>	<p>Yes, would be useful to have some guiding criteria</p>	<p>Policy direction confirmed.</p>		
<ul style="list-style-type: none"> · Actions: <ul style="list-style-type: none"> ○ Council requested a paper on biodiversity and a biodiversity workshop. 	<p>Recognise the potential impacts of climate change on biodiversity and the correlations between land management, water quality, climate change and biodiversity.</p>	<ol style="list-style-type: none"> 1. This is fundamental. 2. LWRP needs to be forward looking 	<p>Policy direction confirmed. Further comments noted re the fundamental importance of recognising the potential impacts of climate change and the LWRP being forward looking. RPS is aspirational and forward looking which provides platform for LWRP</p>	<p>We support the direction (although we note that climate change is not referred to in ECO policies in the RPS). Climate change effects on biosecurity and pest management will also be massive – to what degree can these be integrated with the LWRP? The impacts of climate change on soil quality should also be recognised.</p>	<p>Agree that recognising climate change impacts is fundamental</p>

Land use controls

Should the LWRP manage all land use activities? (i.e., Cultivation, earthworks, land clearance, stock exclusion, feedlots & stockholding areas, agricultural intensification, intensive winter grazing)					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Keep land use controls at a national level. · What are the consequences of gaps in the LWRP? · What controls actively deliver on many fronts? · Sharing controls with TA's / showing leadership for management of water quality. · Control the unplanned sucking up of water. · Speed water changes – what we do for land – potential effects: <ul style="list-style-type: none"> ○ Speed of water entering catchments. ○ Weather events. · Impacts on water quality to be managed: · Effects of forestry on wind – loss of soil – TA issue? · Avoid cherry-picking (i.e., focussing on certain activities). · Develop plan provisions and controls that can actively encourage those types of land use that will help us achieve the outcomes (this in turn will help with establish partnerships with TAs and other partners). · Controls can be set as permitted activity conditions which means that people don't need to apply for consent. · Cultivation, earthworks and land clearance have impacts on water quality. Water quality impacts should be a key indicator or trigger for controls. · Lake Hayes Decision: mechanism to help where to act. 	Apply land use controls that are consistent with those set at a national level (e.g. National Environmental Standards for Freshwater, S360 stock exclusion regulations)		Policy direction confirmed.	Need to consider appropriateness of stricter controls where national environmental standards will not achieve the outcomes required by the NPSFM - this is a particular concern in relation to the Plantation Forestry NES. We also consider the riparian setbacks included for some activities in the Freshwater NES are inadequate in at least some situations e.g. sloping land.	Regional controls cannot be less stringent than national direction but could extend to be more stringent in some cases specific to Otago circumstances where necessary to give effect to Te Mana o te Wai
	Build on central government regulations (including requirement to have farm plans) and use the LWRP to fill in gaps.	This recognises unique situations that may be present in Otago.	Policy direction confirmed.		Agree that we need to control activities that are not currently managed and can affect flows in waterbodies (eg forestry)
	Control activities that are currently not managed and that can result in increased water demand or can reduce water yield, instream flows.	Important distinction to address, one thing that needs attention is more effort and research into dryland farming as opposed to expecting to take more and more water out of rivers to address drying / climate change	Policy direction confirmed. These provisions will sit alongside water allocation, climate change and other relevant provisions to manage outcomes. Science workstreams to understand high risk land uses and water yield.		
	Take a holistic view, rather than focussing on certain activities.		Policy direction confirmed. Staff note that the LWRP will be outcome focused. Will still have provisions relating to particular	Support focus on outcomes but need to be clear about what activities will be controlled to ensure the outcomes are achieved.	Agree that we need to take a holistic view, but it is still useful to have the activity specific provisions as agreed in PC8, which may be improved upon to

			activities, such as structures in beds of lakes as a land use activity.	Also need to recognise that there are particular outcomes for activities on the beds of lakes and rivers that are different from activities on dry land and also need to be addressed - including impacts on the benthic environment, private occupation of space and the impacts of this on natural character and on other users. Activities that can affect these outcomes include structures, moorings, disturbance/ deposition of material e.g. through suction dredging and gravel extraction.	support desired outcomes in a catchment setting. PC8 provisions on their own are not enough. ORC has committed to all parties in mediation to revisit particular activities and consider what may need to change to support catchment outcomes (eg setback to waterbodies, intensive winter grazing). Ngāi Tahu ki Murihiku were present during mediation such that this commitment was made to the Treaty partner and must be honoured. Need to involve Ngāi Tahu ki Murihiku in identification of land uses that support outcomes.
	When considering land uses also consider: <ul style="list-style-type: none"> the effects of the land use on soil health the impacts of the land use on water quantity and water quality the impacts of climate change (including seeding, pest proliferation, wind erosion, change in water yield) 		Policy direction confirmed.	Kā rūnaka consider there is a need for more investigation/ research on dryland farming approaches as a response to climate change	Ngāi Tahu ki Murihiku seek to protect drinking water and to achieve drinkable water standards across the takiwā wherever possible to recognise hauora and for the benefit of future generations
	Develop plan provisions that encourage: <ul style="list-style-type: none"> land uses that will help achieve outcomes/objectives in the LWRP partnerships with TAs and other stakeholders. 		Policy direction confirmed.		Important to recognise cumulative effects and manage direct and diffuse discharges to achieve catchment outcomes. First priority must be to as far as possible prevent or reduce discharge of contaminants to waterbodies in order to protect and restore mauri. Policy direction is not clear regarding approach to

					diffuse discharges and approach to direct discharges. Substantial reduction in contamination of waterbodies will be required in parts of Otago so this needs further attention.
	Set controls in the LWRP that provide for:		Policy direction confirmed.		
	Manage water quality impacts of discharges caused by a specific land use by:		Policy direction confirmed.		

	(Where possible) manage activities through permitted activity status (subject to conditions) to avoid the need to apply for consent.		Policy direction confirmed.		Permitted activity status may be appropriate where activities can demonstrate how they are contributing to catchment outcomes but cannot be blanket regionwide approach as activity status must respond to catchment needs and existing levels of degradation that require remedial action, otherwise catchment efforts could be undermined – also not aligned with overall policy framework
	Set in the LWRP a framework that: <ul style="list-style-type: none"> · Provides clear direction for farm plans (including on content and on outcomes that need to be achieved through the farm plans) · Reinforces the effectiveness of farm plans as a regulatory tool. · Ensures farm plans are focused on managing environmental effects, not on farming type. 		Policy direction confirmed.		Agree that farm plans are an important tool - they must be able to demonstrate how they are supporting catchment outcomes, including through processes of continuous improvement, and how they are actively providing for te hauora o te wai, rather than an effects based approach (ie hauora farm plans), considering all relevant indicators including Ngāi Tahu indicators of health
Are the provisions of Plan Change 8 sufficient?					
<i>[No specific feedback was provided. Further feedback is welcomed]</i>					

<i>If carbon farming is to be included, what matters should be controlled, and where should the controls apply?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<p>Carbon farming control:</p> <ul style="list-style-type: none"> Propensity for water abstraction – dry catchment is less life sustaining. Density of forest – fire protection – biodiversity. Link to reduction of catchment yield. Need controls in the plan to better manage carbon farming and the effects it has on ecosystems. Impact of Pinus Radiata on water yield (make sure to define water yield): needs to become a consented activity. Control density of forest and fire protection, protecting existing biodiversity on site. <p>Farm plans:</p> <ul style="list-style-type: none"> Focus on effects, not type of farming. Clear direction for farm plans in LWRP. Protection of high-class soils / soil health. Land use map of Otago. Make sure that we build on what is coming down from Central government (farm plans) and use the LWRP to fill in gaps. Think about that you want to be stated in the LWRP that needs to be referenced in the farm plans. Ensure that the effectiveness of farm plans as a regulatory tool is reinforced through clear direction in the LWRP around what needs to be achieved. <p>Issues:</p> <ul style="list-style-type: none"> Water yield – too much, too little. Soil health and soil loss. Natural hazards. Biodiversity. Nitrogen application to land. 	<p>The LWRP needs to better manage carbon farming:</p> <ul style="list-style-type: none"> Ensure carbon forestry is a consented activity Control the effects on ecosystems and biodiversity on the site. Control the density of forestry Enable fire protection Manage the impacts on soil erosion (including wind erosion) 	<ol style="list-style-type: none"> Worried that we have cherry picked one land use to concentrate on here. There are others that are also highly detrimental, so we need to ensure the plan is consistent in delivering better environmental outcomes no matter the land use Yes need to avoid unintended consequences of the effects of carbon farming in an unregulated way I assume that effects on ecosystem and biodiversity include pest plant and pest animal control/eradication. May need to be highlighted as this is already a key issue Enable fire protection. - should be that the consent ensures fire protection plan and assets (Roads, tracks, water availability and access) and that a carbon forest provides access for pest monitoring/control Manage impacts on soil erosion - is probably only relevant if the forest is harvested. 	<p>Policy direction confirmed; LWRP will be outcome focused but still have specific activity-based rules. Science workstreams to address water yield and high-risk land uses.</p>	<p>Need to distinguish between exotic and indigenous species - planting of indigenous species is preferred. Also note that water yield is not the only issue with exotic forestry for carbon farming - other concerns include modification of wāhi tūpuna and spread of wilding species.</p>	<p>Refer to Ngāi Tahu ki Murihiku position previously provided to ORC, which favours spatial planning and differentiation between permanent exotic forests and other kinds of plantation forestry, as well as between exotic and indigenous plantings – effects on waterbody health and overall catchment health must be prioritised in management, including use of indigenous vegetation buffers between waterbodies and exotic forests for instance</p>

For earthworks and land clearance should the LWRP assume full responsibility or share the responsibility with territorial authorities (TAs)?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<p>NES freshwater already covers some of the above activities, but we can go further. Do we want to?</p> <p>Some Otago specific issues include:</p> <ul style="list-style-type: none"> Carbon farming or some of the effects. Uses of land that affect water yield. <p>Considerations:</p> <ul style="list-style-type: none"> Consider the effects of the use. Consider the potential influence of weather events and changes to hydrological patterns on the scale and intensity of environmental effects caused by land use and land development (i.e., cultivating in a paddocks or land use development). Focus on water retention and measures to slow down discharges. These effects are currently being exacerbated by climate change (changing weather patterns – intensity and frequency). Make sure water retention systems are built to the right capacity with consideration of climate change effects. Not just looking at discharges management but also seek to reduce the amount of water that is needing to be discharged. Address discharges from urban development and urban infrastructure. Need to think about the impacts of activities on freshwater and soil health. Consider the impacts on the water quality and water quantity in unison. Consider impacts of climate change (including the impacts of wind on seeding and water yield). <p>Matters that should be controlled and where controls should apply:</p> <ul style="list-style-type: none"> Protection of soil retention and soil health. Protection of high-class soils. Rural subdivision into lifestyle blocks (loss of productive land into non-productive land). Human drinking water impacts. 	<p>Share controls with TAs while also showing leadership.</p>	<p>Does require some sharing of responsibility with TA's</p>	<p>Policy direction confirmed. Further comment noted on the requirement to share responsibility with TA's.</p>		<p>Ngāi Tahu ki Murihiku has supported ORC sharing responsibilities with TAs in relation to earthworks and land uses in Environment Court proceedings on PC8. Development of land use controls must involve Ngāi Tahu ki Murihiku.</p>
	<p>Use water quality impacts from cultivation, earthworks and land clearance as a key indicator or trigger for controls.</p>		<p>Policy direction confirmed.</p>	<p>Controls on earthworks and land clearance may also be needed to achieve other outcomes e.g. land clearance effects on water yield.</p> <p>How would impacts as the trigger for controls work? Literal interpretation of this would suggest a reactive rather than proactive response, which has been problematic. Is the intent rather to ensure that development of controls is informed by known impacts?</p>	

Wetlands

Given wetland identification and mapping is a large task, what interim measures should be included in the LWRP?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Some controls already in NESFW (vegetation clearance, earthwork and disturbance). · Given that there is uncertainty around the definition of wetlands and the difficulties surrounding wetland mapping (scale of tasks), we need to have a clear view on how to manage in the interim until we know what we have. · What interim measures should be included: <ul style="list-style-type: none"> o Include RSW o Prioritising which one to map first (mapping will be a huge undertaking) o Protect hydrology o Fencing o Retain all wetlands, not just iconic ones · Identification of wetlands: <ul style="list-style-type: none"> o Can we use the work done mapping regionally significant wetlands and Wildlands Consultants work? Until we know what we are dealing with, we can't draft rules. o Lidar. o Use farm plans to identify wetlands (land over 50ha). o Uncertainty is only around subset of wetland, a lot of info about the majority of the wetlands o Mapped ones – specific rules. o Unmapped ones – mechanisms to protect these too. Three step process: <ul style="list-style-type: none"> o Remove regionally significant wetlands from Water Plan. o Ground truth known wetlands. o Plan-change to include wetlands in LWRP. Landowner incentives to protect wetlands: 	<ul style="list-style-type: none"> Interim measures to include in the LWRP include: <ul style="list-style-type: none"> · Identification of Regionally Significant Wetlands (RSW) and framework for managing these. · Measures to protect wetland hydrology · Requirements for fencing · Measures to retain all wetlands, not just iconic ones 	<ol style="list-style-type: none"> 1) Need to work with TAs to make sure wetlands are not continually drained, either to make way for housing nor by providing water (through nearby bores). Anything that drains or harms wetlands needs to be managed 2) Agree that the emphasis should be on retaining 'all wetlands', not just the iconic remnants. 3) Consideration - There may be an instance where it is necessary to lessen the extent of a wetland to ensure critical infrastructure sustainability that is necessary for safety reasons or access. In this type of instance with a high threshold it may be necessary to allow off setting. 	<p>Policy direction confirmed in relation to retention of all wetlands. Further comment (3) noted but issue and limitations given NPSFM i.e. Policy 6 and NESFW i.e. Part 3.</p>	<p>Support overall direction for wetlands, which has to be consistent with the NPSFM policy that there should be no further loss of extent or values of wetlands.</p>	<p>Agree with level of urgency and requirement for full scope. Agree with viewing wetlands through lens of Te Mana o Te Wai. Note NES FW settings strengthen this kaupapa. Values assessments useful but recognise all wetlands have value and that where they have been degraded there is opportunity to support them to return to health in accordance with hauora principles. Mapping is about preservation, which is a high priority, but cannot be dependent on differentiating values, particularly given the multiple benefits provided by wetlands (eg habitat and biodiversity, water quality, water quantity, climate change resilience, Ngāi Tahu connection). Wetlands are essential catchment infrastructure and may be essential on farm infrastructure, part of natural capital.</p>

<ul style="list-style-type: none"> o ORC role outside plan o Do things by consent with landholders o Keep as few regulatory barriers in to encourage and foster good land management practice o Tell people what it is that people need to do/be mindful of to protect the wetlands <p>Role of wetlands –</p> <ul style="list-style-type: none"> o Ecosystems / intrinsic values o Biodiversity o First line of protection <p>Acknowledge wetland functions</p> <p>ORC actions:</p> <ul style="list-style-type: none"> o Identifying them o Contribute to the cost for protecting (fencing) o Educating about them o Voluntary action through catchment groups 	<p>Apply a three-step process that requires:</p> <ul style="list-style-type: none"> · Inclusion of RSWs (listed in the operative Water Plan) into the LWRP. · Ground truthing of known wetlands. · Include newly identified wetlands in the LWRP via plan change post 2025. 	<p>As above (2).</p>	<p>Policy direction confirmed; Further comment noted.</p>		<p>Must involve Ngāi Tahu ki Murihiku in development of criteria to understand good wetland management practice</p>
<ul style="list-style-type: none"> o Biodiversity o First line of protection <p>Acknowledge wetland functions</p> <p>ORC actions:</p> <ul style="list-style-type: none"> o Identifying them o Contribute to the cost for protecting (fencing) o Educating about them o Voluntary action through catchment groups 	<p>Set specific rules for mapped Wetlands and mechanisms to protect those that are unmapped.</p>	<p>Given that over 90% of wetlands have been lost or severely compromised, this is urgent and important to reverse the decline</p>	<p>Policy direction confirmed; Further comment noted re urgency and reversing decline. LWRP will be giving effect to NPSFM and be consistent with NESFW.</p>		<p>Non-regulatory methods must be a companion to the LWRP through supports for catchment actions, part of catchment planning and coordinating actions on properties and between properties within a catchment.</p>
<p>Should the management be broad scale (all identified wetlands) or should it be prioritised (threats, condition, location, size)?</p>					
<p>Workshop feedback (Received Nov-Dec 2021)</p>	<p>Policy direction (Staff derived Dec 21)</p>	<p>Councillor/ Iwi rep comments (Received Jan 22)</p>	<p>Staff response</p>	<p>Aukaha comments</p>	<p>Te Ao Marama comments (Received Apr 22)</p>
<p>Starting position for developing management tools/ reg controls and non reg responses: How do we get to the best result.</p> <p>IWG example: Doing it on an education basis to shape engagement with landholders with wetlands.</p> <p>Wetlands need to be managed to protect their diverse values.</p> <p>Wetland values need to be identified</p> <p>In the LWRP we need to be clear on what “protect” means. i.e., specific that it means to:</p> <ul style="list-style-type: none"> o Mitigate threats to biodiversity and other functions and values o Look after its natural state <p>Prioritise technical work on identifying and assessing wetlands:</p> <ul style="list-style-type: none"> o Start with RSW o Tackle other wetlands afterwards <p>Methods to protect</p> <ul style="list-style-type: none"> o Fence 	<p>Apply a holistic approach: identify wetland values first and then manage wetlands to protect their suite of diverse values.</p>	<p>Identification is fundamental, but managing wetlands should not wait until the identification process is complete, but start as soon as practicable</p>	<p>Policy direction agreed. Note work programme to map wetlands is underway and as set out in the LTP, is intended to be done over a number of years. Plan will provide policy direction to protect wetlands even if they are not mapped, in accordance with the NESFW</p>	<p>Support overall direction for wetlands, which has to be consistent with the NPSFM policy that there should be no further loss of extent or values of wetlands.</p>	
<p>The LWRP must clearly define “protect” i.e. meaning:</p> <ul style="list-style-type: none"> · Mitigating threats to biodiversity and other functions and values. · Looking after its natural state. 		<p>Include the approach of mana o te wai to help identify the environmental needs and benefits of ‘protecting’ the biodiversity associated with wetlands and environmental health</p>	<p>Policy direction confirmed.</p>		

<ul style="list-style-type: none"> o Retain all wetlands o Underline part they play/function o Criteria that drive identification <p>Protect –</p> <ul style="list-style-type: none"> o Don't drain o Identify biodiversity – not reduce o Protection from subdivision and water abstraction o Connections with lakes and rivers o Wider environmental context o Mahika kai and cultural value 	<p>Protect wetlands from:</p> <ul style="list-style-type: none"> · Drainage and water abstraction · Subdivision, land development and disturbance (e.g. through fencing) · Wetland & biodiversity loss (retain all existing wetlands) · Loss of connectivity with lakes, rivers and wider environmental context. · Loss of Mahika kai and cultural values 		<p>Policy direction confirmed</p>		
	<p>Use non-regulatory methods where appropriate, such as:</p> <ul style="list-style-type: none"> · Contribution to protection costs i.e., fencing · Education of landholders (how to look after wetlands). · Promotion of voluntary action through catchment groups. 		<p>Policy direction confirmed. Some aspects are outside of LWRP.</p>		
	<p>The starting point for developing regulatory as well as non-regulatory responses should be outcome focused i.e. How to get the best result.</p>	<p>What is the 'best result' referred to, a compromise or a halt in the loss of wetlands</p>	<p>Policy direction needs to be consistent with NES FW which is no further loss of wetlands. Note objectives and policies in RPS re Wetlands, i.e. LF-FW09</p>		

Natural features and landscapes

<i>Should the LWRP take a region-wide approach or should the identification of natural features and landscapes relevant to the LWRP occur at an FMU/rohe level? What might that look like?</i>					
<p>Most landscapes already identified as highly valued in TA's. Minimum level needed for outstanding. Use the consultation to find out what the community thinks needs protection. Don't give the community the complication of deciding between outstanding and highly valued. Second stage would be informing the community of the effects of the first stage and how to put the natural features and landscapes into the different categories. Natural features include: o Braided rivers, waterfalls, scroll plains, unconstrained / natural river courses, estuaries, natural lakes, Lake Hawea, reservoirs, St Bathans, lowland lakes, glaciers, wetlands, lakes, river environs, Nevis Valley.</p>	<p>Use community engagement to gather views on natural features and landscapes requiring protection.</p>	<p>1) I think its important to define criteria for natural features and landscapes – is the fact that they are what they are a reason in itself not to, for example, build in their vicinity? 2) There will be a specific Kai Tahu cultural perspective also 3) Natural features - Why would reservoir be included? Natural</p>	<p>Policy direction confirmed. Further comments noted; case law provides guidance and sets out non-exhaustive criteria for assessing landscape (For example, see Wakatipu Envi Soc, case series). Kai Tahu values will be determined by Kai Tahu and are recognised as part of the assessment criteria. A reservoir is not necessarily precluded from being considered a natural feature or landscape; this will depend on the assessment of a particular landscape/reservoir.?</p>	<p>What community engagement is proposed here? It is not clear that feedback on this matter will be obtained through the FMU engagement. The approach will also need some integration with work on ONFs/ONLs etc that TAs have been doing, to avoid confusion and duplication of processes. (Note that an issue to be aware of is that kā rūnaka are not happy with being 'another tick box' in the Pigeon Bay assessment criteria - at national level, we understand that NZILA/Tuia Pito Ora been doing work on a more bicultural approach to landscape identification and assessment.) See our comment below on the distinction between wāhi tūpuna and natural landscapes.</p>	<p>Endorse focus on what is genuinely natural with reference to cultural landscapes and Āpiti Hono Tātai Hono - criteria must be developed with Ngāi Tahu ki Murihiku Must also identify desired Ngāi Tahu activities and uses and provide for them so that restrictive settings do not impact on cultural use and association – ie default 'avoid' status may interrupt cultural practice</p>

<i>Once identified, and thinking about the protection of outstanding/highly valued natural features and landscapes, how restrictive should the LWRP provisions be in respect of land and water use? And what might that look like?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<p>Different consent status for ONL vs HVL: o ONL – leaning towards “avoid” effects unless activities managed under NPS regulations, projects of national significance. o HVL – retaining values (or enhancing).</p>	<p>Provide for a minimum level of protection for outstanding natural features.</p>	<p>Have a definition of what is an ONF</p>	<p>Policy direction confirmed. Further comment noted re definition of ONF and will provided in drafting.</p>	<p>The role of the LWRP compared to the role of district plans needs clarification. It is also unclear what 'minimum level of protection' means</p>	<p>The role of the LWRP compared to the role of district plans needs clarification. It is also unclear what 'minimum level of protection' means - does it</p>

<p>Works instream, earthworks in riparian zones, managing vegetation in riparian margins. Also consider heritage sites, wahi tapua, (creation stories), mahika kai, cultural heritage. Protection - land use change, damming, water management. Protection of edges of lakes, rivers and wetlands. Question – as much as possible vs selected?</p>				<p>- does it relate to the 'avoid' approach described below? How does it sit with RPS policies/methods - eg. does it relate to identifying development capacity (NFL-P1) or is it more about effects tests (NFL-P2)?</p>	<p>relate to the 'avoid' approach described below? How does it sit with RPS policies/methods - eg. does it relate to identifying development capacity (NFL-P1) or is it more about effects tests (NFL-P2)?</p>
	<p>Apply different activity status/thresholds for Outstanding Natural Features & Landscapes (ONF&L) and Highly Valued Natural Features & Landscapes (HVNF&L):</p> <ul style="list-style-type: none"> · ONF&L: more likely to require 'avoidance' of effects unless the activity is managed under NPS regulations, or if it is project of national significance. · HVNF&L: more likely to require the retention or enhancement of values. 	<p>1) Understand what is an undesirable effect on an ONF it will be different for a river than for a wetland for example. 2) In addition to ONL's and ONF's, there are Wahi Tupuna in Otago, recognised in some district plans and notified district plans, need to include reference to the values associated with them</p>	<p>Policy direction confirmed. Understanding effects on specific ONL/ONF will be on a consent-by-consent basis.</p>		
	<p>Manage activities that can have an impact on ONF&Ls and HVNF&Ls such as:</p> <ul style="list-style-type: none"> · Instream works · Activities on edges of lakes, rivers and wetlands (ie. earthworks) · Vegetation in riparian margins · Land use change · Activities involving the taking, use and damming of water 	<p>As above</p>	<p>Policy direction confirmed. Note ONL/ONF is a s6 matter, HVL's are a s7 matter.</p>		
	<p>Allow for consideration of heritage sites, wahi tapua (creation stories), mahika kai and cultural heritage values</p>	<p>Wahi tupuna (include additional values besides creation stories), can relate to ancestors, discovery, naming and associated meanings</p>	<p>Policy direction confirmed.</p>	<p>Need to distinguish between wāhi tūpuna and NFL. Wāhi tūpuna outcomes relate to the relationship of mana whenua to the land (s 6(e) RMA), so are different from ONL. Also wāhi tūpuna are about contemporary</p>	<p>Agree it is necessary to understand relationship with wāhi tūpuna (see Ngāi Tahu ki Murihiku submission on pORPS)</p>

				associations as well as tūpuna associations, so should not just be categorised as 'heritage'. Discussion is needed on how values associated with wāhi tūpuna should be referenced in ONLs.	
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Gravel and mineral extraction

Should the LWRP provide for gravel extraction on a CONSENT-BY-CONSENT basis, or should it adopt an approach that leaves Council in full control? Irrespective of the answer to the previous question [above], what volume of gravel, and for what uses, is appropriate as a permitted activity?

Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Manage gravel for: o Health and safety protection o Crucial infrastructure protection o Protecting private land (?) o Protect against bank erosion o Protect cultural/burial sites o Consider access o Amenity values o Heritage values o Ecological indigenous biodiversity o Mahika kai o Gravel extraction should not be used to enable incompatible land uses o River management strategy o Flood protection o Gravel management o Bank protection o Willow management/riparian management o Flow management	Gravel takes that can be considered as a Permitted activity include those for: · Health and safety protection · Crucial infrastructure protection · Protecting of private land · Protection against bank erosion · Protection of cultural/burial sites	1) This needs community input. 2) Reasons for gravel extraction: a) Surely it must be permitted to take gravel from rivers for roading and construction - provided that extraction is compliant with the river management plan. b) Do we want to encourage more quarries? c) Ecan is working with roading companies now to ensure another Ashburton event doesn't repeat itself. d) Gravel extraction for roading & construction can be used to offset the cost to ratepayers of our river management plans. Examples are available."	Can test permitted activities with communities through engagement processes throughout LWRP development for both FMU and RW provisions.	Need to ensure any permitted activity categories are narrowly defined. We have a particular concern about the category of 'protection of private land', as flagged below.	Hierarchy of obligations applies such that the needs of the river will dictate appropriate volumes, methods, location according to what is required to deliver catchment outcomes and what the river needs to be healthy – permitted activities should be set with catchment needs in mind (ie demonstration of support for catchment outcomes)

What environmental effects should the LWRP framework for gravel extraction consider?

Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Considerations: o Ecosystem, spawning habitat and nesting birds o Work with catchment groups – planting o Climate change – giving rivers space	Manage gravel extraction to prevent restricting river channels.	There may be variables to the standard approach given the different nature of rivers, braided rivers and rivers that naturally move over time	Noted, will seek further options for managing different types of river systems	See comment above - this is one of the factors that makes us question the appropriateness of global consents.	

<ul style="list-style-type: none"> o Stock exclusion (some) o Manage defences against water o Preference against channelisation o Pest control (pest management strategy) 	Consider climate change impacts on gravel management (give rivers space)		Policy direction confirmed		
	Consideration should be given to impacts of gravel takes on: <ul style="list-style-type: none"> · Access · Amenity values · Heritage values · Ecological indigenous biodiversity values (Prevent adverse effects on ecosystems, including spawning habitat and nesting birds). · Mahika kai values · River form (preference against channelisation) · Spreading of pests · Defences against water 		Policy direction confirmed		
	Gravel extraction should not be used to enable incompatible land uses		Policy direction confirmed		

Natural hazards

<i>Should the LWRP actively manage activities to prevent natural hazards risk?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Don't want to be too restrictive, as this may inhibit engineering solutions. · First step is to identify natural hazards and mapping. · Second step is to inform the public of any major natural hazards that come to light and start considering adding necessary precautions into the plan change. 	Establish outcomes (not necessarily methods) that encourage innovative solutions, including engineering.		Policy direction confirmed. Further comments noted		Need to relate to climate change and increased hazard risks and distinguish between approaches to new activities and approaches to existing activities – plan for long term development (100yrs)

	<p>In high-risk areas/hazardous areas:</p> <ul style="list-style-type: none"> · Manage location of development, e.g. no essential services in high-risk areas · Consider retreat from high-risk areas where development exists. · Protect people i.e., residential/schools/hospitals 	<p>Need to work with TAs on educating people – maybe LIM acknowledgment of natural hazards. Should we protect residential areas from hazard? Possibly not. But they must know the risk they take. I don't want to burden future ratepayers with the liability of poor decision making by developers/property owners because we are bound to protect their property.</p>	<p>Policy direction confirmed. Further comments noted</p>	<p>In developing controls (particularly but not only prohibitions), need awareness that there may be low-income communities in hazard areas, vulnerable not only to hazards but to economic pressures associated with changing property values, rising insurance costs, lack of mobility etc.</p>	
<p><i>What interim measures should be in place to prevent natural hazard risk while mapping is being completed?</i></p>					
<p>Workshop feedback (Received Nov-Dec 2021)</p>	<p>Policy direction (Staff derived Dec 21)</p>	<p>Councillor/ Iwi rep comments (Received Jan 22)</p>	<p>Staff response</p>	<p>Aukaha comments (Received Mar 22)A</p>	<p>Te Ao Marama comments (Received Apr 22)</p>
<p>As above</p>	<p>When insufficient information is available take a precautionary approach, incl.:</p> <ul style="list-style-type: none"> · Require resource consent · Provide scope to consider a wide range of matters and set consent conditions addressing (potential) effects. 		<p>Policy direction confirmed</p>		<p>Agree with precautionary approach where information is lacking</p>
	<p>Use a 3-step process:</p> <ol style="list-style-type: none"> 1. Identification and mapping of natural hazards 2. Inform the public of major natural hazards 3. Consider adding precautionary measures in the plan o 		<p>Policy direction confirmed</p>		<p>Not just mapping. Need to think in integrated way about fire risk, flood risk, high winds etc and link regulatory and non-regulatory, recognise relationship with other issues (eg land use, water management) and work on a catchment basis</p>

Are there any known areas of risk that should be protected immediately? what level of protection is appropriate for those areas?					
[No specific feedback was provided. Further feedback is welcomed]					

Should the LWRP extinguish existing use rights, and prohibit new activities, where the natural hazard risk is significant? Should a lesser degree of risk invoke such action?						
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)	
<ul style="list-style-type: none"> · Existing use rights. · No land use change (subdivision/intensification) in hazard areas. · Prohibited activities status could be considered: <ul style="list-style-type: none"> o If sufficient information indicates it goes beyond tolerable. o If it creates a risk for community. · If there is not enough information is available, take the precautionary approach: <ul style="list-style-type: none"> o Allow for consent application to be considered. o Provide council with opportunity /scope to consider various matters / set conditions. · Considerations: <ul style="list-style-type: none"> o Don't invest public money in protection of individual assets o Cumulative impacts including climate change o Protect people i.e., residential/schools/hospitals o Prevent essential services locating in hazardous areas o Manage location of development sites o Managed retreat from high-risk areas 	Prohibit land use change or specific activities (i.e., subdivision) in hazard areas.		Policy direction confirmed	See comment above	Differentiate between existing and new activities, mobile or fixed infrastructure	
	Consider prohibited activity status for activities when: <ul style="list-style-type: none"> · The activity creates a risk for the community, and · There is sufficient information that indicates the risk is beyond tolerable. Consider climate change and the cumulative impacts of activities on hazard risk.	1) Also need to consider risk for future ratepayers and the risk of liability we take on through protection. 2) What level of 'hazard' will invoke a prohibited status and who will determine that?		Natural Hazards are undertaking a region wide risk assessment which will inform hazard identification and classification		
				Policy direction confirmed		Refer to existing Otago climate change risk assessment and other work being undertaken by ORC that has been informed by mana whenua

Soils

<i>Is the issue soil health or is it wider than this? What gives rise to or has an influence on the issue?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> Wait for the central government to issue a statement. In the meantime, check what is happening in the TAs. See if there are any gaps in soil uses and the effects on the soil Use ORC and TA knowledge to explore what positive impacts can be made through restricting certain land uses or provide the areas of concern. 	Develop policy to: <ul style="list-style-type: none"> Provide for maintenance and protection of soil health and Minimise activities that adversely affect soil health. 	May need further research here. Also need to work with TAs re: earthworks and subdivision impacts;	Policy direction confirmed; Will work with science team re: updated SMaps, and other LU mapping being done; PCB already addressing residential earthworks; all earthworks/sediment loss will be addressed as part of regional provisions, across a range of activities	We consider it is important for the LWRP to manage soil loss as well as soil health.	Agree with Aukaha comment, and for the need to improve understanding of soil health

<i>What might land use controls look like?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> Partly leave it up to farm plans to manage soil. Need mechanism to monitor the soil. Retention of soil should be prioritised where appropriate Educating landholders on sustainable land use Manage soil for soil health and health of freshwater Soil condition influences: <ul style="list-style-type: none"> What we plant Discharges (nutrients) Compaction. 	Require action through farm plans and set strong direction for farm plans in the LWRP.		Policy direction confirmed.		
	Provisions in the LWRP that relate to management of soil health need to consider: <ul style="list-style-type: none"> The effects on soil health from a wide range of activities. The importance of retaining the organic matter in soil. The prevention of soil loss into rivers and high-class soil loss in general from unproductive land uses i.e., golf courses, rural residential development. Managing the effects of forestry to a higher standard than those prescribed in the NESPF. The impacts of headwaters, slope, cultivation, winter-grazing, on erosion and soil health. 	The loss of sediments to rivers and ultimately to the sea has a catastrophic effect on the benthic values on the Otago coast and estuaries	Comments noted. Region wide provisions will manage sediment loss, in addition to specific provisions by FMU		
	Land use controls must provide for active management of residential, commercial, and industrial land uses to avoid a reactionary			LWRP will be outcome focused to avoid reactionary approach	

	approach (i.e., an ‘ambulance at the bottom of a cliff’ scenario.)					
<i>Is now the time to consider a reset of the land use map – to achieve a better match between intrinsic values of soils and productive uses?</i>						
<i>What might that look like? Has anything been omitted from this consideration?</i>						
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)	
<ul style="list-style-type: none"> · Farm plans, change to unproductive uses (golf courses, rural residential development) mining soils, forestry. · Considerations: <ul style="list-style-type: none"> o Important to retain organic matter of soil o LWRP should allow for consideration of effects on soil health for wide range of activities o Need to prevent loss of soils into rivers o Need to prevent loss of high-class soils o Active management – residential, commercial, industrial o Start the thinking in the headwaters o Forestry – go further than the NESPF o Slope, cultivation, winter-grazing, erosion o Land management practices instead of the ambulance at the bottom of the cliff o Need to protect productive soils - NPS-HPL o Look at approaches to reset land use / soil balance. · Issues are: <ul style="list-style-type: none"> o Economics o Timeframes o Effect on communities. 	Establish management approaches (policy, methods) to reset land use /soil balance.	If we come from a position of prioritising the environment because our economy depends on a healthy environment, we should get this right. The minute we stray into ‘balance’ territory, thinking we can ‘balance’ economy and environment, we will be thinking wrong.	LWRP will be outcome focused. Land uses will be managed under the new plan		Refer to land use comments re farm plans	
			Reset land use map --- Land use controls. - we earlier agree that we should. ‘Take a holistic view rather than focus on certain activities’ Why then would we not use the same mantra when formulating land use maps?	LWRP will be outcome focused. Land uses will be managed under the new plan	We support prioritisation of environmental outcomes.	Agree, not just a farming issue. Applying hauora principles all sediment sources to waterbodies must be managed to prevent degradation and restore them to health, including estuaries, which will occur as soil health is protected (and restored) – need consistency in this area with land use controls policy
		Prioritise soil and freshwater health and environmental outcomes over production uses.		Policy direction confirmed		Agree with outcomes approach – also need to control upstream inputs that are risks to achieving outcomes and combine both regulatory and non-regulatory methods to target risk, including use of

					spatial planning, land use controls, catchment plans, farm plans
	Interim measures to manage issues relating to soil health should include collaborating with TA's where appropriate, to: <ul style="list-style-type: none"> · Explore and share knowledge and options, such as land use control and restrictions that can contribute to positive effects in areas of concern. · Take a proactive approach until clear guidance is issued by central government. 		Policy direction confirmed		Agree with TA collaboration – also other agencies and actors working within a catchment to combine in a shared mission of hauora in that place

Discharges

Do you agree with the general approach outlined above – using all activity classifications? If not, what alternatives should be considered?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Use all activity classifications Greater attention given to road and roof run-off in LWRP LWRP – less human-centric (focus on health effects), more attention to effects on the wider environment One-off activities with a short-term environmental impact should be permitted or permitted with conditions Take into account the presence or absence of cumulative effects Activities that should be permitted subject to conditions should be specified Some discharges will need to be prohibited	Use all activity status classifications in the LWRP.		Policy direction confirmed		Agree - all activity classifications to be used
	The LWRP should focus less on human-centric issues (i.e. focus on health effects) and more on the effects on the wider environment.	Cumulative effects on the wider environment is a consequence of poor human-centric practices	Policy direction confirmed. Further comment noted		Agree with the need to address cumulative effects
	When considering whether certain discharges should be permitted, consented or provided for consider the presence or absence of cumulative effects			Mixing water means for example, avoiding wastewater entering stormwater network.	We support strong direction on consideration of cumulative effects - this is very important in looking at the effects of discharges. (Note that the staff response here seems to be in the wrong place - see comment on it below.)
What effects of discharges to land and freshwater should the LWRP focus on?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Avoid further degradation – nutrient, silt, contaminant build-up Restore where degraded Avoid mixing of water Focus on effects identified in NPS-FM, through NOF Holistic view Consider cumulative effects Consider effects of historic practices and current development (eg. Urban, forestry) FMU-specific values should be protected Conditional on the hierarchy of the RMA Intangible cultural values should be protected too.	Avoid further degradation (from nutrient, silt, and contaminant build-up)	Knock effect to coast also	Policy direction confirmed.		Applying hauora principles requires a range of discharge sources within a catchment to be considered and managed to provide for te hauora o te wai (eg emerging contaminants). Ngāi Tahu ki Murihiku are seeking to progressively reduce and

					eliminate direct discharges, working on land-based treatment options. Mixing of waters is a case specific matter that requires input from mana whenua.
	Restore land and freshwater where degraded.		Policy direction confirmed.		
	Avoid mixing of water.	Could you give me as explanation to the statement - Avoid mixing water.	Mixing water means for example, avoiding wastewater entering stormwater network. SMC - 'Mixing of water' is generally used to refer to the transfer of water from one waterbody to another, and particularly from one catchment to another, which is of concern to Kai Tahu because of the impact this has on mauri. (Each water body has its own unique mauri.)	Mana whenua support policy direction to avoid wastewater entering stormwater, but this is not what 'mixing waters' means to Kai Tahu - that refers to transferring water between different water bodies.	
	Give greater attention to road and roof run-off in LWRP (diffuse stormwater discharges).		Policy direction confirmed.		
	Focus on effects identified in National Policy Statement for Freshwater Management 2020, through the National Objectives Framework.		Policy direction confirmed.		
	Protect intangible cultural values	Goes with Mana o te Wai values	Policy direction confirmed. Further comment noted.	The policy direction should reflect the clear mana whenua preference for methods that avoid discharge of wastes to water bodies.	

Is an 'end of pipe' approach supported?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> In some cases an end of pipe approach is appropriate TAs responsible for what comes into the pipe ORC encourage TA's to better manage discharges to the pipe Treatment should occur at the source Mixed and integrated approach Responsibility of system provider or user ORC and network provider working together Be clear about roles and responsibilities in policy framework Effective farm plans should improve the water quality entering the pipe <p>Contaminants should be treated before entering the pipe – to specified design standards</p>	Set provisions to ensure that contaminants are treated before entering the pipe to specified design standards		Policy direction confirmed.		
Discharge permits can be granted for up to 35 years. Should there be a shorter term in general or for specific categories of discharge					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<p>Different timeframes for new and existing systems Long term consent impediment to change Make sure that consent/consent duration does not prevent council from achieving outcomes (which may change over time). Review clauses including consents Balance term with investment needs</p>	Provide different consent durations for new and existing systems.		Policy direction confirmed	Consent duration should relate to type and scale of effects, and certainty about these, not to whether the activity is new or existing.	No consents for more than a generation (25yrs) Consent duration must reflect catchment needs and outcomes that provide for te hauora o te wai within a generation
	Ensure that consents (and the term for which these are granted) do not prevent council from achieving outcomes (which may change over time).	The main point where non-compliance with community standards and expectations need to be able to require compliance	Noted; policy direction confirmed		

<i>If treatment of discharges is required, or required to be upgraded, what is an appropriate time period for achieving this? Private facilities? Territorial authorities?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Stepped change Consult with public and private stakeholders on this matter The timeframe for public authorities and private facilities should be the same	Provide provisions in the LWRP that: · enable and manage stepped change · prioritise outcomes i.e., anything new, being replaced, or undergoing scheduled maintenance must meet standard.		Policy direction confirmed.	The "stepped change" approach should be used to encourage shift of waste discharges away from water bodies.	Agree with stepped change approach within catchments or in relation to a particular system
<i>How should 'emergency' overflows from stormwater and wastewater networks be managed? Should there be any provision for them?</i>					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Define "emergency" TA's need to manage the risks so there are no emergency overflows Look at risk mitigation through: Performance, design Risk audits Breakout points should be planned and split geographically Separate stormwater and sewer systems Sufficient capacity influenced by: Climate change Population growth Needs consideration at consenting stage TA need increased capacity to prevent poor practice Education on how networks operate, and what compromises their effectiveness. Planning to discharge emergency overflows into a lake or river is not okay	Include provision to manage the risk.	Not sure what this means.	LWRP needs to provide for circumstances where resources can be used in emergency situations.		
	Responsibility for managing the risk should fall with TAs to avoid emergency overflows.		Policy direction confirmed.		
	The discharge of emergency overflows into water bodies such as lakes or rivers is to be avoided	1) In principle the issue should be managed 2) Emergency overflows - My concern here is the real discrepancy between allowing human effluent discharge in major weather events but having really tough criteria around livestock effluent discharges during that same event. I fully support our approach to livestock effluent but we are clearly far to lenient on TA's and their requirements with sewage. It is time to tighten these requirements and especially with 3 Waters arrival, time to demand greater thought and investment by TA's to protect our water.		Policy direction confirmed. Further comments re emergency overflows noted and policy will be developed to ensure a more stringent approach.	We support 'avoidance' policy direction and a more stringent approach on emergency overflows. There must be a clear expectation that measures will be put in place to minimise the occurrence of overflows and that systems will be designed to ensure that overflows that do occur do not enter waterways (e.g. by ensuring they are contained).

<i>Should the plan place restrictions on the installation of new septic tanks – especially in lifestyle or large-lot residential developments? What would the circumstances be?</i>						
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)	
<p>Reticulation increases demand and effects Non-reticulated systems encourage users to be more cautious Where septic tanks are allowed, more understanding is needed of limits to intensification and the cumulative impacts on soil characteristics and topography Restrictions are needed ie. lot size, location Prioritise where replacement or upgrade is needed Education and information Map locations of reticulation networks and septic tanks TAs need conditions on density requirements, ie. there must be a reticulated system bought in at a certain density. Requirement to preserve highly productive land from subdivision Areas with high environmental values need a higher standard of septic tank to protect against contaminants entering the soil and water table – consenting process Existing septic tanks need a framework of monitoring/auditing to determine whether they need to be replaced/upgraded</p>	<p>Create a management framework for existing septic tanks that includes provisions for monitoring/auditing to determine whether they need to be replaced/upgraded.</p>	<p>Sometimes such systems are a good solution. Management framework is a good idea.</p>	<p>Policy direction confirmed; further comment noted.</p>	<p>Strongly support audit/management approach toward existing septic tanks</p>		
	<p>Set limits/threshold provisions for septic tank restrictions and/or allowances, which consider:</p> <ul style="list-style-type: none"> · Density and lot size limits (above which reticulated systems are required) · Location and topography. · Cumulative impacts on soil characteristics 			<p>Policy direction confirmed</p>	<p>Could require communal systems in non-reticulated areas for developments over certain size.</p>	
	<p>Prioritise where replacement or upgrade is needed.</p>			<p>Policy direction confirmed</p>		
	<p>In areas with high environmental values require a higher standard of septic tank to protect against contaminants entering the soil and water table (via consenting process and conditions, particularly TA's)</p>			<p>Policy direction confirmed</p>	<p>What does 'areas with higher environmental values' mean? Any septic tanks should be designed and maintained to avoid contaminants entering soil or water, wherever they are located.</p>	
	<p>Prioritise where replacement or upgrade is needed.</p>			<p>Policy direction confirmed</p>		
	<p>In areas with high environmental values require a higher standard of septic tank to protect against contaminants entering the soil and water table (via consenting process and conditions, particularly TA's)</p>			<p>Policy direction confirmed</p>		

Water storage

What provision should be made for new (1) on-stream storage facilities, and (2) off-stream storage facilities					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> Flow regulations (flooding, flow benefits). Off-stream storage is better as can augment low flows and is easy if meets strict conditions eg no flat lining, no land use intensification, degradation. Discourage on-stream storage and encourage off stream. Storage of stormwater in urban areas to reduce stormwater flows. We support in principle. Make it as cheap and easy as possible for the level/size of dam. May require some on-stream storage. Iwi do not support in stream storage, although new Iwi may support in stream. Existing need to make both options as cheap as possible. Need both options available (in stream and out of stream). Dam in the main stream needed regardless for the ability to take water. 	Provisions should: <ul style="list-style-type: none"> Discourage on-stream storage Encourage off stream. 	Inappropriate to sanction the notion that in stream / on stream storage is available	Policy direction confirmed to encourage off stream storage where water is available and discourage on stream storage.	Strongly support direction to discourage onstream storage.	Catchment specific solutions, out of stream is preferred over instream, dependent upon allocation regime that prioritises te hauora o te wai so also need to consider what is available to be stored, river flow needs etc as to most appropriate approach to water storage in a catchment setting
Given there is a tension between them, where do we strike the balance between renewable electricity generation and the priorities set out in the NPSFM 2020?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Could we view provisions for NESRE regionally and say yes in some places and no in others. <ul style="list-style-type: none"> Renewable energy is a priority as there is a need for more and Otago has an important role nationally, particularly with urban growth, appliances, electrified vehicles and transport etc Localising generation (smaller scale). No more large hydro dams, although localised small schemes may be OK. Bring back in the need to reduce energy consumption. Iwi less likely to support new. Should consider individual opportunities. 	Prioritise renewable energy. Signal the need to reduce energy consumption.	This needs a good amount of education	Policy direction confirmed Policy direction confirmed		

Allocation regime

What allocation system should be adopted - current system (i.e., allocate a block) or a more dynamic systems (i.e., allocate a percentage of flow (flow sharing))?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> Balance the needs of the ecosystem. Where ecosystems thrive but can take water. That should give us the top of priority 1. Flexibility for different ecosystems is important. A bottom-line approach as there is a point where no waterway is 'happy' ecologically. A percentage approach may be warranted. A more dynamic system allowing for flow sharing and allocation for more user active management (on a voluntary basis?). Create bottom lines while acknowledging that the best results will have a better result above this. 	<p>Create a more dynamic allocation system that:</p> <ul style="list-style-type: none"> Takes a % allocation approach. Enables flow sharing and active management by users. Creates bottom lines. 	<p>River comes first, health and wellbeing of the river and ecosystems, then gauge what can be available for out of river use</p>	<p>Policy direction confirmed, allocation will be consistent with Te Mana o te Wai</p>	<p>There should be an agreed definition of 'environmental flows'. A minimum flow is not an environmental flow - it is just part of the set of tools to protect environmental flows. The allocation framework must also ensure that natural variability of flow is retained. (We note, for example, that the current supplementary allocation framework and the setting of supplementary minimum flows lacks clarity and particularly impacts on the health and wellbeing of the smaller tributaries.)</p> <p>Support allocation of a % of flow rather than being based on existing allocations - to ensure that the allocation is tailored to the characteristics of the water body and does not exceed environmental limits. Setting of default limits and flows for tributaries on this basis is a priority.</p>	<p>Need more dynamic system informed by Te Mana o te Wai. Need quicker transition and phase out of over-allocation, and improved understanding of over-allocation - establishing methods to achieve this a high priority</p> <p>Potentially review every 10 years, or a % allocation approach that is responsive to seasonal conditions could be done in a way that does not require interim review (ie if flows are reducing due to climate change and allocation is a % of flows above a particular level it will be the allocation affected rather than the waterbody so it would be more about water users preparing for reducing availability)</p>

				<p>Mana whenua do not support managing down to bottom lines. This reduces the resilience of rivers and the ability to provide for health and wellbeing during low flows or dry years. Minimum and residual flows should be set above bottom lines. Climate change and the predicted reduction in water yield should be factored into the setting of environmental flows and bottom lines.</p>	
<p>How does the LWRP phase out overallocation - what are the pros and cons of different options.</p>					
<p>Workshop feedback (Received Nov-Dec 2021)</p>	<p>Policy direction (Staff derived Dec 21)</p>	<p>Councillor/ Iwi rep comments (Received Jan 22)</p>	<p>Staff response</p>	<p>Aukaha comments (Received Mar 22)</p>	<p>Te Ao Marama comments (Received Apr 22)</p>
<ul style="list-style-type: none"> · Current phasing out is too far out. Quicker transitions are needed in the LWRP. · Allow for a transition. · Question on whether we mean over allocation of environmental flow? Councillors have not reached a decision on environmental flows and are unable to answer this yet. · Flow sharing regimes are effective. · The ORC consents team have no idea yet of current allocation and how they interact with proposed flow regime. 	<p>The LWRP provisions must allow for a quicker transition to phase out over allocation.</p>	<p>The phase out of over allocation is very important and out of time</p>	<p>Policy direction confirmed; further comment noted.</p>	<p>Clear signals of the timeframe for reductions in allocations to be achieved should be included in the LWRP from the beginning. The policy framework also needs to prioritise the review of consents within heavily overallocated catchments - otherwise overallocation will not be effectively addressed.</p>	

	Set up methods to first understand the extent of current allocation and over-allocation and how this will interact with a proposed flow regime.		Policy direction confirmed		
How should the LWRP deal with allocation in light of climate change?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Trigger dates are based on scientific advice. · Plan change? Happen every 10 years · Use best knowledge of the time. · Build in triggers into the thinking eg if a new known position for Otago is avoidable then can change, for example, status of consent application. · Ok during the life of this plan, may play into longer term consent and possible review processes but see (a). · Impossible to predict. · Iwi – the LWRP is a 10 year plan and consents are unlikely to be longer. · Have a dynamic consent. · Act in a reactionary means as opposed to a predictive. 	Set trigger dates in the LWRP for the review of allocation framework based on the best available scientific data and advice during the preparation of the LWRP.	<ol style="list-style-type: none"> 1) And trigger flows. 2) The rate of change as best we know will not be significant enough in the life of a 10 year plan to require a review option 	Policy direction confirmed. Further comments noted.	What is meant by setting trigger dates - does this mean that some current flow regimes will be carried into the LWRP with no signal of the changes that will be required, and that this signal will only be given after the trigger date? See comment above about the need for clear signals in the LWRP.	
How far should the LWRP go in terms of setting direction with respect to efficiency of use?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Efficient use is driven by local factors. For example, how much water is available at certain times. · Small systems, where irrigation is available during flood or higher flows??? · Address the adverse impacts of achieving 'efficiency'. For example, in Lindis everyone wants to use centre pivot. · Address the drivers of efficiency. · Efficiency across the 'system'. 	Set policy direction in respect of efficiency of use with a clear definition of 'efficiency' that incorporates community wellbeing in a broad sense.		Policy direction confirmed.	It is important to ensure that approach to efficiency does not encourage 'maximum use' - increases in efficiency need to be seen as opportunities to give water back to the river, not just to expand abstractive uses.	Efficiency must consider intergenerational aspects

<ul style="list-style-type: none"> Catchment grouping determines resilience at a local scale. Define 'efficiency' for community wellbeing broadly. Address urban efficiency. For example, lawns, metering and leaky pipes. There be dragons..... 	<p>Policy direction must consider and address:</p> <ul style="list-style-type: none"> The potential adverse impacts of achieving 'efficiency'. The drivers of efficiency. A system-wide approach that includes both rural and urban use. 	<p>1) What are the adverse effects? Adverse to what? 2)Vague and framed to fall back into current practice and contrary to considering NPSFM</p>	<p>Every abstraction will be required to be consistent with NPSFM. Efficiency is one lens that can be applied after it is clear water is available for extraction.</p>		<p>Agree with system wide approach, urban and rural – must be guided by catchment needs and look at reducing demand (a dimension of efficiency) and diversity of needs and uses where resource is constrained</p>
What should the LWRP approach be to ageing water supply infrastructure (leaky races)?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Achieve a certain standard in all situations both rural and urban.	Set standards for urban and rural situations.		Policy direction confirmed		
Minimise urban water loss in supply. Meter to measure loss and enforce. Incentivise upgrade, potentially by longer consents? – May Incentivise some community supply aggregation (small schemes) Charge for water.	Allow methods to improve efficiency, measure loss and ensure enforcement can be undertaken (i.e., metering and charging for water use)		Policy direction confirmed		
What are the types of land-uses that we want to encourage /discourage through the allocation of water?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
Land uses with high water use in the wrong areas when water is short (eg golf courses) Land-use in areas with porous free draining soils need careful land-use controls on intensification. Urban development near Wetlands (drain them) Forestry - requires a debate on whether forestry for carbon storage or plantation harvesting is useful. Needs to be the right trees in the right place, but also the right town in the right place too. Forested headwaters were/are natural.	Discourage land uses with high water use in water short areas (i.e., golf courses).		Policy direction confirmed	Consideration is needed as to incentivising/ supporting dryland farming approaches in arid areas - managing land to suit the environment rather than manipulating the environment to suit the land use. Carbon farming is a significant concern for mana whenua. The inclusion of the rural	Agree with discourage high water use activities in water short areas

				sector in the ETS has significant potential to drive a rapid expansion in carbon forestry, which could exacerbate issues of water yield and biodiversity loss in dry catchments.	
How do we achieve compliance with the NPSFM regarding the priorities between drinking water and all other uses in respect of community supply schemes?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Divide drinking water and other water uses. · For example, where 'drinking water' for stock is used for other purposes such as dairy wash down, which occurs without monitoring. Water Storage can be encouraged for such a purpose. For example, non-potable water contained in a small crate store. 	Clearly distinguish drinking water and other water uses.		Policy direction confirmed	Also need to reflect direction in PC7 decision that provision for drinking water cannot be at the expense of the health and wellbeing of the water body.	Start with waterbody needs (catchment specific), then identify available allocation for use, then preserve allocation for drinking water supply (incorporating future demand and incorporating storage as necessary to avoid drawing down the waterbody), then identify other anticipated uses and preserve allocation for them (also incorporating future demand and consideration of water storage) – similar to Waitaki allocation to use – as a means of reflecting the hierarchy of obligations and providing for

	Promote water storage capabilities/methods for non-drinking water purposes.		Policy direction confirmed		development over time
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Overall approach to drafting

Is there agreement that a generally permissive approach is no longer appropriate?					
Is there agreement that an active management approach is appropriate? If not, why not? What alternative(s) are suggested?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Yes, a permissive approach is not appropriate, and a framework is needed for certainty and to give extra information to individuals. · The Act requires active management, not necessarily leading to closing down water uses. · Yes, active management gives a finer focus on effects control levers/ dial gauges. · A permissive regime has resulted in environmental degradation, so active management is required. · The Act requires active management, not necessarily leading to closing down water uses. 	A permissive approach is not appropriate.		Policy direction confirmed.	Agree	Agree
	The LWRP framework needs to: <ul style="list-style-type: none"> · Provide certainty · Enable the data/information gathering and sharing 	Certainty is admirable, but probably not entirely possible, we are in a moving feast. Data gathering and sharing is vital.	Planning practice is to provide certainty in plans. LWRP will follow this approach.	Agree	Information gathering to include kaupapa Māori monitoring and information sharing to include mātauranga when provided by mana whenua and their representatives
	Active management is appropriate and gives a finer focus on effects control levers/ dial gauges <i>[further clarification sought on what is meant by this statement].</i>		The plan framework can provide for adaptive	See earlier comment on 'active management'. Need to be careful how an adaptive management approach is used. It is not appropriate to use it in place of a precautionary approach where there is uncertainty about effects (i.e. shouldn't start by enabling activities that may have adverse effects and then use adaptive management to	Active management (intervention) will be necessary to restore degraded waterbodies. Adaptive management means different things to different people. It is ok to learn and improve responses over time but need clear limits, parameters and triggers for additional actions. Cannot allow any further

				tighten controls after effects are experienced).	deterioration/degradation and must result in improvements to degraded waterbodies, restoring natural capital, adding back to depleted systems.
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Do you agree with the general approach – using all activity classifications? If not, what alternatives should be considered?					
Workshop feedback (Received Nov-Dec 2021)	Policy direction (Staff derived Dec 21)	Councillor/ Iwi rep comments (Received Jan 22)	Staff response	Aukaha comments (Received Mar 22)	Te Ao Marama comments (Received Apr 22)
<ul style="list-style-type: none"> · Yes, the NPSFM reflects this anyway. Some high value water ways should prohibit certain activity types. · Yes, include prohibited activities i.e. water bottling. · Use all activity classifications but be careful with prohibited. 	Prohibit certain activities in some high value waterways.	Cannot pre-determine, should retain the option for prohibited	Direction confirmed. Activity status determined by appropriateness		Agree - all activity classifications are required
	Use all activity status classifications but be careful with prohibited.		Policy direction confirmed.		

Attachment 1

Regionwide policy direction and guidance workshop 13 April 2022

Summary of regionwide issues & topics with clear guidance from
Councillors & Iwi representatives

1 Discharges

What principles should apply to the management of discharges?	
Cr/ Iwi rep feedback	Policy guidance (staff derived)
<ul style="list-style-type: none"> • Manage contaminants at source. • Seek reduction of discharges. • Avoid contamination. • Address diverse sources of discharges (including Urban). • Discharges to land preferred “unless effects are worse than discharge to water” (PC8). • Apply staged timeframes for the mandatory upgrade of contaminant discharges: <ul style="list-style-type: none"> ○ Untreated discharges first; ○ Discharges with primary treatment (where larger contaminants are filtered out) second; ○ Discharges with primary and secondary treatment (where oxidation is used to further purify the discharge) third; and ○ Discharges with primary, secondary and tertiary treatment (where phosphates and nitrogen are removed from the discharge) last. <p>(This approach should apply principally, but not exclusively to wastewater discharges.)</p> • Treating contaminants at source (non-point discharges). • Septic tanks: <ul style="list-style-type: none"> ▪ When is the tipping point to require reticulation? ▪ Soil stability • Manage land use intensification. • Never allow unauthorised discharges by Territorial Authorities (TA). • Preference for land-based treatment. 	<p>Principles that will apply to the management of discharges under the LWRP include:</p> <ul style="list-style-type: none"> • A proactive approach that aims to manage and treat contaminants at the source (as opposed to dealing with the effects of the discharge of contaminants (so moving from ‘ambulance at the bottom of a cliff’ to preventive action). • A comprehensive and integrated approach to discharge management; discharges from all sources are managed, including the avoidance of urban discharges where possible. Where unavoidable, discharges are treated to a high standard whereby any environmental effects are less than minor. • A preference for discharges to land unless effects are worse than discharge to water. • Avoidance/prohibition of unauthorised discharges by TAs. • Mandatory improvement of discharge practice/management. • Apply a staged timeframes for the mandatory upgrade of contaminant discharges: <ul style="list-style-type: none"> ○ Untreated discharges first; ○ Discharges with primary treatment second; ○ Discharges with primary and secondary treatment third; and ○ Discharges with primary, secondary and tertiary treatment last. • Restrictive (i.e. tight) discharge limits.

<ul style="list-style-type: none"> • Require/mandate better discharge practice. • Tight discharge limits. • No consents to discharge harmful contaminants (i.e., consented overflows). 	<ul style="list-style-type: none"> • No consents unless discharges are treated to a high standard. <p>No consents should be allowed for sewage overflows unless it is demonstrated in the application that the applicant has exhausted all available and practical measures to avoid these overflows from occurring.</p>
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***Is it appropriate for one-off discharges with minor (short term &/or minimal environmental impacts) to be permitted (subject to conditions)?
If so, what sorts of activities can be permitted?
How can short term environmental impacts be defined?***

Cr/ Iwi rep feedback	Policy guidance (staff derived)
<ul style="list-style-type: none"> • Yes, where appropriate. • One-off discharges: <ul style="list-style-type: none"> ○ Do not allow sewage overflows or events that have high environmental impacts. <ul style="list-style-type: none"> ▪ Consider cumulative effects. ▪ Short term impacts do not necessarily mean low impacts. ▪ Be aware of what risks are. ○ A precautionary approach needs to support overall catchment/FMU outcomes. 	<p>A permitted activity status for one-off discharges with minor effects may be appropriate provided:</p> <ul style="list-style-type: none"> • There is a clear definition of what is a minor and/or short-term effect, so activities with inappropriate high environmental impacts are avoided; and • A precautionary approach is taken that supports achieving FMU-specific environmental outcomes. <p>One-off discharges are not appropriate and must not be permitted activities where:</p> <ul style="list-style-type: none"> • They involve sewage overflows (Sewage overflows should never be permitted); or • They have a short-term effect, but high impact/risk; or • They have or contribute to cumulative effects.

2 Augmented flows

When is it ok to augment flows? When is it never ok? Existing vs new? What types of activities would it be appropriate for? i.e wetland restoration	
Cr/ lwi rep feedback	Policy guidance (staff derived)
Ok? <ul style="list-style-type: none"> Existing/historic Not compromising waterbody health or benefits waterbody. [not benefiting one water body at the expense of another] Never? <ul style="list-style-type: none"> Acknowledge extensive existing [augmented flows] Only done by exceptions. Case by case in exceptional circumstances. 	<ul style="list-style-type: none"> Existing/historically established augmented flows are considered 'Ok', provided the augmented flows are not compromising the health and wellbeing of a water body, or benefitting a particular waterbody at the expense of another waterbody. Augmented flows are OK as an exception (assessed on a case-by-case basis). Flow augmentation is supported for wetland restoration.

3 Allocation regimes

Does the plan encourage/enable investment in more efficient supply infrastructure?	
Cr/ lwi rep feedback	Policy guidance (staff derived)
Aging infrastructure <ul style="list-style-type: none"> Clear on reduction of losses and encouragement of efficiency. Avoid being overly prescriptive in policy direction. Incentivise changes. Efficiency should be encouraged or required. 	<ul style="list-style-type: none"> Encourage/incentivise investment in more efficient supply structure by setting clear direction on the need to reduce losses (i.e., in consent application/renewal of aging and new water supply infrastructure) and require provision of evidence of doing so. Incentivise change. Encourage/mandate efficient supply infrastructure.

4 Wetlands

Do you support the plan reducing/removing regulatory barriers for landholders who want to implement 'good wetland management practices' What would we need to do this? i.e define GMP for wetland management	
Cr/ lwi rep feedback	Policy guidance (staff derived)
<ul style="list-style-type: none"> Wetlands is an example of when augmenting would be supported. Encourage wetland restoration. 	<ul style="list-style-type: none"> Encourage wetland restoration. Support flow augmentation that helps wetland restoration.

5 Flow sharing

Approach during times of restricted water availability. Priority system or management by water user groups. Management and formation of water user groups/catchment groups	
Cr/ Iwi rep feedback	Policy guidance (staff derived)
<ul style="list-style-type: none"> Support flow sharing provisions via condition or agreement with other consented abstractors 	<ul style="list-style-type: none"> Support flow sharing provisions via condition or agreement with other consented abstractors

6 Gravel & mineral extraction

Gravel management plans (GMP) - Technical input (engineering and ecology and hydrology) How enabling can the plan be for gravel extraction?	
Cr/ Iwi rep feedback	Policy guidance (staff derived)
<ul style="list-style-type: none"> Support technical input alongside community input and ecological outcomes (Kauru is good example of a process that worked well) Don't make it fully enabling Distinguish between flood hazard type extraction and commercial extraction Ensure Te Mana o te Wai (TMOTW) always front of mind 	<ul style="list-style-type: none"> TMOTW must be at the front of mind of GMP GMP must distinguish gravel extraction purposes, namely flood hazard extraction and commercial extraction. Commercial extraction (unless a by-product from other purposes) is only available if first the health of the river and second the health and safety of communities is provided for. GMP is not fully enabling for all extraction purposes. Support collaborative input into GMP, this will include technical input alongside community input and ecological outcomes (Kauru is good example of a process that worked well).

7.7. Report back on the first stage of FMU consultation for the development of the LWRP

Prepared for:	Strategy and Policy Committee
Report No.	SPS2226
Activity:	Governance Report
Author:	Amber Smith, Policy Analyst Freshwater and Land Tom De Pelsemaeker, Acting Manager Policy
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] This paper summarises the results and learnings from Stage 1 of the Freshwater Management Unit (FMU) community consultation for the development of the proposed Land and Water Regional Plan (LWRP).

EXECUTIVE SUMMARY

- [2] Otago Regional Council (ORC) is committed to developing and notifying a new LWRP by December 2023, in partnership with Iwi and through engagement with the Otago community. The FMU community consultation has been divided into three rounds. The first round of FMU community consultation ("Stage 1") was held between November 2021 and April 2022.
- [3] The purpose of Stage 1 was to confirm values and discuss their characteristics which would inform setting environmental outcomes for the LWRP.
- [4] The methods used during Stage 1 were community meetings, held online and in-person across Otago, a data gathering activity, and an online survey and mapping tool.
- [5] An estimated 365 individual survey responses were recorded, and many more members of the public attended the in-person and Zoom meetings.
- [6] The results and learnings from Stage 1 will inform the development of the Stage 2 community consultation, during which ORC staff will present and discuss environmental outcomes and management options (including limits and rules to achieve these outcomes).

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.

BACKGROUND

- [7] In 2019, ORC committed to developing and notifying a new LWRP, that gives effect to relevant National Policy Statements and other higher order planning instruments, by 31 December 2023.

- [8] Under Clause 3.7(2) of the National Objectives Framework (NOF) in the National Policy Statement for Freshwater Management 2020 (NPS-FM), ORC is required to undertake the following steps:
- a) identify FMUs in the region;
 - b) identify values for each FMU;
 - c) set environmental outcomes for each value and include them as objectives in regional plans;
 - d) identify attributes for each value and set baseline states for those attributes;
 - e) set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes; and
 - f) set limits as rules and prepare action plans to achieve environmental outcomes.
- [9] Under Clause 3.7(1) of NPS-FM ORC must engage with communities and tangata whenua at each step of the NOF process.

DISCUSSION

- [10] Engagement with communities on FMU boundaries and on the long-term visions for these FMUs and rohe occurred in October and November 2020 in association with consultation on the proposed Regional Policy Statement.¹ The FMUs and rohe, and their long-term visions were included in the proposed Regional Policy Statement (pRPS) for Otago that was notified in June 2021.
- [11] An FMU community consultation process, involving three rounds of community consultation, has been devised to address matters (b) to (f) in paragraph 8. A more comprehensive overview of the FMU community consultation process is provided in report SPS2228 presented to the Strategy and Policy Committee on 13 July 2022.
- [12] The first round of FMU community consultation (“Stage 1”) was completed over the period November 2021 to April 2022 across all FMU and rohe.
- [13] The discussion in the following paragraphs covers an overview of the consultation methods used and summarises the results and learnings from Stage 1.

Methods

- [14] Stage 1 was aimed at confirming relevant values for each FMU and Rohe and giving communities an opportunity to discuss the characteristics of these values. Stage 1 sought to give effect to matter (b) in paragraph 8 and build on the consultation undertaken to set visions for the proposed RPS process.
- [15] Compulsory values (Appendix 1A of the NPS-FM) and other values that must be considered (Appendix 1B of the NPS-FM) were included in Stage 1 consultation. The NPS-FM also lists a series of attributes requiring limits on resource use (Appendix 2A of the NPS-FM) and attributes requiring an action plan (Appendix 2B of the NPS-FM).

¹ In April 2019 ORC adopted five FMUs for Otago: the Clutha/Mata-Au, Taieri, North Otago, Dunedin & Coast and Catlins FMU. The Clutha/Mata-Au FMU, was further delineated into five smaller areas, called rohe: the Upper Lakes, Dunstan, Manuherekiā, Roxburgh and Lower Clutha rohe. The recommending report to Council “Freshwater Management Unit setting and Engagement approach” can be found here: <https://www.orc.govt.nz/media/6677/council-mtg-agenda-20190403.pdf>

- [16] To make the language used during the community consultation less technical and more easily understood by the wider public, ORC staff translated the compulsory values and other values into activities, while attributes were translated into “characteristics”. For example, the value “human contact” was translated into the activity “swimming”, while the attribute “E. coli” became the characteristic “risk of getting sick.”
- [17] The values presented for feedback were:
- Swimming (and other primary contact recreational water activities)
 - Fishing (and other secondary contact recreational water activities)
 - Walking, camping, picnicking, sightseeing (and other non-contact recreational water activities)
 - Plants and animals that live in or near water (Aquatic species)
 - Threatened species
 - Habitat
 - Water Quality
 - River flow and lake level (Flow regime and river behaviour)
 - Natural Character
 - Water take/use
 - Wetlands
 - Groundwater
 - Ecosystem function and processes (Upper Lakes and Catlins only)²
- [18] Participants were asked for feedback on these values and their associated characteristics, and to identify locations where the values occur via an in-person activity and an online survey and mapping tool.
- [19] Stage 1 consultation was initially planned to be run as a series of in-person community meetings (drop-in sessions), with feedback also sought via an online survey. The meetings in the Upper Lakes rohe and Catlins FMU were held in-person during November 2021. An estimated total of 110 people attended the Upper Lakes rohe meetings in Queenstown and Wanaka. An estimated total of 95 people attended the Catlins FMU meeting in Owaka.
- [20] Due to the presence of COVID-19 in the community in early 2022, the decision was taken to pivot to online meetings for the remaining FMUs and rohe.
- [21] The schedule of community meetings undertaken between November 2021 and April 2022 is shown below:

FMU/Rohe	Location	Date	Time
Upper Lakes	Queenstown	17 November 2021	12pm and 7pm
Upper Lakes	Wanaka	18 November 2021	12pm and 7pm
Catlins	Owaka	29 November 2021	12pm and 7pm
Dunstan	Zoom meeting	28 February 2022	7pm
Lower Clutha	Zoom meeting	1 March 2022	7pm
Roxburgh	Zoom meeting	2 March 2022	7pm

² After a review of the first consultation, it became clear that the value “Ecosystem function and processes” is a technical concept that people are struggling with. Following discussion between science and policy staff it was decided to remove this value from the survey as any relevant information on these values could be derived from feedback on other values and characteristics.

Dunedin & Coast FMU	Zoom meeting	14 March 2022	12pm and 7pm
North Otago	Zoom meeting	15 March 2022	7pm
Taieri	Zoom meeting	16 March 2022	7pm

- [22] Both the in-person and online meetings included a staff presentation on the timing and process for developing a new LWRP, followed by a question-and-answer session.
- [23] At the in-person meetings the presentation was followed by an activity wherein participants were asked to evaluate the condition of each characteristic of the thirteen values. Large scale maps of the FMU/rohe captured participant feedback on locations associated with each value. Participants could also give feedback after the event, via an online survey which was open for 3 weeks.
- [24] At the online meetings the presentation was followed by a demonstration of the online survey and an online mapping tool. Feedback was captured through these mediums over a 4-week period. A paper copy of the survey was available on request.

Results

- [25] The survey responses received per FMU/rohe are as follows:

FMU/Rohe ³	Survey Responses
Upper Lakes	52
Catlins	20
Dunstan	68
Lower Clutha	45
Roxburgh	15
Dunedin & Coast	84
North Otago	36
Taieri	45

- [26] The results from the in-person and online meetings were collated into FMU/rohe specific community summary reports. These reports can be accessed on ORC's website and are listed (together with a link to the ORC website) in Attachment 1.
- [27] In line with the NOF process requirements as set out above in paragraph 8 of this report, the community feedback from Stage 1 on specific values and the condition of their associated characteristics will inform the development of environmental outcomes.
- [28] Community consultation is one input that informs the development of environmental outcomes and the setting of target attribute states. Other inputs include:
- Engagement with tangata whenua, which is being undertaken via Aukaha and Te Ao Marama;
 - The long term FMU visions in the pRPS; and
 - The minimum requirements set by the NPS-FM, including meeting environmental bottom lines, and giving effect to Te Mana O Te Wai.

³ The Manuherekia rohe was previously consulted on values and management options. Refer to Council paper: <https://www.orc.govt.nz/media/10181/agenda-council-20210825.pdf>

- [29] The environmental outcomes, once finalised through the later stages of community engagement, will become FMU/rohe specific objectives in the LWRP.
- [30] Based on the community feedback, ORC Policy and Science staff have identified measurable attributes that relate to each value, characteristics and the additional feedback received from the community. Staff are in the process of developing target attribute states that are required to assess whether the communities' environmental outcomes/objectives are being achieved.

Learnings

[31] The below table summarizes the pros and cons of the in-person and online meetings:

Online approach	In-person approach
<p>Pros:</p> <ul style="list-style-type: none"> • Online feedback is quick to compile and analyse. • Standardisation of questions and answers reduces the risk of inconsistent interpretation of responses or bias. • People who cannot attend on the day (due to distance, illness or family or work commitments) can still participate in the survey or watch a recorded version of the presentation. • Provides greater opportunity for people who want to participate anonymously. 	<p>Pros:</p> <ul style="list-style-type: none"> • Provides an opportunity for the community and ORC staff to meet face-to-face and develop or strengthen relationships. • Often seen as more engaging than online meetings. • Provides participants with better opportunities for sharing (local) knowledge and having in-depth discussions (exploring issues and options for addressing these). • Provides staff with better opportunities to clarify feedback questions or any technical information shared with participants.
<p>Cons:</p> <ul style="list-style-type: none"> • Limited internet access in some areas. • Online presentation can be less engaging than in-person discussion. • Feedback was received that the survey was repetitive and overly technical. 	<p>Cons:</p> <ul style="list-style-type: none"> • Time consuming and costly for ORC staff to meet with every community. • Difficult for some members of the public to travel to community halls due to distance, illness, and family or work commitments.

[32] Moving forward to the next stages of the FMU community consultation, staff intend to provide both in-person and online meetings and feedback opportunities. This decision is made on the assumption that the COVID settings will enable that to occur. The format of future FMU community consultation is further discussed in the SPS2228 report presented to the Strategy and Policy Committee on 13 July 2022.

OPTIONS

[33] There are no options that require Council’s consideration.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [34] Regional Council is responsible for implementing the new national direction and regulations and notifying new or updated regional policy statements and regional plans that set out how the region will implement the new NPS-FM. ORC has committed to a work programme with the Minister for the Environment which includes notifying the proposed LWRP by December 2023.
- [35] Stage 1 of the FMU community consultation is part of a wider consultation and engagement process, undertaken to inform the development of the LWRP that gives effect to the NPS-FM.
- [36] In addition, the LWRP and the consultation and engagement process that informs its development will contribute to fulfilling Council's objectives of leading environmental management in Otago, in partnership with mana whenua; promoting collaboration with territorial authorities and others to achieve resilient and sustainable communities; and promoting a healthy and resilient environment whose capacity for sustaining life and ecosystem health is enhanced and sustained.

Financial Considerations

- [37] The Policy Team administers existing budgets for the development of the LWRP. Any expenditures associated with the roll-out of the consultation and engagement process with tangata whenua and communities are funded from these budgets.

Significance and Engagement Considerations

- [38] The consultation and engagement process that is being undertaken to inform the development of the LWRP will trigger ORC's *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*, as this project is likely to have potentially significant impacts on many people.
- [39] Each stage and aspect of this community consultation process is designed to be consistent with *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*.

Legislative and Risk Considerations

- [40] The consultation process that ORC is undertaking to inform the development of the FMU-specific provisions of the LWRP has been designed and planned to give effect to the relevant requirements of the NPS-FM and will be undertaken in accordance with the First Schedule of the Resource Management Act 1991 (RMA) and the principles of consultation set out in section 82 of the Local Government Act 2002 (LGA).
- [41] Following the completion of Stage 1 of the FMU community consultation, an interim progress review of the community consultation approach was undertaken by ORC's Policy staff. This review involved a discussion with the legal support team engaged by ORC to assist with the development of the LWRP. The legal support team was asked to evaluate the robustness of ORC's consultation approach against the requirements of the NPS-FM. The legal support team concluded that Council is well on track to meet the community engagement requirements of the NPS-FM if it continues to progress its engagement process in the manner proposed. A memorandum outlining the legal support team's key findings is appended to this report as Attachment 2.

Climate Change Considerations

- [42] Recognition of climate change and its effects on the health and wellbeing of the people and environment is one of the matters the LWRP needs to respond to in order to give effect to the NPS-FM, and in particular Policy 4 of the NPS-FM: *Freshwater is managed as part of New Zealand's integrated response to climate change.*
- [43] The foreseeable impacts of climate change will be considered in relation to the setting of limits on resource use in the LWRP under Clause 3.14(2)(a)(ii) of the NPS-FM.

Communications Considerations

- [44] Communications staff will ensure that the community is aware of the process, timelines and how to participate in the future stages of the consultation process, through the various media channels normally used by Council.

NEXT STEPS

- [45] ORC's Policy and Science teams are using the findings from the Stage 1 FMU community consultation to inform the identification of attributes, the setting environmental outcomes and target attribute states for values, and the development of management options for achieving these outcomes. They will work with the engagement team to deliver the futures stages of the consultation programme.

ATTACHMENTS

1. Consultation 1 - Summary Reports [7.7.1 - 1 page]
2. Legal Memorandum - LWRP Consultation Process [7.7.2 - 4 pages]

Land and Water Regional Plan

Consultation 1 – Summary Reports

Dunedin & Coast:	https://www.orc.govt.nz/media/12256/dunedin-coast-lwrp-consultation-1-report.pdf
Taieri:	https://www.orc.govt.nz/media/12258/taieri-lwrp-consultation-1-report.pdf
North Otago:	https://www.orc.govt.nz/media/12257/north-otago-lwrp-consultation-1-report.pdf
Lower Clutha:	https://www.orc.govt.nz/media/12081/lower-clutha-consultation-1-combined-report.pdf
Roxburgh:	https://www.orc.govt.nz/media/12082/roxburgh-consultation-1-combined-report.pdf
Dunstan:	https://www.orc.govt.nz/media/12083/dunstan-consultation-1-combined-report.pdf
Upper Lakes:	https://www.orc.govt.nz/media/11926/land-and-water-regional-plan-upper-lakes-rohe-stage-1-consultation-overview-report.pdf
Catlins:	https://www.orc.govt.nz/media/11927/land-and-water-regional-report-catlins-stage-1-consultation-overview-report.pdf



MEMORANDUM

Date: 2 May 2022
To: Tom De Pelsemaeker
From: Michelle Mehlhopt

SUMMARY OF DISCUSSION ABOUT ENGAGEMENT REQUIREMENTS UNDER THE NPSFM

1. I met with the ORC Freshwater and Land team to share and discuss some of our key learnings of a recent review that we have undertaken of the engagement requirements under the NPSFM and how this might be relevant to ORC's engagement process.
2. We set out below a summary of our key findings and discussion points.
3. We note that the discussion focussed on the requirements for community engagement under the NPSFM, rather than engagement with tangata whenua.

Engagement already undertaken for RPS

4. ORC has already completed some of the key engagement requirements under the NPSFM prior to notification of the proposed Otago Regional Policy Statement (**pORPS**). These include:
 - a. Engaging with communities to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region;
 - b. Engaging with communities and tangata whenua to identify FMUs; and
 - c. Developing long-term visions through engagement with communities and tangata whenua.
5. This engagement will be relevant moving forward, but additional engagement is required under subsequent steps of the NOF process.

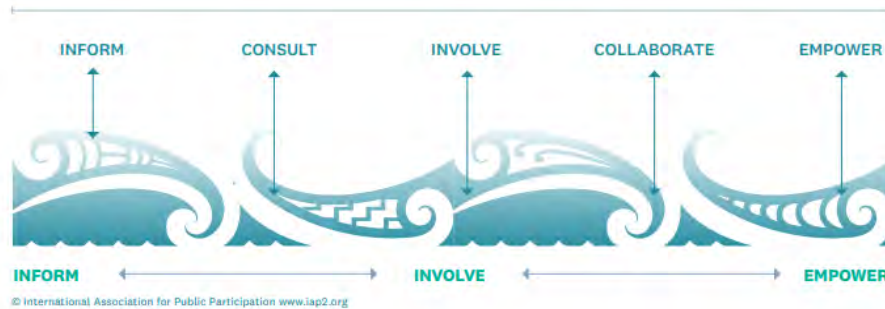
Council must engage with communities and tangata whenua at each step of the NOF process

6. The NPSFM requires the Council to engage with communities and tangata whenua at each step of the NOF process. In summary the NOF process includes the following steps:
 - a. Identify FMUs in the region
 - b. Identify values for each FMU
 - c. Set environmental outcomes for each value and include them as objectives in regional plans
 - d. Identify attributes for each value and set baseline states for those attributes
 - e. Set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes
 - f. Set limits as rules and prepare actions plans (as appropriate) to achieve environmental outcomes.

7. Whilst the Council is required to engage at each step, there is no need to necessarily engage on one step before moving on to the other. For example, it would be appropriate to engage with the community on values and environmental outcomes at the same time. This is more efficient and will help prevent engagement fatigue.
8. The NOF process doesn't necessarily lend itself well to community engagement given the technical terms used and the prescriptive steps.
9. We have looked at the Council's website and its proposed three stage approach. We consider that the proposed approach meets the requirements of the NPSFM and that the language used by the Council is appropriate and pitched at the right level. For example, asking the questions:
 - a. What do you value and where? Which aspects of this are important to you (so the characteristics)
 - b. What do you want to achieve for land and water resources in the area?
10. is appropriate for engagement to identify values for each FMU and to set environmental outcomes for each value. The information obtained from this process will then help set attribute and target attributes states and then rules and limits. The 'How are we doing this' diagram used in community powerpoint presentations is particularly effective as it shows that a freshwater vision provides direction on the values and characteristics which help you choose outcomes which help you set attribute and target attribute states which help you develop rules and limits.
11. The messaging is clear that the Council wishes to hear from the community and have them participate in the process and the purpose for the engagement (i.e. what the Council wants to understand) is also clear.

What is engagement?

12. NPSFM uses several different terms and phrases:
 - a. 'must engage with'
 - b. 'be developed through engagement'
 - c. 'actively involve tangata whenua'
 - d. 'work with tangata whenua'
13. However, the NPSFM does not define what 'engagement' means and it is not defined in the RMA. The RMA tends to use the words 'consult' or 'consultation'.
14. Given the use of the different terms in the NPSFM, engagement doesn't necessarily mean 'actively involve' or 'work with'. Likewise, given the use of the term 'engagement' rather than 'consultation', 'engagement' may mean something more than consultation.
15. 'Engagement' is a term used more often in the Local Government Act 2002 (**LGA**). Helpful guidance can be taken from the Council's Significance, Engagement and Māori Participation Policy together with the principles of consultation set out in section 82 of the LGA.
16. There is a spectrum of engagement in the Council's Significance, Engagement and Māori Participation Policy which is particularly helpful:



17. What is required to meet the NPSFM requirements (and also what is appropriate) will depend on the purpose for which the engagement is being undertaken, the likely impact on present and future interests of the community and tangata whenua and the level to which community views are already known.
18. The requirement for Council to engage at each step of the process does not require the Council to run a full public engagement process at each step – and it can include engagement that has occurred in the past. However, there is a risk in relying on past engagement and it is important to consider the context within which that past engagement has occurred and whether the information obtained informs and assists the Council’s decision making or whether further engagement is required.
19. Engagement should occur at an FMU scale (which the Council is doing). For example, the Council is required to consider whether any non-compulsory values apply to an FMU or part of an FMU and identify an environmental outcome for each value that applies to an FMU or part of an FMU. Therefore, it is important to engage at an FMU scale or part of an FMU scale, rather than at a region-wide scale.

Council’s proposed approach to community engagement

20. The Council is proposing a three-stage process for community engagement. Stage 1 is currently underway.
21. Stage 1 is aimed at confirming and identifying the values and characteristics. The outputs of this stage will inform the setting of environmental outcomes, target attribute states, flows, etc.
22. For Stage 1 the Council is relying (due to COVID) on online meetings (to inform people of the process) and online surveys and location mapping (to get community input).
23. Stage 2 of consultation is planned to start in July 2022 and run during much of the second half of 2022. The purpose of Stage 2 is to present communities with an ‘envelope’ of choice and seek feedback on:
 - a. Options for environmental outcomes
 - b. Options for packages of regulatory & non-regulatory actions for achieving these, including environmental flows.
24. This stage is to provide input in the selection of a preferred management option.
25. The Council proposes to use both in person meetings (COVID permitting) and online consultation.

26. Stage 3 is planned to start at the end of 2022 and finish early in 2023. The purpose of Stage 3 is to inform communities of the preferred option (including suggested environmental flows). Again, it is intended that in person meetings (COVID permitting) and online consultation methods be used.
27. The preferred option will be included in the LWRP and persons will have an opportunity to submit on the plan once it is notified.
28. The purpose of the engagement is particularly important and this, together with the level of existing knowledge of the communities' views, will inform what is appropriate. It is clear from your website material that the Council is keeping its communities informed and up to date and also providing opportunities to provide input. The purpose for the engagement and how the information obtained will inform the Council's decision-making is clear.
29. One thing to be mindful of with the three-stage approach is to be really clear that Stage 2 is about presenting communities with an 'envelope' of choices or options and that the feedback received will inform Stage 3 which is when the Council will inform communities of the preferred option.
30. We recommend documenting the process as it is progressed. This will not only record the engagement steps that have been taken but also will enable the Council to review the effectiveness of the process at each stage before moving on to the next. If the process is not achieving a high level of engagement from the community, then the Council may consider some changes to, for example, to reach a part of the community which it has not received feedback from. However, given the time constraints there are only so many opportunities for engagement that the Council can provide.
31. The Council proposes to publish a summary of the feedback received. This is a good idea and will help inform the community and may encourage further engagement at the next stage of the process. We also recommend documenting how the feedback received during Stage 2 has been considered and informed the preferred option. We don't propose that this be published on the Council's website. Rather it is a document that the Council can refer to as part of the decision-making record if there is a challenge to the engagement process.
32. In relation to surveys, there are a couple of things to keep in mind:
 - a. Template responses are common.
 - b. The number of responses doesn't determine the weight to be given to that particular feedback.
 - c. The fact that someone can provide a response on an anonymous basis does not affect the weight to be given to that feedback or the robustness of the survey.
 - d. Each response should be considered and weighed on its merits.

Conclusion

33. If the Council continues to progress its engagement process in the manner proposed, then it is well on track to meet the community engagement requirements of the NPSFM.

Wynn Williams

7.8. Overview of approach and timing for future consultation stages for the development of the LWRP

Prepared for:	Strategy and Planning Committee
Report No.	SPS2228
Activity:	Governance Report Amber Smith, Policy Analyst Freshwater and Land
Author:	Rachel Currie, Project Manager, Land and Water Regional Plan Tom De Pelsemaeker, Acting Manager Policy
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] This paper provides an overview of the ongoing consultation and engagement to inform the development of the proposed Land and Water Regional Plan (LWRP) and advises of steps to ensure communities and key stakeholders are kept both informed and engaged in this work.

EXECUTIVE SUMMARY

- [2] In a report adopted by the Strategy and Planning Committee on 13 May 2020, ORC staff outlined a proposed consultation approach to inform the development of the LWRP. This approach provided for two consultation stages.
- [3] As the work for the development of the proposed LWRP has been progressing staff have identified the need to undertake further consultation and engagement, beyond the two rounds of consultation outlined in the report adopted by the Strategy and Planning Committee on 13 May 2020. These refinements include:
- A final round of community consultation to present a preferred option and discuss with them issues around implementation and transition.
 - Topic-based discussions with key stakeholders and sector representatives to inform the development of the nationwide provisions of the LWRP.
- [4] An interim review of this consultation approach by our external legal provider confirmed that the ORC is well on track to meet the community engagement requirements of the NPS-FM (National Policy Statement for Freshwater Management), if the Council continues to progress its engagement process in the manner proposed.
- [5] The first stage of FMU-community consultation was completed in April 2022. The second phase of consultation was due to commence from August 2022, however the timing is uncertain due to potential delays in the periphyton modelling following the release of the periphyton guidelines¹ in June 2022. Staff are currently in the process of developing options for the timing of rounds 2 and 3 of the FMU community consultation and will present these to the Land and Water Governance Group at its meeting on 14 July 2022.

¹ Guidance on look up tables for setting nutrient targets for periphyton, June 2022, Ministry for the Environment

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report.
- 2) **Adopts** the approach for undertaking stakeholder engagement for the development of regionwide provisions for the LWRP.
- 3) **Adopts** the approach for undertaking rounds 2 and 3 of the FMU community consultation for the development of the LWRP.
- 4) **Notes** that the timing of rounds 2 and 3 of the FMU community consultation is currently uncertain due to potential delays in the periphyton modelling following the release of the “Guidance on look-up tables for setting nutrient targets for periphyton” in June 2022 by the Ministry for the Environment.
- 5) **Notes** that staff will develop options for the timing of rounds 2 and 3 of the FMU community consultation and will present these to the LWRP Governance Group at its meeting on 14 July 2022.

BACKGROUND

- [6] In 2019, ORC committed to developing and notifying the LWRP, to give effect to relevant National Policy Statements and other higher order planning instruments. That notification is to occur by 31 December 2023.
- [7] In a report presented adopted by the Strategy and Planning Committee on 13 May 2020, ORC staff outlined a proposed consultation approach to inform the development of the LWRP.² This approach provided for two consultation stages.
- [8] The first stage of consultation with key stakeholders, local communities and the wider public would be aimed at identifying community values and getting a better understanding of community aspirations for each Freshwater Management Unit (FMU) or rohe in Otago.³ Following this initial consultation stage, the information would be analysed by staff to develop a decision-making envelope that sets out the range environmental outcomes for identified values in each FMU or rohe and identifying actions and/or interventions for achieving these.
- [9] During a second consultation stage, key stakeholders, local communities, and the wider public would be consulted on a range of options for environmental outcomes and management actions or interventions for achieving these outcomes. The draft regionwide provisions would also be shared at this stage.
- [10] After this second consultation stage a preferred management option would be identified and developed into provisions that are then included into the draft LWRP, as well as

² [strategy-and-planning-agenda-20200513.pdf \(orc.govt.nz\)](#)

³ In April 2019 ORC adopted five FMUs for Otago. These five FMUs are the Clutha/Mata-Au, Taieri, North Otago, Dunedin & Coast and Catlins FMU. The Clutha/Mata-Au FMU was further delineated into five smaller areas, called rohe. These five rohe are the Upper Lakes, Dunstan, Manuherekia, Roxburgh and Lower Clutha rohe. The FMUs and rohe were developed in partnership with tangata whenua.

The recommending report to Council “Freshwater Management Unit setting and Engagement approach” can be found here: <https://www.orc.govt.nz/media/6677/council-mtg-agenda-20190403.pdf>

proposed non-regulatory responses that would be managed by the Environmental Implementation team.

- [11] ORC staff have worked towards implementing the community consultation and engagement approach as adopted by the Strategy and Planning Committee on 13 May 2020. A key milestone has been reached with the first stage of FMU-community consultation completed in April 2022. An overview of the results and learnings from this first stage of community consultation is included in the SPS2226 report presented to the Strategy and Planning Committee on 13 July 2022.
- [12] With the release of the NPSFM in 2020, staff also undertook an additional round of engagement on Freshwater Visions and included those in the proposed Regional Policy Statement.

DISCUSSION

- [13] As the technical and planning work for the development of the proposed LWRP has been progressing staff have identified the need to undertake further consultation and engagement, beyond the two rounds of consultation outlined in the report adopted by the Strategy and Planning Committee on 13 May 2020. These refinements include:
- a. A final (third) round of community meetings to present to key stakeholders, local communities and the wider public a preferred option and discuss with them issues around implementation and transition.
 - b. Topic-based discussions with key stakeholders and sector representatives to inform the development of the nationwide provisions of the LWRP.
- [14] These refinements have been devised to:
- a. Ensure that local and wider communities and key stakeholders are provided with better opportunities to provide input into the development of FMU-specific and nationwide provisions; and
 - b. Ensure compliance with the requirements of the National Objectives Framework process set out in Subpart 2 of the NPS-FM.
- [15] The following paragraphs outline the purpose, timing and methods of the different phases of community consultation and stakeholder engagement, and demonstrate how the broader approach to community consultation and engagement gives effect to the relevant process requirements of the NPS-FM.

Overview of engagement for the development of nationwide provisions

- [16] For the development of the nationwide provisions for the LWRP, topic-based discussions are being planned with key stakeholders and sector and/or catchment group representatives. The topic based discussions follow on from a number of workshops with the Strategy and Planning Committee over late 2021 and early 2022 to determine policy direction. These discussions will focus on the identification and confirmation of issues and options for developing management approaches and planning responses for different categories of activities.

- [17] The table below sets out the categories of topics and activities that require management under the LWRP, the various topics and activities within each category, and examples of stakeholders/industry or sector groups that we intend to invite to participate in the discussions on identified topics.

Categories of topics & activities	Topics and activities	Key stakeholders, Sector groups
Environmental flows/levels	<ul style="list-style-type: none"> • Minimum flows • Residual flows • Lake/aquifer levels 	Rural sector, Environmental groups, Territorial authorities
Taking and use of water	<ul style="list-style-type: none"> • Allocation framework (incl. phasing out overallocation) • Consumptive water takes (e.g. domestic, community supplies, stock water, irrigation) • Non-consumptive water takes (e.g. hydro-electricity) • Efficiency in allocation/water use (technical efficiency) • Dewatering, drainage • Retakes, flow augmentation • Transfers (of point of take) 	Rural sector, Environmental groups, Territorial authorities
Damming and diversion	<ul style="list-style-type: none"> • Damming of water • Diversion of water • Establishment, maintenance and operation of damming structures 	Rural sector, Energy, Mining, Environmental groups
Group water management	<ul style="list-style-type: none"> • Irrigation schemes • Catchment groups 	Rural sector, Environmental groups
Agricultural discharges	<ul style="list-style-type: none"> • Effluent (liquid and solid) • Pesticides & Herbicides • Fertiliser use • Nutrient discharges 	Rural sector, Environmental groups
Activities on the beds or margins of lakes, wetlands or rivers	<ul style="list-style-type: none"> • Loss of river bed values & extent • Construction, maintenance, upgrade, removal, use of structures • Disturbance of and deposition on the beds of lakes and rivers • Debris clearance, flood protection works, alluvium extraction • Vegetation removal, 	Rural sector, Territorial authorities, Energy, Mining, Environmental groups
Other discharges	<ul style="list-style-type: none"> • Discharges of hazardous substances • Discharges from contaminated land • Swimming pools/spas, greywater • Discharge of water (e.g. dams, races) • Mixing of waters 	Rural sector, Territorial authorities, Fuel companies, Energy, Mining
Landfills and cemeteries	<ul style="list-style-type: none"> • Landfills, greenfills, cleanfills • Farm landfills • Silage & composting • Cemeteries 	Territorial authorities, Environmental groups

Stormwater & wastewater discharges	<ul style="list-style-type: none"> • Reticulated/unreticulated stormwater • Reticulated and on-site wastewater • Long drops, composting toilets • Industrial / trade wastes 	Territorial authorities, Environmental groups
Land use	<ul style="list-style-type: none"> • Development (incl. forestry) & intensification • Mining • Earthworks & erosion control • Stock access • Intensive winter grazing • Vegetation burning/clearance • Bore construction, maintenance 	Rural sector, Territorial authorities, Environmental groups, Land developers, Forestry

- [18] The discussions with key stakeholders and sector representatives for the development of regionwide provisions will take the form of focus group workshops, similar to the Regional Policy Statement Reference Group meetings. These sessions will be convened over the second half of 2022, with attendees able to choose to attend in person or via Zoom.
- [19] Ahead of each region wide topic discussion with external stakeholders, an Issues and Options paper will be brought to the LWRP GG for discussion. And like the RPS Reference Groups, a Councillor will be sought to be 'sponsor' of each topic, and sit in on the stakeholder group discussions.

Overview of refined FMU community consultation process

- [20] Aside from the discussions on the development of regionwide provisions, ORC is also undertaking a wider community consultation process for the development of FMU-specific environmental outcomes and management approaches for achieving these outcomes.
- [21] This FMU community consultation process involves three consultation rounds:
 - a. The first round of FMU consultation was designed to:
 - i. Identify what communities know and value most about their lakes, rivers, streams, wetlands, and groundwater;
 - ii. Identify the various specific characteristics of these values; and
 - iii. Rating the state of identified characteristics.
 - b. The second round of FMU consultation will be designed to:
 - i. Provide an overview of the current state of the environment;
 - ii. Present a range of options for environmental outcomes and various management interventions (including limits, regulatory controls, and non-regulatory actions) for achieving these outcomes; and
 - iii. Seek feedback on these options.
 - c. The third round of FMU consultation will be to:
 - i. Present the preferred management option for each FMU;
 - ii. Share how relevant interventions may be expressed within the regionwide and FMU specific provisions of the LWRP; and
 - iii. Discuss implementation of the preferred options (e.g. transitional arrangements, including time).

- [22] While the first consultation stage was largely confined to an online format due to COVID settings that applied at the time, the two remaining rounds of FMU consultation are being designed to be in person meetings and workshops in each FMU (subject to appropriate COVID settings allowing this to occur). These future rounds of consultation will provide communities with the opportunity to:
- a. See and understand the options available to ensure the LWRP includes policy rules and other methods that deliver on central government requirements, iwi and local community aspirations;
 - b. Understand the background to these options; and
 - c. Provide direct feedback to staff on the degree to which the options for environmental outcomes reflect community aspirations, and on the workability of the range of management interventions for achieving these options.

Timing of future consultation and engagement

- [23] For the development of the regionwide provisions for the LWRP, topic-based discussions with key stakeholders and sector and/or catchment group representatives are scheduled to occur in the third quarter of 2022.
- [24] The timing of the second round of FMU community consultation was initially planned to occur from late August through to the end of October 2022, with the third round of FMU community consultation scheduled to commence at the beginning of 2023 and conclude by the end of March 2023.
- [25] However, the timing of these two rounds of the consultation is being reconsidered due to impacts on the science modelling associated with the MfE's periphyton guidelines in June 2022. Based on our testing of the guidance, it appears it is likely to under protect Otago's stream and rivers.
- [26] In order to overcome this issue, an Otago specific calibration of the guidance model is being pursued. The flow-on effect of this change in approach is that the technical work to support the development of options for environmental outcomes and management interventions will not be ready in time for the second round of consultation as initially planned.
- [27] ORC Policy and Science staff are currently in the process of developing options for the timing of rounds 2 and 3 of the FMU community consultation and will present these to the Governance Group at its meeting on 14 July 2022.

Meeting the requirements of the NPS-FM.

- [28] Under Clause 3.7(2) of the National Objectives Framework (NOF) in the National Policy Statement for Freshwater Management 2020 (NPS-FM), regional councils are required to undertake the following steps:
- a. Identify FMUs in the region;
 - b. Identify values for each FMU;
 - c. Set environmental outcomes for each value and include them as objectives in regional plans;
 - d. Identify attributes for each value and set baseline states for those attributes;

- e. Set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes; and
- f. Set limits as rules and prepare action plans to achieve environmental outcomes.

- [29] Under Clause 3.7(1) of NPS-FM ORC must engage with communities and tangata whenua at each step of the NOF process.
- [30] Engagement with communities on FMU boundaries and on the long-term visions for these FMUs and rohe occurred in the period October – November 2020. The FMUs and rohe, and their long-term visions were included in the proposed Regional Policy Statement (pRPS) for Otago that was notified in June 2021.
- [31] The table below shows how the FMU consultation process has been developed to address matters (b) to (f) in paragraph 8.

Description	NOF framework	Status
Stage 1 (1st round of consultation) Confirm/Identify and discuss: <ul style="list-style-type: none"> • values • characteristics (to inform the setting environmental outcomes and selecting attributes for values) 	b) identify values for each FMU;	Complete
Stage 2a (2nd round of consultation) Present and discuss: <ul style="list-style-type: none"> • baseline state for selected attributes • environmental outcomes and target attribute states • management options (including limits and rules to achieve these outcomes) 	c) set environmental outcomes for each value and include them as objectives in regional plans; d) identify attributes for each value and set baseline states for those attributes; e) set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes;	Planning in progress
Stage 2b (3rd round of consultation) Present preferred management option	f) set limits as rules and prepare action plans to achieve environmental outcomes.	Planning in progress

- [32] An interim review of the community consultation approach was undertaken by ORC’s Policy staff and reviewed by ORC’s external legal provider. In their report back, the legal support team confirmed that the ORC is well on track to meet the community engagement requirements of the NPS-FM, if the Council continues to progress its engagement process in the manner proposed.
- [33] A memorandum outlining the legal support team’s key findings is appended to this report as Attachment 1.

OPTIONS

- [34] Alternative approaches to consultation and engagement for the development of the LWRP have been suggested by some key stakeholders, including the North Otago FMU rural stakeholder group.⁴ The alternative engagement process proposed by this group includes the following elements:
- a. Establishment of stakeholder group comprising a defined number of representatives from rūnaka and stakeholders, including environmental NGOs, the rural sector, and others within the community.
 - b. The stakeholder group’s involvement spans the values identification, objective and limit setting, action development and provision drafting process for relevant FMUs.
 - c. Meetings are attended by relevant ORC staff as well an elected Council representative or senior leader, to ensure alignment with the overarching planning approach adopted by the Council, including the requirements of the NPS-FM and other high order planning instruments.
 - d. Meetings are facilitated by ORC staff or independent person.
- [35] Staff have considered this alternative engagement processes and have compared the (actual and potential) costs and benefits of this proposal with those likely to be associated with the engagement and consultation approach for developing regionwide and FMU-specific plan provisions (in the next paragraphs of this report referred to as the “standard approach”) as outlined above. A summary of this cost benefit analysis is shown in the table below.

	<i>Alternative proposal</i>	<i>Standard approach</i>
Cost/Risks	<p>Staff resourcing</p> <ul style="list-style-type: none"> • More resource intensive than standard approach. (staff resources for delivery of more ‘bespoke’ models tailored to individual communities have not been budgeted). <p>Risk to timely delivery of LWRP:</p> <ul style="list-style-type: none"> • Requires more time than what is available under the current timeframe for completion of the LWRP. • Staff will need to be drawn from other LWRP workstreams, thereby jeopardising the timely completion of the LWRP. <p>Setting precedent</p> <ul style="list-style-type: none"> • Agreeing to the delivery of a ‘bespoke’ model for the North Otago FMU could trigger requests for similar 	<p>Reduced opportunities for local community and stakeholder input and for the sharing of local knowledge</p> <ul style="list-style-type: none"> • Under the standard engagement process there are less consultation and engagement events during which stakeholders can contribute to the development of the LWRP and share local knowledge.

⁴ On 11 April 2022, Cr Andrew Noone, the Chair of the Otago Regional Council (ORC) received a letter from the North Otago FMU rural stakeholder group proposing an alternative engagement process.

	<p>approaches elsewhere. (This in turn will increase pressure on available resources to support the delivery of the LWRP by the end of 2023.)</p> <p>No guarantee for agreed outcomes</p> <ul style="list-style-type: none"> • A “bespoke” engagement model does not guarantee widespread agreement on outcomes or solutions. <p>Reputational risk</p> <ul style="list-style-type: none"> • Council could be perceived to prioritise certain groups or interests within the community. <p>Insufficient to meet the legal requirements for community consultation</p> <ul style="list-style-type: none"> • A consultation process that only relies on engagement with selected stakeholders does not meet the principles of the LGA or the process requirements of the NPSFM 	
Benefits/opportunity	<p>Strengthened relationships with (certain) stakeholders</p> <ul style="list-style-type: none"> • Likely to contribute to a stronger relationship between ORC and (certain) local stakeholders. 	<p>Less risk to delivery of the LWRP by 2023</p> <ul style="list-style-type: none"> • Staff resources have been budgeted, reducing the risk of delays in delivery of the LWRP. <p>Fair process/less reputational risk</p> <ul style="list-style-type: none"> • Less risk of ORC being perceived to give preferential treatment to some stakeholder groups as involvement in the FMU consultation process is open to all.

- [36] Following the review of ORC’s standard approach and consideration of the costs and benefits, staff consider that:
- a. The alternative engagement process has some clear benefits.
 - b. The alternative engagement process by itself is not sufficient to meet the requirements of the NOF process under the NPS-FM.
 - c. The alternative engagement process would be better suited to a plan development process that is not subject to the current time and resourcing constraints; and
 - d. The standard engagement process being implemented by ORC provides stakeholders and sector representatives with diverse opportunities to engage in a

meaningful way at various stages of the plan development process and across a range of topics.

- [37] For these reasons and considering the key findings of the cost/benefit analysis outlined in the table above, staff recommend continuing to apply the standard approach when engaging with communities and stakeholders on matters concerning the development of the LWRP.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [38] Regional Council is responsible for implementing the new national direction and regulations and notifying new or updated regional policy statements and regional plans that set out how the region will implement the new NPS-FM. ORC has committed to a work programme with the Minister for the Environment which includes notifying a new LWRP by December 2023.
- [39] The topic-based consultation with key stakeholders for the development of regionwide provisions in the LWRP and Stages 2 and 3 of the FMU community consultation are vital components of ORC's consultation and engagement process, undertaken to inform the development of the LWRP that gives effect to the NPS-FM.
- [40] In addition, the proposed LWRP and the consultation and engagement process that informs its development will contribute to fulfilling Council's objectives of leading environmental management in Otago, in partnership with mana whenua; promoting collaboration with territorial authorities and others to achieve resilient and sustainable communities; and promoting a healthy and resilient environment whose capacity for sustaining life and ecosystem health is enhanced and sustained.

Financial Considerations

- [41] The Policy Team administers existing budgets for the development of the LWRP. Any expenditures associated with the roll-out of the staff proposed consultation and engagement process with tangata whenua and communities are funded from these budgets. Any changes to this process, such as rolling out an alternative consultation and engagement process for the development of the LWRP as the one outlined above in paragraph 26 of this report would require additional funding.

Significance and Engagement Considerations

- [42] The consultation and engagement process that is being undertaken to inform the development of the LWRP will trigger ORC's *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*, as this project is likely to have potentially significant impacts on many people.
- [43] Each stage and aspect of this community consultation process is designed to be consistent with *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*.

Legislative and Risk Considerations

- [44] The consultation and engagement process that ORC is undertaking to inform the development of the LWRP has been designed and planned to give effect to the relevant requirements of the NPS-FM and will be undertaken in accordance with the First

Schedule of the Resource Management Act 1991 (RMA) and the principles of consultation set out in section 82 of the Local Government Act 2002 (LGA).

- [45] As discussed above, an interim progress review of the community consultation approach involving ORC's legal support team confirmed that the ORC is well on track to meet the process requirements of the NPS-FM in terms of community engagement if it continues with the proposed consultation process.

Climate Change Considerations

- [46] Recognition of climate change and its effects on the health and wellbeing of the people and environment is one of the matters to which the LWRP needs to respond in order to give effect to the NPS-FM, in particular Policy 4 of the NPS-FM: *Freshwater is managed as part of New Zealand's integrated response to climate change.*
- [47] The foreseeable impacts of climate change will be considered in relation to the setting of limits on resource use in the LWRP under Clause 3.14(2)(a)(ii) of the NPS-FM.

Communications Considerations

- [48] Policy and Communications staff will ensure that the community is aware of the process, timelines and how to participate in the future stages of the consultation process, through the various media channels normally used by ORC.

NEXT STEPS

- [49] ORC staff will:
- a. Commence with the scheduling of topic-based consultation with key stakeholders for the development of regionwide provisions in the LWRP, in accordance with the timeframes and principles outlined in this report.
 - b. Develop options for the timing of rounds 2 and 3 of the FMU community consultation and will present these to the Land and Water Regional Plan Governance Group (a subcommittee of the Strategy and Planning Committee) at its meeting on 14 July 2022.

ATTACHMENTS

1. Summary of discussion on NPS-FM engagement [7.8.1 - 4 pages]



MEMORANDUM

Date: 2 May 2022
To: Tom De Pelsemaeker
From: Michelle Mehlhopt

SUMMARY OF DISCUSSION ABOUT ENGAGEMENT REQUIREMENTS UNDER THE NPSFM

1. I met with the ORC Freshwater and Land team to share and discuss some of our key learnings of a recent review that we have undertaken of the engagement requirements under the NPSFM and how this might be relevant to ORC's engagement process.
2. We set out below a summary of our key findings and discussion points.
3. We note that the discussion focussed on the requirements for community engagement under the NPSFM, rather than engagement with tangata whenua.

Engagement already undertaken for RPS

4. ORC has already completed some of the key engagement requirements under the NPSFM prior to notification of the proposed Otago Regional Policy Statement (pORPS). These include:
 - a. Engaging with communities to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region;
 - b. Engaging with communities and tangata whenua to identify FMUs; and
 - c. Developing long-term visions through engagement with communities and tangata whenua.
5. This engagement will be relevant moving forward, but additional engagement is required under subsequent steps of the NOF process.

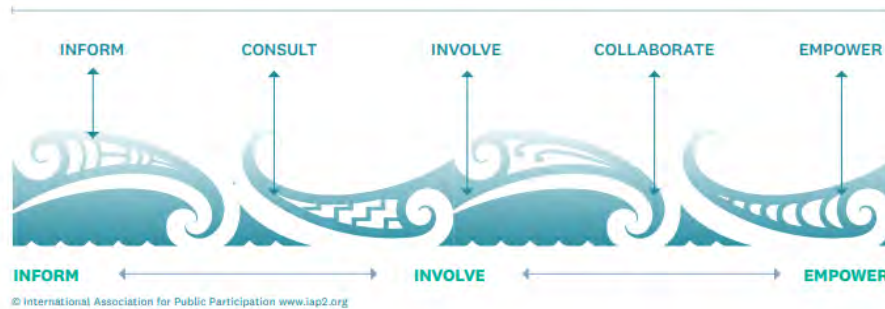
Council must engage with communities and tangata whenua at each step of the NOF process

6. The NPSFM requires the Council to engage with communities and tangata whenua at each step of the NOF process. In summary the NOF process includes the following steps:
 - a. Identify FMUs in the region
 - b. Identify values for each FMU
 - c. Set environmental outcomes for each value and include them as objectives in regional plans
 - d. Identify attributes for each value and set baseline states for those attributes
 - e. Set target attribute states, environmental flows and levels, and other criteria to support the achievement of environmental outcomes
 - f. Set limits as rules and prepare actions plans (as appropriate) to achieve environmental outcomes.

7. Whilst the Council is required to engage at each step, there is no need to necessarily engage on one step before moving on to the other. For example, it would be appropriate to engage with the community on values and environmental outcomes at the same time. This is more efficient and will help prevent engagement fatigue.
8. The NOF process doesn't necessarily lend itself well to community engagement given the technical terms used and the prescriptive steps.
9. We have looked at the Council's website and its proposed three stage approach. We consider that the proposed approach meets the requirements of the NPSFM and that the language used by the Council is appropriate and pitched at the right level. For example, asking the questions:
 - a. What do you value and where? Which aspects of this are important to you (so the characteristics)
 - b. What do you want to achieve for land and water resources in the area?
10. is appropriate for engagement to identify values for each FMU and to set environmental outcomes for each value. The information obtained from this process will then help set attribute and target attributes states and then rules and limits. The 'How are we doing this' diagram used in community powerpoint presentations is particularly effective as it shows that a freshwater vision provides direction on the values and characteristics which help you choose outcomes which help you set attribute and target attribute states which help you develop rules and limits.
11. The messaging is clear that the Council wishes to hear from the community and have them participate in the process and the purpose for the engagement (i.e. what the Council wants to understand) is also clear.

What is engagement?

12. NPSFM uses several different terms and phrases:
 - a. 'must engage with'
 - b. 'be developed through engagement'
 - c. 'actively involve tangata whenua'
 - d. 'work with tangata whenua'
13. However, the NPSFM does not define what 'engagement' means and it is not defined in the RMA. The RMA tends to use the words 'consult' or 'consultation'.
14. Given the use of the different terms in the NPSFM, engagement doesn't necessarily mean 'actively involve' or 'work with'. Likewise, given the use of the term 'engagement' rather than 'consultation', 'engagement' may mean something more than consultation.
15. 'Engagement' is a term used more often in the Local Government Act 2002 (**LGA**). Helpful guidance can be taken from the Council's Significance, Engagement and Māori Participation Policy together with the principles of consultation set out in section 82 of the LGA.
16. There is a spectrum of engagement in the Council's Significance, Engagement and Māori Participation Policy which is particularly helpful:



17. What is required to meet the NPSFM requirements (and also what is appropriate) will depend on the purpose for which the engagement is being undertaken, the likely impact on present and future interests of the community and tangata whenua and the level to which community views are already known.
18. The requirement for Council to engage at each step of the process does not require the Council to run a full public engagement process at each step – and it can include engagement that has occurred in the past. However, there is a risk in relying on past engagement and it is important to consider the context within which that past engagement has occurred and whether the information obtained informs and assists the Council’s decision making or whether further engagement is required.
19. Engagement should occur at an FMU scale (which the Council is doing). For example, the Council is required to consider whether any non-compulsory values apply to an FMU or part of an FMU and identify an environmental outcome for each value that applies to an FMU or part of an FMU. Therefore, it is important to engage at an FMU scale or part of an FMU scale, rather than at a region-wide scale.

Council’s proposed approach to community engagement

20. The Council is proposing a three-stage process for community engagement. Stage 1 is currently underway.
21. Stage 1 is aimed at confirming and identifying the values and characteristics. The outputs of this stage will inform the setting of environmental outcomes, target attribute states, flows, etc.
22. For Stage 1 the Council is relying (due to COVID) on online meetings (to inform people of the process) and online surveys and location mapping (to get community input).
23. Stage 2 of consultation is planned to start in July 2022 and run during much of the second half of 2022. The purpose of Stage 2 is to present communities with an ‘envelope’ of choice and seek feedback on:
 - a. Options for environmental outcomes
 - b. Options for packages of regulatory & non-regulatory actions for achieving these, including environmental flows.
24. This stage is to provide input in the selection of a preferred management option.
25. The Council proposes to use both in person meetings (COVID permitting) and online consultation.

26. Stage 3 is planned to start at the end of 2022 and finish early in 2023. The purpose of Stage 3 is to inform communities of the preferred option (including suggested environmental flows). Again, it is intended that in person meetings (COVID permitting) and online consultation methods be used.
27. The preferred option will be included in the LWRP and persons will have an opportunity to submit on the plan once it is notified.
28. The purpose of the engagement is particularly important and this, together with the level of existing knowledge of the communities' views, will inform what is appropriate. It is clear from your website material that the Council is keeping its communities informed and up to date and also providing opportunities to provide input. The purpose for the engagement and how the information obtained will inform the Council's decision-making is clear.
29. One thing to be mindful of with the three-stage approach is to be really clear that Stage 2 is about presenting communities with an 'envelope' of choices or options and that the feedback received will inform Stage 3 which is when the Council will inform communities of the preferred option.
30. We recommend documenting the process as it is progressed. This will not only record the engagement steps that have been taken but also will enable the Council to review the effectiveness of the process at each stage before moving on to the next. If the process is not achieving a high level of engagement from the community, then the Council may consider some changes to, for example, to reach a part of the community which it has not received feedback from. However, given the time constraints there are only so many opportunities for engagement that the Council can provide.
31. The Council proposes to publish a summary of the feedback received. This is a good idea and will help inform the community and may encourage further engagement at the next stage of the process. We also recommend documenting how the feedback received during Stage 2 has been considered and informed the preferred option. We don't propose that this be published on the Council's website. Rather it is a document that the Council can refer to as part of the decision-making record if there is a challenge to the engagement process.
32. In relation to surveys, there are a couple of things to keep in mind:
 - a. Template responses are common.
 - b. The number of responses doesn't determine the weight to be given to that particular feedback.
 - c. The fact that someone can provide a response on an anonymous basis does not affect the weight to be given to that feedback or the robustness of the survey.
 - d. Each response should be considered and weighed on its merits.

Conclusion

33. If the Council continues to progress its engagement process in the manner proposed, then it is well on track to meet the community engagement requirements of the NPSFM.

Wynn Williams

7.9. LWRP Governance Group Report

Prepared for:	Strategy and Planning Committee
Report No.	SPS2232
Activity:	Governance Report
Author:	Rachel Currie, Project Manager, Land and Water Regional Plan
Endorsed by:	Anita Dawe, General Manager Policy and Science
Date:	13 July 2022

PURPOSE

- [1] The purpose of this report is to provide written updates from the most recent Land and Water Regional Plan (LWRP) Governance Group on the LWRP project to the Strategy and Planning Committee.

EXECUTIVE SUMMARY

- [2] A key role of the LWRP Governance Group is to provide the Strategy and Planning Committee with a progress update on the LWRP programme, including progress on workstreams, issues and risks.
- [3] Previously Councillors have provided a verbal update however, a written dashboard format was presented at the LWRP Governance Group meeting on 21 June 2022 as a pilot, to replace the verbal update and increase visibility.
- [4] A progress update on the development of the LWRP against the project plan was provided by staff to the LWRP Governance Group during its meeting on 21 June 2022. This update shows that as at 31 May 2022, the project is currently on track to deliver a new proposed LWRP to Council for notification by the end of 2023.

RECOMMENDATION

That the Strategy and Planning Committee:

- 1) **Notes** this report and the current tracking of the LWRP project as at 31 May 2022.

BACKGROUND

- [5] The LWRP Governance Group receives project updates in its meetings as part of its role of monitoring the progress of the Land and Water Regional Plan project ('the project'). One of the key roles and responsibilities of the LWRP Governance Group is to report to the Strategy and Policy Committee on the LWRP programme, including on progress of workstreams, issues and risks.
- [6] Over the past two LWRP GG meetings, concerns from the Governance Group and wider Councillors about visibility led to staff developing a template for reporting, to replace the current verbal updates. The template is designed to be an easy-to-read, dashboard type report that will be prepared monthly for the Governance Group meetings and can be used as the basis for updates to the wider Strategy and Planning Committee. The template for this report was tabled and agreed at the 21 June 2022 meeting.

DISCUSSION

- [7] The template report is included as Attachment 1 and sets out a progress update on the LWRP project in the dashboard format. It tracks the progress of the development of the LWRP against the project plan as at 31 May 2022. This progress update was presented at the LWRP Governance Group meeting on 21 June 2022. In presenting this update to the Strategy and Planning Committee the LWRP Governance Group fulfils its responsibility to provide the Strategy and Planning Committee with an update, albeit the verbal update is replaced by the written summary on the progress on the development of the LWRP made against the project plan.
- [8] As at 31 May 2022, the project is on track to deliver the proposed LWRP for notification by the Council by the end of 2023. Initial consultation with communities in each FMU (Freshwater Management Unit) has been completed. The science and economics work programmes, with the science modelling and scenario development is due to be completed in August 2022. Policy staff have worked with Council to get direction and feedback on region-wide topics and are now developing policy discussion papers for each topic to workshop internally, with iwi and with external key stakeholders. Planning is underway for ongoing community and key stakeholder engagement both in FMUs and with regional stakeholders over the second half of 2022. The dashboard report shows the status of the schedule and a timeline for the workstreams of the project for the LWRP Governance Group and Council.

OPTIONS

- [9] There are no options that require assessment.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [10] There are no strategic framework and policy considerations associated with this report.

Financial Considerations

- [11] There are no financial considerations associated with this report.

Significance and Engagement Considerations

- [12] This report does not trigger ORC's *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*.

Legislative and Risk Considerations

- [13] There are no legislative and risk considerations associated with this report.

Climate Change Considerations

- [14] There are no climate change considerations associated with this report.

Communications Considerations

- [15] The production of this template and further monthly dashboard reports will provide an efficient and effective way to communicate progress with all governance level parties and the wider public throughout the remainder of the LWRP project.

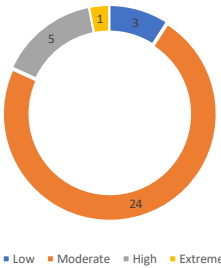
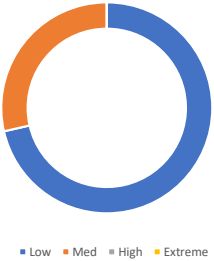
NEXT STEPS

- [16] Staff will continue to provide the LWRP Governance Group with these monthly progress reports and once submitted to the Governance Group, present these to the Strategy and Planning Committee.

ATTACHMENTS

1. Governance level project status update as at 31 May 2022 [7.9.1 - 2 pages]

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 <p>A donut chart representing the distribution of risks. The segments are: Low (24, orange), Moderate (5, grey), High (3, blue), and Extreme (1, yellow). A legend below the chart identifies the colors: Low (orange), Moderate (grey), High (blue), and Extreme (yellow).</p>	 <p>A donut chart representing the distribution of issues. The segments are: Low (24, blue), Med (5, orange), High (3, grey), and Extreme (1, yellow). A legend below the chart identifies the colors: Low (blue), Med (orange), High (grey), and Extreme (yellow).</p>	<ol style="list-style-type: none"> Direction on outstanding regionwide topics required
<p>High and extreme risks being managed:</p> <ol style="list-style-type: none"> Ongoing staff turnover. Delays to RPS hearing process. Changes to RPS through hearing process. Effect of new periphyton guidelines from central government (Extreme). Affected stakeholders aren't satisfied with level of engagement and outcomes. Proposed LWRP does not get approved in May 2023. 	<p>High level issues being managed:</p> <ol style="list-style-type: none"> Staff turnover. Competing deadlines for ORC teams required to input into project, and for iwi staff who are heavily involved in RPS pre-hearings work. 	