

Regulatory Impact Statement: Local Government Water Services Bill (2)

Coversheet

Purpose of document	
Decision sought:	Agree to final policy proposals to support the third stage of Local Water Done Well via the Local Government Water Services Bill.
Advising agencies:	The Department of Internal Affairs and the Ministry of Business, Innovation and Employment.
Proposing Ministers:	Hon Simeon Brown, Minister of Local Government, and Hon Andrew Bayly, Minister of Commerce and Consumer Affairs.
Date finalised:	18 July 2024.
Context	
<h3>Local Water Done Well</h3> <p>The Coalition Government's approach to implementing its policy, Local Water Done Well (LWDW), to improve council delivery of water services, involves two stages of policy development following the repeal of the Water Services Entities Act 2022, the Water Services Legislation Act 2023 and the Water Services Economic Efficiency and Consumer Protection Act 2023.</p> <p>The policy objective for LWDW is that councils deliver water services that are financially sustainable and meet minimum regulated drinking and environmental quality standards. The delivery of water services will continue to be led by each council to support localism, as opposed to a one-size-fits-all centrally-imposed approach.</p> <p>The two stages of policy development include:</p> <ul style="list-style-type: none">• preliminary arrangements that were agreed to by Cabinet in March 2024 to ensure immediate council focus on planning to achieve the financial sustainability of their water services, while also providing for some water service providers to be subject to foundational information disclosure. This was given effect to via the Local Government (Water Services Preliminary Arrangements) Bill, known as Bill 2; and• longer-term provisions to expose all councils to the disciplines and incentives of the reforms, including ringfencing requirements, economic regulation, and structural models to improve the financial performance of council water services for consumers. This will be given effect to via the Local Government Water Services Bill, known as Bill 3. <p>The development of these proposals was informed by the Government's Technical Advisory Group (the TAG), who provided expert advice to the Department of Internal Affairs (the Department) and the Minister on the implementation of LWDW.</p> <p>The first RIS was produced in March 2024, and covered the Government's overall strategic approach to improve council delivery of water services, including the identification</p>	

of four broad approaches (Strategic Options) available to the Government to support and enable councils to deliver water services in a manner that aligns with LWDW.

In addition, the **first RIS** focused on four preliminary proposals:

- providing a framework for councils to self-determine future service delivery arrangements via a water services delivery plan (WSDP);
- the potential for water service providers to be subject to foundational information disclosure requirements;
- streamlining requirements for establishing water services council-controlled organisations (WSCCOs) under the Local Government Act 2002 (LGA02) to enable councils to start shifting the delivery of water services into more financially sustainable configurations, should they wish to do so; and
- provisions that enable a new financially sustainable model for Watercare.

The first set of longer-term provisions was agreed by Cabinet in June 2024 and was accompanied by a second regulatory impact statement (the “**second RIS**”). This included four key policy proposals:

- optionality for water organisations (including planning and accountability);
- minimum requirements for financial separation;
- introduction of economic regulation; and
- an assistance and intervention framework.

This third RIS examines a second set of longer-term proposals

The second set of longer-term proposals is provided in this third regulatory impact statement (the “**third RIS**”) and accompanying Cabinet paper. The **third RIS** is split into two key sections: **Part A** and **Part B**.

Part A builds on the **first RIS** and **second RIS** and uses the same Strategic Options and criteria, and covers:

- changes to the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types;
- bylaw provisions;
- consumer protection mechanisms; and
- stormwater and overland flow path (OLFP) management.

Part B focuses on changes to water services regulation to improve efficiencies for all water service providers, which will accompany changes to council water service delivery as part of Bill 3. This section has a separate problem definition, Strategic Options and criteria, including:

- changes to reduce the regulatory burden on all water suppliers; and
- changes to the requirements to give effect to Te Mana o te Wai under the Water Services Act 2021 (WSA).

The proposals across **Part A** and **Part B** are summarised in the coversheet below.

Problem definition

The provision of drinking water, wastewater and stormwater infrastructure is critical to public health and wellbeing. This infrastructure is an essential enabler of residential and regional development, new housing provision, economic growth, environmental quality and community resilience. Councils provide drinking water, wastewater, and stormwater services to most New Zealanders. There are currently 68 councils that own and operate water services across New Zealand, providing drinking water and other water services to around 85 percent of New Zealanders.

Without systemic change, council ownership and delivery of water services is financially unsustainable and not always meeting the minimum quality standards. This is evidenced by some councils' large proposed increases in investments in water services by as much as 65 percent in the first three years of some draft council long-term plans (LTPs) as compared to the investments signalled in their previous 2021-2031 LTPs. This large increase in investment is contributing to large rates increases for the next few years. However, the Department notes that the level of increase is not uniform across councils and the amount that individual councils invest will vary (including councils with higher and lower rates increases). In addition to the investments some councils face, councils are also constrained by how much they can borrow, particularly from the Local Government Funding Agency (LGFA), where debt is measured as a ratio of revenue.

Five overarching root causes were identified in the first Regulatory Impact Statement: Local Government (Water Services Preliminary Arrangements) Bill (Bill 2) (known as "the **first RIS**") as contributing to this problem.

The five root causes and their links to **Part A** of this RIS (the "**third RIS**") are summarised below:

- **Institutional barriers to more efficient delivery of water services:** There are overlapping or unclear responsibilities related to the management of stormwater in urban areas between public and private landowners for management of urban watercourses and OLFPs, and between territorial authorities, regional councils, road transport operators and other organisations including any new standalone water organisations for stormwater services. Specifically for this **third RIS**, the current legislative provisions do not provide clarity on responsibilities, or mechanisms to support integrated or coordinated approaches to stormwater management. This is likely to become an increasing problem due to severe weather events because of climate change.
- **Poor incentives on councils to adequately invest in and fund water services:** Some councils have made decisions to defer investments in long-life and largely underground assets in favour of more visible priorities to the detriment of future ratepayers. Specifically for this **third RIS**, stormwater management and interventions tend to be reactive. Councils are not incentivised through local democratic processes or existing legislative requirements to consider compliance costs or long-term costs and risks associated with inadequate infrastructure.
- **Varied decision-making quality:** Water services are capital intensive and complex. Those involved in decisions may not have the skills and capabilities needed to provide effective asset management and delivery of water services or to ask the right questions of those that manage water services, which leads to overall lower quality decision making. Specifically for this **third RIS**, local accountabilities for making bylaws result in variable decisions on the making and

enforcement of rules necessary for the protection of drinking water sources and critical water services infrastructure. There are also siloed responsibilities across organisations for activities critical to the mitigation and management of flood risks, which contribute to sub-optimal approaches to decisions on stormwater management.

- **Funding and financing constraints (specifically for water organisations and councils):** Poor past management and investment decisions have left many councils with water services that have not been adequately maintained or renewed. Some councils are unable to borrow sufficiently to invest in existing infrastructure services or to extend the provision of water services to enable growth because of the total debt they owe. Specifically for this **third RIS**, there are constraints on existing council balance sheets to borrow more money to invest in water services, coupled sometimes with insufficient pricing of water services through rates and other charges to generate the revenue necessary to cover the whole-of-life costs of providing water services.
- **Incomplete regulatory and stewardship oversight and monitoring:** The comprehensiveness of regulation across water services is incomplete. Current regulation involves regulation of drinking water quality by Taumata Arowai and of the environmental impacts of water services by regional councils. Specifically for this **third RIS**, there is insufficient regulatory oversight of protections for water services consumers (known as consumer protection), which results in not enough consumer focus in the design and management of water services and information required by consumers to assess the quality of their water services. There are also technical legal difficulties around the lack of infringement provisions, leading to problems in proportional and effective enforcement of bylaws.

In addition, since enactment of the WSA, it has become clear that there are a very large number of very small private and community-owned supply arrangements across New Zealand. Under the WSA, all drinking water supplies need to supply drinking water that is safe, meets drinking water standards, and complies with other legislative requirements. Ministers consider that there is a risk that associated costs of regulation for water services (including drinking water services provided by the Crown and other non-council providers) are too high, potentially creating a 'regulatory burden'. Officials have been directed to consider three main types of regulatory costs, which are outlined in **Part B** of this **third RIS**:

- **The costs of regulation on suppliers, which may not be proportionate to a supply's risk profile or population supplied:** Ministers have identified that the new requirements introduced through the WSA may place excessive costs on water service providers, in particular, smaller water service providers. These costs are often passed on to consumers. In addition, there are additional requirements for staff authorisations to operate a water service, and the current time to achieve the authorisations (by 2026) is considered too short.
- **How cost is considered in Taumata Arowai's regulatory framework:** The consideration of cost is not explicitly mentioned in the Taumata Arowai—the Water Services Regulator Act 2020, but forms part of the proportionate regulatory approach. This was removed from the previous legislation (the Health Act 1956) following the Government Inquiry into Havelock North Drinking Water, as it allowed suppliers to raise unaffordability as a reason for not complying with drinking water standards and the treatment required to meet them. However,

Ministers believe that the omission of cost as a regulatory mechanism in legislation and the existing proportionate approach in Taumata Arowai regulatory documents is not sufficient.

- **The likely costs and uncertainty related to giving effect to Te Mana o te Wai:** All suppliers of drinking water and councils are currently required to give effect to Te Mana o te Wai as defined in the National Policy Statement for Freshwater Management 2020 (NPS-FM) to the extent that it applies to a function, power or duty required of them under the WSA. The practical requirements and implications of giving effect to Te Mana o te Wai are unclear and uncertain, and for some the requirement may appear onerous. The TAG considers Te Mana o te Wai is not well understood by councils and adds unnecessary uncertainty or overcomplicates the regulatory system, particularly as it relates to consenting applications. Furthermore, Te Mana o te Wai is already a consideration for councils under the Resource Management Act 1991 (RMA) and associated regulation.

Summary of key proposals

Part A proposals

Proposal One: Amendments to the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types

- Option One: Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework (counterfactual).
- Option Two: Modernisation of provisions for all water organisations.

The Department recommends a mix of Option One and Option Two because it is pragmatic and efficient in the timeframes required. It provides the appropriate level of amendment required for each relevant provision within the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types, while doing larger amendments where necessary for improvement to water services generally.

Proposal Two: Amendments to bylaw provisions

- Option One: Continued reliance on existing bylaw arrangements with necessary changes to include new water service organisational arrangements in the legislative framework (counterfactual).
- Option Two: Modernisation of provisions relating to bylaws (the Department's preferred approach).

The Department recommends Option Two because it may improve efficiency and effectiveness of the delivery of water services. Modernised provisions could be used both by councils that continue to deliver water services and by dedicated water organisations, while providing a standardised approach. This option also maintains the ability to allow for local flexibility as necessary to reflect local needs, which fits with the intentions of LWDW.

Proposal Three: Consumer protection

Consumer protection refers to rules that aim to safeguard the interests of consumers and the general public against market practices that are misleading, deceptive, unfair or generally inconsistent with consumer welfare. The purpose of the proposals in this section is to promote the interests of consumers, specifically in matters of individual consumer

experience (how they are treated by their provider). The proposals focus on households and small businesses.

- Option One: Rely on existing consumer protection mechanisms (counterfactual).
- Option Two: Enabling provisions made for further consumer protection measures to be brought in as needed (the Ministry of Business, Innovation and Employment's preferred approach).
- Option Three: Consumer protection measures brought in from day one through a centralised approach.

The Ministry of Business, Innovation and Employment (MBIE) recommends Option Two because there are a range of existing consumer protections relating to local government water service providers. The democratic accountability councils have to consumers may also provide some level of consumer protection. Therefore, there is no compelling case for introducing further consumer protection measures at this stage.

Proposal Four: Stormwater and overland flow path management

- Option One: Existing stormwater management arrangements (counterfactual).
- Option Two: Targeted legislative amendments to clarify the roles and responsibilities for stormwater management and planning.
- Option Three: New legislative framework to clarify roles and responsibilities, improve the management of overland flow paths (OLFPs) and urban watercourses, and introduce new planning and regulatory tools (the Department's preferred approach).

The Department recommends Option Three as it may provide greater clarity of roles and responsibilities. It also aims to improve the management of OLFPs and watercourses that are part of a stormwater network in urban areas and should improve flood risk information to inform proactive management of hazards and risks to people and property.

Part B proposals

Proposal Five: Reducing the regulatory burden on all water suppliers under the WSA

- Option One: No change to current settings and use of existing powers of Ministerial direction to require Taumata Arowai to reduce regulatory compliance costs (counterfactual).
- Option Two: Discrete legislative amendments made to reduce regulatory compliance costs (the Department's preferred option to meet Ministerial objectives).

The Department recommends Option Two because it best meets objectives set by Ministers to minimise compliance costs for drinking water suppliers and for councils in their provision and operation of wastewater and stormwater services. This option provides more certainty to suppliers and ensures the proportionate approach considers cost as well as other factors (e.g. risk). It is also an enduring/more stable change rather than relying on the direction and priorities of the Minister of the day.

Proposal Six: Changes to the requirements to give effect to Te Mana o te Wai under the WSA

- Option One: Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services, but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual).
- Option Two: Select amendments to modify requirements related to Te Mana o te Wai ^{9(2)(f)(iv)} [REDACTED].
- Option Three: Removal of references to Te Mana of te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional freshwater plans.
- Option Four: A full uncoupling of the water services legislation from the NPS-FM with a replacement.

The Government is progressing Option Three as it best meets objectives set by Ministers – provide for Taumata Arowai to minimise compliance costs in its regulation of water services to protect and promote drinking water safety and the environmental performance of drinking water, wastewater and stormwater networks.

The Department does not have a preferred option given the limited timeframes for policy development and lack of time for analysis, potential implications on consent decision making and the issues identified in the Treaty impact analysis.

Limitations and constraints on analysis, including engagement on key proposals

Limitations and constraints on analysis

There are limitations and assumptions within these policy proposals (many of which were also discussed in the **first** and **second RIS**). These include:

- the policy proposals are informed by, and limited to, Government policy and Ministerial direction;
- the policy proposals have been developed and assessed at pace;
- the policy proposals take into account the interaction with the preliminary provisions and the continued development of these final proposals;
- a reliance on analysis done during the previous government's reform programme as part of the assessment of proposals;
- no change to council-led relationships with iwi/Māori;
- councils capacity may constrain their ability to implement change; and
- the assessment of costs and benefits has had to rely on qualitative information.

More information on each of these limitations and assumptions is provided below.

The policy proposals are informed by, and limited to, Government policy and Ministerial direction

The LWDW policy was a key manifesto commitment of the National Party, and components feature in the Coalition Government's 100-point Economic Plan and subsequent quarterly plans. Therefore, the scope of policy options that are explored within the **third RIS** are limited by the Coalition Government's position on the previous reform,

manifesto commitments and coalition agreements. This has meant that other potential Strategic Options or delivery models were not included for consideration.

The Strategic Options (as outlined above) and detailed policy proposals identified in the **first**, **second** and **third RIS** are informed by, and limited to, the Government's policy. This includes the key parameters set out in LWDW, including, but not limited to:

- the establishment of a clear set of rules that are based on the outcomes that are expected, but councils will be allowed to meet these rules in the manner they believe is best for their community – e.g. with the delivery vehicle of their choosing;
- the introduction of step-in powers for the Government if any council or group of councils is unable to deliver a viable plan that can deliver on outcomes for water quality, infrastructure investment and financial sustainability;
- the establishment of a water service regulator within the Commerce Commission to work alongside Taumata Arowai;
- water service providers to be regulated under Part 4 of the Commerce Act 1986; and
- no Crown funding or financial support will be provided to councils, either to address an infrastructure deficit or to progress a particular service delivery model.

The policy proposals have been developed and assessed at pace

The development and analysis of the policy options assessed in this **third RIS** have been completed at pace to meet the required legislative timelines set by the Minister of Local Government. This has had implications for the level of detailed analysis able to be provided.

The policy proposals consider the interaction with the preliminary provisions and the continued development of these long-term provisions

Given the timing of Bill 2, and the interconnectedness of policy proposals (and the associated Cabinet paper), it is assumed throughout the analysis that Bill 2 (assessed in the **first RIS**) will pass – creating the counterfactual in the analysis.

Given the consequential nature of the proposals assessed in this **third RIS**, it has also been assumed that the first set of long-term provisions (assessed as part of the **second RIS**) are also part of the counterfactual, including:

- optionality for water organisations (including a planning and accountability framework);
- minimum requirements for financial separation;
- introduction of economic regulation; and
- an assistance and intervention framework.

There has been a reliance on analysis done during the previous government's reform programme as part of the assessment of proposals

Analysis of the policy options was completed at pace to meet the required legislative timelines set by the Minister of Local Government.

Some analysis relies on work completed as part of the previous government's water services reform. It is recognised that some significant step changes have occurred within the water services delivery system since the previous government's RISs, including the establishment of the new drinking water regulatory system by Taumata Arowai and increased council and public focus on water services delivery.

The previous government's reform included a significant amount of consultation – both at the exploratory problem definition phase and during the design of the reform. This includes 88,000 submissions received on the Water Services Entities Bill, and the themes of these submissions informed this Government's design of LWDW. Where relevant, the Department has considered feedback collected during these work programmes for the analysis of proposals.

All three RISs used evidence collected from a range of councils across New Zealand. A detailed comparison or analysis of all councils has not been included, and as each council is different, some situations described may not apply to all councils.

No change to council-led relationships with iwi/Māori

The intent of the proposals is that councils will continue to lead their local relationships with iwi/Māori, including ensuring that the process and content of their proposals meet their Treaty settlement obligations. It is also the intent of these proposals to preserve existing Treaty settlement obligations and commitments.

Further, in pursuing options to better deliver water services, councils will continue to have requirements under either the LGA02 or Bill 3 (once enacted) to consult with their communities on how to achieve better delivery of water services, including enduring streamlined consultation and decision-making processes (this was discussed in the **second RIS**). It is also expected that councils will continue to work within their existing local partnership arrangements and relationships and engage with their local iwi and hapū on the service delivery proposals they may wish to take forward.

Councils' capacity may constrain their ability to implement change

Councils vary in their capabilities and capacity to raise debt and revenue to fund water services. The councils that are in a worse financial position than others may struggle to respond to the incentives of economic regulation, or to fully utilise new organisation options to achieve sufficient debt head room and efficiency gains to put their services onto financially sustainable footings. It is important to note that there will be additional revenue constraints in other parts of the system (for example, ratepayers and users will have a limit of how much they can pay for water services charges, levies or their rates).

The assessment of costs and benefits has had to rely on qualitative information

As with the **first RIS** and **second RIS**, due to timeframes, data limitations and uncertainty as to how the various proposals will be implemented and responded to by councils, it was not possible for the Department to complete a full analysis of the benefits of the six proposals beyond qualitative estimates.

Consultation and engagement

There has been limited consultation and engagement with stakeholders on the development of policy proposals, which is discussed in further detail below:

- there has been engagement on implementation, but limited engagement on development of policy proposals in this **third RIS**;

- the proposals have been developed following feedback from the TAG, MBIE, Taumata Arowai and the Commerce Commission; and
- the Department is conducting targeted engagement with Māori to understand Treaty settlement implications.

There has been limited consultation and engagement with stakeholders on the development of policy proposals, but there has been engagement on implementation

No council views are outlined in this **third RIS**. However, engagement with councils on the specific policy proposals and direction of LWDW has informed the analysis. The lack of consultation does present risks, including no ability to test the workability of proposals, provide full information on the implications of proposals, or ensure the proposals present long-term enduring solutions. The lack of consultation may create perceptions that decisions have already been made without the input of affected stakeholders.

Therefore, as with the **first** and **second RIS**, officials have relied on:

- the Government’s Technical Advisory Group (TAG), which provided policy design input into the proposals included in this **third RIS**;
- evidence and insights collected through the public consultation from the previous policy and legislative programme – which was extensive; and
- insights provided from the limited engagement with councils that has occurred on the implementation of policy; and
- evidence and insights collected through public submissions to the Finance and Expenditure Select Committee on Bill 2.

The Department’s main focus for its engagement and support has been (and continues to be) driven by the information needs of councils regarding WSDPs (provided for in Bill 2) and their interest in exploring joint working relationships with other councils, whether or not that might result in new combined water organisations. The additional assistance has taken the form of multiple engagements with them, data supply, workshops and extensive analysis and provision of information, depending on council requirements. The Department has extended the offer of technical support to a number of other councils and expects that more councils will access support when Bill 2 is enacted and when they are required to develop their WSDPs.

It is important to note that the proposals provide enabling arrangements that meet minimum requirements. Therefore, engagement has focused on understanding what councils, including groups of councils, want to do and making sure the policy settings would enable these proposals where they fit the objectives of LWDW.

The proposals have been developed following feedback from the TAG, MBIE, Taumata Arowai and the Commerce Commission

The TAG has provided expert advice to the Department and the Minister of Local Government on the implementation of LWDW. The TAG has participated in regular workshops led by the Department to discuss policy matters for upcoming advice prepared for the Minister of Local Government. TAG feedback is detailed alongside each policy proposal where possible. MBIE officials also participated where the Minister of Commerce and Consumer Affairs has an interest, for example, economic regulation and consumer protection.

There has also been engagement with Taumata Arowai and the Commerce Commission.

The Department is progressing targeted engagement with iwi/Māori to understand Treaty settlement implications

While there has also been limited engagement with iwi/Māori to date, the Department is progressing a targeted engagement process with iwi/Māori to ensure the potential impacts of LWDDW on existing Treaty settlements are understood.

The lack of engagement with iwi/Māori has further meant that it is difficult to assess whether the Treaty principles of partnership, participation, and active protection have been met. The Government intends to engage with iwi/Māori and report back in late 2024.

Responsible manager(s) (completed by relevant manager)



Bex Sullivan

Deputy Executive Director

Water Services Policy, Legislation and Stewardship

Department of Internal Affairs

18 July 2024

Quality assurance (completed by QA panel)

Reviewing agency: The Department of Internal Affairs

Panel assessment and comment: The panel consider the information and analysis summarised in the RIA partially meets the quality assurance criteria.

This RIA, in particular, Part A, builds upon both the March 2024 RIA for the Local Government (Water Services Preliminary Arrangements) Bill, as well as the June 2024 RIA for the first tranche of the policy decisions for the Local Government Water Services Bill. The panel's comments largely mirror the assessment of those two earlier RIAs.

The RIA provides, within the set context of Government policy, Ministers' directions and the agreed strategic approach to the Local Water Done Well programme reforms, a description of the problem, objectives, options, and assessment criteria. The RIA also identifies the scope and other constraints on the analysis arising from these factors. In particular:

- the timeframe constraints arising from Government direction have again resulted in insufficient consultation on the proposals, as required by the Cabinet criteria; and
- there is no quantitative financial information on the various options which significantly impacts the analysis of these options and the degree to which collectively the proposals will achieve the overall objectives.

However, the RIA identifies these constraints, limitations and uncertainty with regards to these proposals. In particular, the panel notes that the RIA acknowledges:

- While councils and water organisations will have options to manage revenue requirements to support their debt, councils vary in their capacity to raise debt and revenue; and ratepayers and users will have a limit of how much they can pay for water services charges, levies or their rates.
- With regards to Part B, the Ministerial directives have resulted in the constraints on the problem definition, the options able to be assessed and the recommended options.
- For proposal 6, the Department does not have a recommended option given the potential implications on consent decision making and issues identified in the Treaty impact analysis.

As with the earlier RIAs, the panel's assessment was limited by timeframe constraints and the assessment was more truncated than usual. The panel provided comments on two drafts of the RIA, and on a third draft but did not see the final version. The panel were however of the view that this would not alter its overall assessment.

In particular, the panel notes it reviewed an earlier version of Appendix B and expressed concerns around the robustness of some of its assumptions, namely: the practicality of the council grouping scenarios and the degree to which underlying investment assumptions in councils' LTPs and relating to ratepayers and users' capacity to cover debt had been tested in the time available. However, the panel did not see the final version of this Appendix to assess the degree to which these concerns were addressed.

Abbreviations

Bill 2	Local Government (Water Services Preliminary Arrangements) Bill
Bill 3	Local Government Water Services Bill
CCO	council-controlled organisation
CCTO	council-controlled trading organisation
Department	Department of Internal Affairs
LGA02	Local Government Act 2002
LGFA	Local Government Funding Agency
LGRA	Local Government (Rating) Act 2002
LTP	long-term plan
LWDW	Local Water Done Well
MAV	Maximum Acceptable Values
MBIE	Ministry of Business, Innovation and Employment
NPS-FM	National Policy Statement for Freshwater Management 2020
OLFP	overland flow paths
RIS	regulatory impact statement
RMA	Resource Management Act 1991
SNRMP	stormwater network risk management plan
TAG	Technical Advisory Group
Watercare	Watercare Services Limited
WHO	World Health Organization
WSA	Water Services Act 2021
WSDP	water services delivery plan

Introduction

1. Local Water Done Well (LWDW) aims to support councils to deliver water services that are financially sustainable and meet minimum regulated quality standards within the context of the broader system.
2. Following the repeal of the Water Services Entities Act 2022, the Water Services Legislation Act 2023 and the Water Services Economic Efficiency and Consumer Protection Act 2023 in February 2024, the Coalition Government's stated approach to implementing its policy to improve council delivery of water services involves two stages of policy development:
 - preliminary arrangements to ensure immediate council focus on planning to achieve the financial sustainability of their water services, while also providing for some water service providers¹ to be subject to foundational information disclosure; and
 - longer-term provisions to expose all councils to the disciplines and incentives of the reforms including ringfencing requirements, economic regulation, and structural models to improve the financial performance of council water services for consumers. A set of those provisions is discussed in this document.

Preliminary arrangements were agreed in March 2024

3. Preliminary arrangements were agreed by Cabinet in March 2024, with the intention to introduce and pass legislation, the Local Government (Water Services Preliminary Arrangements) Bill (Bill 2), by August 2024. Bill 2 establishes a framework and preliminary arrangements for the new water services system. It is currently at the Select Committee stage.
4. The preliminary arrangements aim to ensure immediate council focus on planning to achieve the financial sustainability of their water services, while also providing for information to inform the design and implementation of economic regulation.
5. Cabinet agreed to:
 - provide a framework for councils to self-determine future service delivery arrangements via a water services delivery plan (WSDP);
 - the potential for water service providers to be subject to information disclosure requirements;
 - streamlining requirements for establishing water services council-controlled organisations (WSCCOs) under the Local Government Act 2002 (LGA02) to enable councils to start shifting the delivery of water services into more financially sustainable configurations, should they wish to do so; and
 - provisions that enable a new financially sustainable model for Watercare Services Limited (Watercare), the Auckland council-controlled organisation.

¹ The term 'water service provider' means all forms of local government provider – that is, councils that continue with direct (in-house) delivery, and water organisations. The term 'water organisation' is used to refer to the separate organisations that councils may establish to provide water services – and does not include councils. There will be various types of water organisation.

6. A first regulatory impact statement ("the **first RIS**") was produced in March 2024, which evaluated the above preliminary arrangements, as well as the Government's overall strategic approach to improve council delivery of water services.

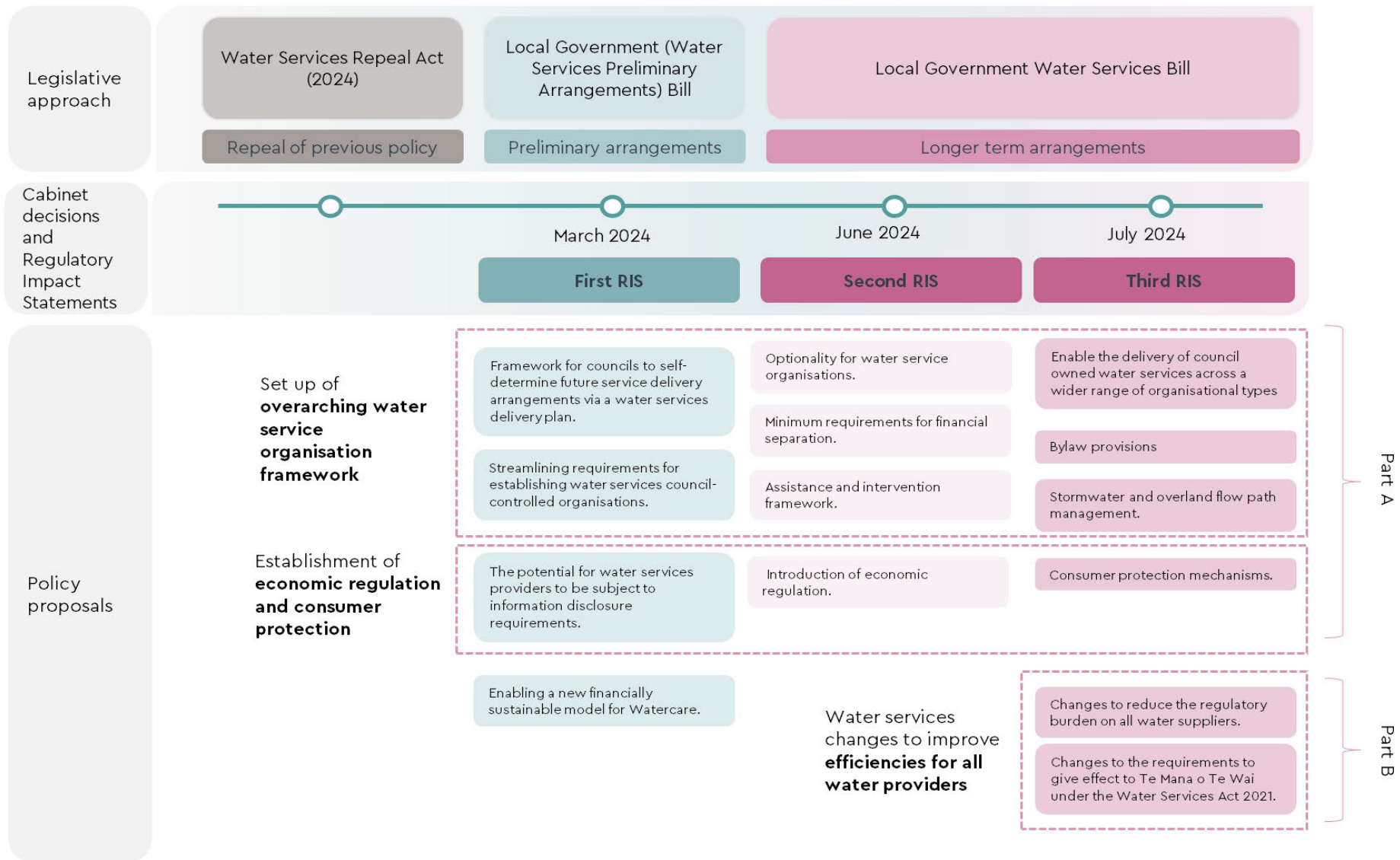
The process to determine the longer-term provisions is proceeding in two sets

7. The first set of longer-term provisions was agreed by Cabinet in June 2024 and was accompanied by a second regulatory impact statement (the "**second RIS**"). This **second RIS** built heavily on the **first RIS**, which provided the overarching assessment framework.
8. The **second RIS** assessed four overarching proposals:
 - optionality for water organisations (including planning and accountability);
 - minimum requirements for financial separation;
 - introduction of economic regulation; and
 - an assistance and intervention framework.
9. The second set of longer-term provisions is assessed in this third regulatory impact statement (the "**third RIS**") and accompanying Cabinet paper, *Local Water Done Well stage 3: further decisions*.
10. These proposals, along with the previous proposals, will form the basis for the Local Government Water Services Bill (Bill 3), which is being led by both the Department of Internal Affairs (the Department) and the Ministry of Business, Innovation and Employment (MBIE).

Proposals in this third RIS are set out across Part A and Part B

11. As noted above, LWDW aims to support councils to deliver water services that are financially sustainable and meet minimum regulated quality standards within the context of the broader water services system. Work to date across both the preliminary provisions and first set of longer-term provisions focuses on the support that can be provided to councils to meet these aims.
12. The specific proposals evaluated in this **third RIS** are a wider subset of proposals for the water services system and suppliers, and are set out across two sections, **Part A** and **Part B**.
13. **Part A** builds on the **first RIS** and **second RIS** and focuses on a range of further service delivery changes for councils, including:
 - changes to the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types;
 - bylaw provisions;
 - consumer protection mechanisms; and
 - stormwater and overland flow path (OLFP) management.
14. **Part B** focuses on changes to water services regulation to improve efficiencies for all water service providers, which will accompany changes for council water service delivery as part of Bill 3, including:
 - changes to reduce the regulatory burden on all water suppliers; and

- changes to the requirements to give effect to Te Mana o te Wai under the Water Services Act 2021 (WSA).
15. While **Part A** and **Part B** are discussed separately, the proposals are discussed as a package in three sections: limitations and assumptions; Treaty of Waitangi and Treaty settlement obligations; and implementation, monitoring, review and evaluation.
 16. The diagram on the following page provides a summary of the LWDW Bills, the chronology of the RISs, and the proposals that have been assessed.



What are the limitations and assumptions of this Regulatory Impact Statement?

17. There are limitations and assumptions within these policy proposals. These are detailed below, and the Department notes that many of these identified limitations or assumptions were also discussed in the **first** and **second RIS**.

The policy proposals within this RIS are informed by, and limited to, Government policy and Ministerial direction

18. The LWDW policy was a key manifesto commitment of the National Party, and components of it feature in the Coalition Government's 100-point Economic Plan and subsequent quarterly plans. The scope of policy options within this RIS are limited by the Coalition Government's position on the previous reform, manifesto commitments and coalition agreements. This has meant that other potential Strategic Options or delivery models were not included for consideration, such as a centralised delivery model (proposed under the previous government's reform).

19. The key components of the LWDW policy include:

- the establishment of a clear set of rules that are based on the outcomes that are expected while ensuring that councils can meet these rules in the manner they believe is best for their community (e.g. with the service delivery model of their choice);
- the introduction of step-in powers for the Government if any council or group of councils is unable to deliver a viable plan that can deliver on outcomes for water quality, infrastructure investment and financial sustainability;
- the establishment of a water service regulator within the Commerce Commission to work alongside Taumata Arowai; and
- water service providers to be regulated under Part 4 of the Commerce Act 1986.

20. Further, the Coalition Agreement between the National and the Act Parties explicitly refers to the replacement of the National Policy Statement for Freshwater Management 2020 (NPS-FM) to rebalance Te Mana o te Wai to better reflect the interests of all water users. This has flow-on implications for Taumata Arowai and water suppliers.

21. It is also assumed that there will be no Crown funding or financial support provided to councils, including a liquidity facility (not just a cash injection).

The policy proposals have been developed and assessed at pace

22. The development and analysis of the policy options assessed in this **third RIS** have been completed at pace to meet the required legislative timelines set by the Minister of Local Government. This has had implications for the level of detailed analysis able to be provided – outlined further below.

The policy proposals take into account the interaction with the preliminary provisions and the first set of longer-term provisions

23. At the time of writing this, Bill 2 is at the Select Committee stage, and provides:

- a framework for councils to self-determine future service delivery arrangements via a water services delivery plan (WSDP);
- steps towards future economic regulation;

- streamlined requirements for establishing water services council-controlled organisations (WSCCOs) under the LGA02 to enable councils to start shifting the delivery of water services into more financially sustainable configurations, should they wish to do so; and
 - provisions that enable a new financially sustainable model for Watercare.
24. Given the timing of Bill 2, and its interconnectedness with the proposals in this **third RIS** (and associated Cabinet paper), it is assumed throughout the analysis that Bill 2 will pass – creating the counterfactual in the analysis.
25. However, as Bill 2 has not yet passed, the outcomes of the preliminary arrangements that Bill 2 provides for, including the WSDPs, is not yet known. It has been assumed that these arrangements will be effective and fit for purpose – but this remains uncertain. Further, the content or quality of water service providers’ WSDPs is not yet known.
26. Analysis and the counterfactual also take into account an interim change that was made via an Amendment Paper to Bill 2, to exclude the hierarchy of obligations of Te Mana o te Wai from being part of consideration of the making of wastewater environmental performance standards. This will enable Taumata Arowai to set wastewater standards by mid-2025 that do not have to take into account the hierarchy of obligations under Te Mana o te Wai, whilst the rebalancing of the NPS-FM is undertaken.
27. Further, given the consequential nature of the proposals assessed in this **third RIS**, it has also been assumed that the first set of longer-term provisions are also part of the counterfactual (assessed in the **second RIS**), including:
- optionality for water organisations (including a planning and accountability framework);
 - minimum requirements for financial separation;
 - introduction of economic regulation; and
 - an assistance and intervention framework.

There has been a reliance on analysis done during the previous government’s reform programme as part of the assessment of proposals

28. The analysis of all three RISs was completed at pace to meet the required legislative timelines set by the Minister of Local Government to build the regulatory environment to support Bill 3.
29. As a result, some analysis relies on work completed as part of the previous government’s water services reform. However, the Department notes that some significant step changes have occurred within the water services delivery system since the RISs related to the previous government’s proposals were drafted. These changes include implementation of new drinking water regulatory requirements under the provisions of the WSA by Taumata Arowai and the recent repeal of the Water Services Entities Act 2022, the Water Services Legislation Act 2023 and the Water Services Economic Efficiency and Consumer Protection Act 2023.
30. However, the previous reform included a significant amount of consultation – both at the exploratory problem definition phase and during the design of the reform. Where relevant, the Department has considered the broader feedback collected during these former work programmes for the analysis of proposals, including the 88,000 submissions received on the Water Services Entities Bill.

No change to council-led relationships with iwi/Māori

31. The proposals in this **third RIS** assume that councils will continue to lead their local relationships with iwi/Māori, including ensuring that the process and content of their proposals for future water service delivery arrangements meet their Treaty settlement obligations. This includes the Crown's responsibility to ensure that councils facilitate Māori participation in local government decision-making processes to give effect to the Crown's Treaty obligations under sections 4, 60A and 77 of the LGA02.

Councils' capacity may constrain their ability to implement change

32. As noted in the **second RIS**, a detailed comparison or analysis of all councils has not been included and each council is different, so some situations described may not apply to all councils. However, to support the development of LWDW policy settings, and legislative proposals, the Department has analysed scenarios for water organisations. This analysis is included in **Appendix 1**. The analysis is based on proposed policy settings that would facilitate councils to form water organisations. The analysis is distinct from analysis that the Department produced in the context of the previous government's reform programme. It reflects that councils will have choices regarding how they may group together via a voluntary model (which was not possible under the previous government's reform programme).

Comparison to the modelling for the previous reform programme

33. The previous reform programme analysis took a long-term view of investment (\$185 billion over thirty years) using broad national assumptions as a top-down approach to modelling. That modelling intended to solve for the most efficient structuring, investment profile and price path, given the target of \$185 billion investment.
34. LWDW is based on 'bottom up' territorial authority by territorial authority estimates of asset replacement – council LTPs are the best estimates available for such an approach. The character and focus on councils being responsible for water infrastructure and water services means a top-down national modelling approach is not appropriate for analysis.
35. Under LWDW, councils will provide their own bottom-up assessment at a local level of the current state of their water services infrastructure and how much they need to invest.
36. The Department is already seeing examples of much lower investment needs based on estimates provided at a local level, which even when adjusted for capital and consumer price inflation are significantly less than suggested by previous modelling. This was first observed in the 2021-2031 council LTPs and has been further observed in the draft 2024-2034 LTPs.
37. WSDPs will be critical to providing an accurate estimate of the investment required at a local level.
38. In summary, the Department expects that the water organisations can be viable in terms of debt levels and debt cover, though some groupings may need to increase revenue to provide additional debt headroom.
39. That said, it is noted that councils vary in their capacity to raise debt and revenue to fund water services. Debt of whatever scale will need to be supported by revenue and the ability of households to pay will be, as appropriate, a significant consideration for all councils.
40. Councils and water organisations have options to manage revenue requirements to support their debt, which can manage the potential impacts on ratepayers/users. The impacts of revenue-raising methods on ratepayers can be mitigated by councils' decisions on their capital investment plans and their phasing. For example:

- by not taking on debt for lower priority activities;
- if debt is structured appropriately then the necessary revenue requirements can be smoothed over time; and
- councils can use debt to fund works (rather than try to fund them from revenue) and spread the cost of the works over an extended period and thereby reduce year-on-year rates pressure.

41. Using debt rather than revenue to fund operations and investment can reduce rates pressure because this allows the cost of works to be spread over a longer period. Debt can also be refinanced or repaid, and this provides options for councils or water organisations to manage revenue requirements.
42. The Department notes that there will be additional revenue constraints in other parts of the system (for example, ratepayers and users will have a limit of how much they can pay for water services charges, levies, or their rates).
43. The Department also notes that strengthened Crown monitoring and intervention powers (as discussed in the **second RIS**) provide potential protections against unreasonable and unjustified rating pressure.
44. As noted above, no Crown funding or financial support will be provided to councils, either to address an infrastructure deficit or to progress a particular service delivery model.

The assessment of costs and benefits largely relies on qualitative information

45. As with the **first RIS** and **second RIS**, due to constrained timeframes, data limitations and uncertainty as to how the various proposals will be implemented and responded to by councils, it was not possible for the Department to complete a full analysis of the costs and benefits of the six proposals beyond qualitative estimates.

Consultation and engagement

There has been limited consultation and engagement with stakeholders on the development of policy proposals

46. As with the **first** and **second RIS**, due to the legislative timeframes and Ministerial direction, there has been limited consultation with stakeholders during the overall policy design process. This includes with sector organisations, councils, iwi and hapū, and other interest groups.
47. No views of councils or water suppliers are outlined in this **third RIS**. However, engagement with councils on the specific policy proposals and direction of LWDW has informed the analysis.
48. Therefore, as with the **first** and **second RIS**, officials have relied on:
- the Government's TAG, which provided policy design input into the proposals included in this **third RIS**;
 - evidence and insights collected through the public consultation from the previous policy and legislative programme – which was extensive; and
 - insights provided from the limited engagement with councils on the policy implementation.
49. The lack of consultation does present risks, including a lack of ability to test the workability of proposals, provide full information on the implications of proposals, and

ensure the proposals present long-term enduring options. Lack of consultation may create perceptions that decisions have already been made, without the input of affected stakeholders, or understanding the implications for individual Treaty settlements.

50. We note that the Government has made commitments to do further work to rebalance the NPS-FM and revisions to the Resource Management Act 1991 (RMA) and planning system, led by the Ministry for the Environment. The Ministry for the Environment has conducted limited engagement with iwi on the Government's intent for initial changes to the RMA. We note that any engagement by the Ministry for the Environment would be the appropriate mechanism to lead consultation on Māori rights and interests in freshwater management.
51. Where relevant, insights provided in the public submissions to the Finance and Expenditure Select Committee as part of the Bill 2 process have also been considered.

The Department has engaged on implementation of LWDW policies

52. The Department has contacted all councils and provided information on LWDW, the legislative timetable and potential implications. The Department has offered assistance and advice to all councils as they work through what LWDW may mean for them and to help them engage in the legislative process.
53. The intensity of the Department's engagement and support has been (and continues to be) driven by the information needs of councils regarding WSDPs (provided for in Bill 2) and their interest in exploring joint working relationships with other councils, whether or not that might result in new combined water organisations. Some councils and groups of councils have taken up the Department's offer of further assistance.
54. The additional assistance has taken the form of multiple engagements with the councils, data supply, workshops and extensive analysis and provision of information, depending on council requirements. For some councils this has included modelling the financial implications of different organisational forms (e.g. stand-alone or combined and variations of those). The Department has extended the offer of technical support to a number of other councils who have not as yet taken up that offer. The Department expects that more councils will access support when Bill 2 is enacted and guidance material is made available, and when the councils are required to commence development of their WSDPs.
55. The Department is also preparing guidance on the possible credit rating implications for councils arising from various structural options and will provide that to councils as soon as it is available (expected third quarter 2024).
56. Feedback and input have also been received from the sector through ministerial engagements and meetings with different peak bodies.
57. It is important to note that the proposals provide enabling arrangements that meet minimum requirements (as discussed in the **second RIS**). Therefore, the engagement that has occurred has focused on understanding what councils (including groups of councils) are wanting to do, as well as making sure that the policy settings would enable this flexibility. This has also helped to get a better understanding of the support councils may require developing their plans and moving to future arrangements.

The proposals have been developed following feedback from the TAG, MBIE, Taumata Arowai and the Commerce Commission

58. In January 2024, the Government established the TAG to provide expert advice to the Department and the Minister of Local Government on the implementation of LWDW.

Members were appointed for their skills, knowledge and experience in finance, infrastructure, and local government.

59. The TAG has participated in regular workshops led by the Department to discuss policy matters for upcoming advice prepared for the Minister of Local Government. TAG feedback is detailed alongside each policy proposal where possible.
60. Officials from MBIE also participated where the Minister of Commerce and Consumer Affairs has an interest, for example, economic regulation and consumer protection.
61. There has also been engagement with Taumata Arowai and the Commerce Commission.

The Department is progressing targeted engagement with iwi/Māori to understand Treaty settlement implications

62. While there has also been limited engagement with iwi/Māori to date, the Department is progressing a targeted engagement process with iwi/Māori. Engagement will include iwi who have settled with the Crown through Treaty of Waitangi negotiations, to ensure the potential impacts of LWDW on existing Treaty settlements are understood.
63. The lack of engagement with iwi/Māori has further meant that it is difficult to assess whether or not the Treaty principles of partnership, participation, and active protection have been met. The Government intends to engage with iwi/Māori and report back in late 2024.
64. Further, in pursuing options to better deliver water services, councils continue to have requirements under either the LGA02 or Bill 3 (once enacted) to consult with their communities on how to achieve better delivery of water services, including enduring streamlined consultation and decision-making processes.
65. It is also expected that councils will continue to work within their existing local partnership arrangements and relationships and engage with their local iwi and hapū on the service delivery proposals they may wish to take forward.

Treaty of Waitangi responsibilities and Treaty settlement obligations

66. This analysis considers the alignment of policy objectives for LWDW with the rights, interests, and aspirations of iwi/Māori with respect to water services.
67. The proposals in tranche one and tranche two (that is, outlined in the **second** and **third RISs**) together form the picture of LWDW policy. As such, the Department signalled in the **second RIS** that it would consider the Treaty of Waitangi impacts across the proposals in tranches one and two. The analysis in this section addresses that commitment.
68. Specific analysis of the proposals within this paper is provided in **Parts A and B** respectively.

Treaty context

General considerations relating to the Treaty of Waitangi

69. There are two significant Treaty principles applicable to LWDW - partnership and active protection. The principle of partnership requires that Treaty partners act reasonably and with good faith to each other. The duty of good faith includes a requirement that the Crown take reasonable steps to make informed decisions on matters that affect Māori interests. The principle of active protection encompasses the Crown's responsibilities to

take positive steps to ensure that iwi/Māori property interests and taonga are protected.² Under the Treaty of Waitangi, the Crown has committed to enable the exercise of tino rangatiratanga in relation to taonga, within the context of the Crown's right to govern on behalf of all New Zealanders.

70. In the context of water services, iwi/Māori rights and interests are broad and integral. The Crown has recognised that particular water bodies are taonga of significance and importance to iwi/Māori.³ The holistic Māori world view focuses on a waterbody, and interconnecting rights, relationships, practices, tikanga, knowledge and whakapapa associated with a waterbody and the wider environment.

71. The Crown's responsibilities under the Treaty of Waitangi extend to a range of matters, including but not limited to:

- respecting the right of iwi/Māori to make decisions in relation to their lands and taonga, within the context of the Crown's right to govern;
- the rights and interests of iwi/Māori as suppliers of water services; and
- the equity of outcomes experienced by iwi/Māori, including urban Māori, as consumers of water services.

Engagement and key messages from iwi/Māori

72. This section outlines feedback from iwi/Māori provided over time, and in relation to LWDW proposals.

Key themes that have emerged from engagement with iwi/Māori over time

73. Engagement with iwi/Māori over time has informed us about their views on water service delivery reforms overtime. Prior to the focus on LWDW, there has been a multi-year programme of engagement undertaken through the previous government's reforms, which included the establishment of Taumata Arowai and a suite of regulatory reforms.

74. The following description sets out some of the key themes that have emerged from Māori in relation to water services reform over time:

- a clear concern from iwi/Māori is that all proposals need to uphold, align, and integrate with the Treaty of Waitangi and Te Mana o te Wai;
- the importance of the health of water which extends to all its forms, including freshwater and the marine environment, including the health of the ecosystem;
- proposals need to uphold Te Mana o te Wai and promote a holistic approach to water. This includes that the health of a water body should be prioritised over its use for humans or other purposes (such as horticulture or agriculture);
- Māori have a holistic view of water and do not differentiate between regulatory decisions on water management and decisions on infrastructure to provide water services. Additionally, water bodies can be seen as being connected to iwi/Māori who have an ancestral or spiritual relationship with a water body. An example is the Whanganui River, which has been recognised as an independent legal person;

² [He Tirohanga o Kawa ki te Tiriti o Waitangi \(waitangitribunal.govt.nz\)](https://www.waitangitribunal.govt.nz)

³ Rt Hon Bill English affidavit to the Supreme Court in *New Zealand Māori Council v the Attorney-General* [2013] NZSC 6

- significant concerns about degradation of water that arise in connection with the use of water and discharges, including in connection with the delivery of water services. Discharge of wastewater to water is seen as particularly offensive;
- the reforms should enable kaitiakitanga aspirations at a catchment-by-catchment level;
- a desire for a joint role in water services that extends to decision making, design, implementation, and monitoring of outcomes. This is part of the guardianship or kaitiaki relationship iwi/Māori have with water bodies. Engagement has also highlighted situations where Māori feel that they have little influence over council decisions about water services or freshwater management; and
- there are many places where water services infrastructure is located on sacred Māori sites (such as burial grounds or battle sites) – there is typically a strong desire to move infrastructure elsewhere.

75. Recent submissions on Bill 2 provided additional insight into a range of matters relating to iwi/Māori rights and interests with respect to water services. These insights included:

- the importance of enduring and meaningful relationships between the Crown and iwi/Māori;
- the need to acknowledge the rights and interests of iwi/Māori in water services within the wider context of their rights and interests with respect to particular water bodies;
- the need to recognise that Treaty settlement legislation should prevail in the context of reforms to water services; and
- opposition to the amendment to remove the hierarchy of obligations in Te Mana o te Wai for the making of wastewater environmental performance standards under the WSA. Concerns around this issue included:
 - the proposal would lead to the deterioration of freshwater and drinking water quality;
 - the proposal is pre-emptive of the upcoming review of the NPS-FM; and
 - the proposal would reduce the ability for iwi without Treaty settlement agreements that expressly protect waterways to exercise their rights and interests with respect to particular waterways.

76. To date there has been limited engagement by the Department in relation to the proposals for legislative change under Bill 3. However, the Department is progressing a targeted engagement process with iwi/Māori to ensure the potential impacts of LWDW on Māori interests and existing Treaty settlements are understood. While the targeted engagement process is yet to progress, the outcome of this engagement will be addressed in a later Cabinet paper, as agreed by Cabinet.

77. We note that the Government has made commitments to engage with iwi/Māori on work to rebalance the NPS-FM and revisions to the RMA and planning system, led by the Ministry for the Environment. The Ministry for the Environment has conducted engagement with iwi on initial amendments to the RMA and is continuing to engage on the longer-term amendments.

Analysis of suite of Bill 3 proposals: iwi/Māori rights and interests in the Treaty context

78. The proposals in Bill 3 relate to the provision and regulation of water services. While water services are linked to the broader resource management system, these proposals are focused on reducing the cost of water infrastructure so councils can invest in the appropriate infrastructure to the right standards and improve service delivery. Amendments to the WSA are not intended to change the role of iwi/Māori in the resource management planning process.
79. We note that the Government intends to rebalance Te Mana o te Wai as part of the NPS-FM. The Government has made commitments to engage with iwi/Māori on matters relating to planning and freshwater management through proposed changes to the resource management system. The proposals in this paper are not intended to affect the processes for rebalancing the NPS-FM.
80. The proposals make limited changes to resource management legislation. Specifically, they introduce new planning provisions relating to stormwater risk management for OLFPs and urban watercourses (discussed in **Part A** of this **third RID**), and to reduce the regulatory burden for consenting wastewater infrastructure and discharges (discussed in **Part B** of this **third RIS**).
81. None of the proposals in this paper are intended to limit broader rights and interests iwi/Māori have in freshwater. If there are any impacts identified as details of the proposals are developed, further work will be undertaken to assess those impacts.
82. It is also noted that the policy intent is to preserve existing Treaty settlement obligations and commitments, and further work, together with engagement with any affected iwi, is being carried out on how to achieve this. This **third RIS** does not assess the impacts on specific Treaty settlement redress, as this is still to be worked through.

Policy proposals are intended to improve the enabling environment for efficient delivery of water services

83. LWDW intends to deliver safe, resilient, reliable, environmentally sound, and customer-responsive water services at least cost. Like other consumers of water services, iwi/Māori will benefit from more efficiently managed water services, transparent pricing and charging, and clarity about pricing decisions for consumers and communities. The new regulatory regime for water services is intended to ensure that revenue collected by water service providers reflects the reasonable costs of service.
84. Proposals across the papers seek to reduce regulatory costs across the system, enable effective governance of water services, and focus on investment in water services at the local level.
85. Proposals in this paper are intended to support reliable water services delivery, with benefits across communities in New Zealand, under the leadership of councils, including to support housing growth objectives. Proposals relating to stormwater are expected to provide for a more joined-up approach to service delivery across various providers, leading to more effective stormwater management.
86. The proposals are intended to enable local government water service providers to reliably raise the finance needed for investment, including by facilitating long-term borrowing; and invest in water infrastructure that is resilient and meets the current and future needs of communities. When developing their WSDPs, councils will be required to consider how they plan to fund investment requirements, and how they will address infrastructure

deficits and support growth. Under these settings, there is potential for all communities, including Māori communities, to benefit from greater investment in water infrastructure.

87. Māori are particularly over-represented in communities that receive no or poor-quality water services, for example isolated rural communities.^{4, 5} Enabling more efficient service delivery would allow for improved access to services by these underserved communities. In addition, while the proposals are not specifically targeted at Māori, it is expected that they, along with their wider communities, will benefit from the housing growth, economic opportunities and health benefits provided by improved water services.
88. Under the regulatory proposals, as water consumers, iwi/Māori will benefit from greater transparency regarding consumer protection measures. The paper proposes to enable the Commerce Commission to collect and publish reporting on local government water service providers' existing consumer protection settings and identify potential shortcomings.
89. Councils will have the flexibility to work with local communities and iwi to determine the optimal delivery arrangements for their water services. Councils and water organisations could consider entering into long-term contracting arrangements with third parties, such as iwi, in relation to various aspects of their water services.

Participation

90. The approach in LWDW emphasises local decision-making, retains existing LGA02 provisions that require councils to provide for iwi/Māori participation, and will make provision upholding for Treaty settlements. The proposals do not change the existing obligation on local authorities to provide opportunities for iwi/Māori to participate in decision-making.
91. Section 4 of the LGA02 acknowledges the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for iwi/Māori to contribute to local government decision-making processes. Parts 2 and 6 of the LGA02 provide principles and requirements for local authorities that are intended to facilitate participation by iwi/Māori in local authority decision-making processes.
92. Specifically, there are requirements under the LGA02 that before a council or CCO makes a decision that may significantly affect land or a body of water, it must take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga (sections 71 and 60A respectively); and section 81 outlines the requirement to provide opportunities for Māori to contribute to local government the decision-making.
93. Furthermore, it is acknowledged that there are limitations of the requirements above under the LGA02, and that their inconsistent implementation across local government has been criticised by Māori and the Waitangi Tribunal.
94. Some Treaty settlement legislation does provide for specific arrangements for iwi/Māori decision-making or co-governance of particular resources. There is no change to this position within the policy proposals - the approach here is that new provisions should not reduce current LGA02 requirements to facilitate Māori participation in decision-making.

⁴ Te Whatu Ora – [Health Status Report 2023](#), page 4

⁵ Rural Supplies Technical Working Group – Report to the Department of Internal Affairs (2022) Page 5 of 37

95. The intent of these policies is that the responsibilities, commitments and obligations outlined above will be preserved.
96. The objectives of the reform emphasise locally led decisions, in a context of a stronger economic regulatory environment. In pursuing options to better deliver water services, councils will continue to have requirements to consult with their communities on how to achieve better delivery of water services. It is also expected that councils will be engaging with their local iwi and hapū, particularly given they have existing relationships, on the service delivery proposals they may wish to take forward. The Crown will retain the ability to monitor the state of relationships between local government and iwi/Māori, both under the LGA02 and the proposed new legislation.

Rights, interests, and relationships with taonga

97. LWDW intends to promote an enabling environment for local government to operate, and local authorities will continue to be required to take into account the relationship of Māori, their culture and traditions with their taonga. It is acknowledged that Māori do not consider the existing requirements of the LGA02 to be explicit enough to ensure that local authorities respect the Crown's responsibilities to provide for Māori tino rangatiratanga over, and active protection of, taonga.
98. Aside from protection of Treaty settlement commitments and obligations, it is unclear how regulatory settings as to cost or standards for water services delivery will directly enable water services to provide for rights and interests in water at the operational level, or support accountability for those matters. This is in part because further design elements are yet to come, and it can be difficult to assess the impacts of changes without a fuller assessment of the impacts (or supports) from the wider regulatory system.

Part A: Further service delivery changes

Section 1: Diagnosing the policy problem (Part A)

What is the context behind the policy problem and how is the status quo expected to develop in Part A?

99. As highlighted in the **first RIS**, drinking water, wastewater, and stormwater infrastructure are critical to public health and wellbeing. This infrastructure is an essential enabler of residential and regional development, new housing provision, and economic growth. Their provision and physical condition are also important to environmental quality and community resilience and is becoming more important because of climate change.
100. Councils provide drinking water, wastewater, and stormwater services to most New Zealanders. There are currently 68 councils that own and operate water services across New Zealand. Around 85 percent of New Zealanders receive their drinking water and other water services from these councils, with the remainder provided by smaller private and community-based schemes.
101. The service delivery models employed by councils vary, and include in-house business units, CCOs, and a variety of contracting and sourcing arrangements to private operators and service delivery companies. Most councils directly own and manage their water services. These councils employ a variety of different approaches to their operation of water services including a variety of contracting and outsourcing arrangements for the operations, asset maintenance and renewal to third parties. Regardless of the operating model, councils are responsible and accountable under the LGA02 to their ratepayers through the local democratic system for the delivery of water services to their communities.
102. The **first RIS** describes the regulation of water services:
- The LGA02 includes obligations on councils to assess community access to water services, and to continue provision of existing water services, and requirements for long-term planning of council operations including water services CCOs.
 - Taumata Arowai—the Water Services Regulator Act 2020 and the WSA provide for drinking water quality standards and their enforcement by Taumata Arowai and wastewater and stormwater environmental network performance standards.
 - The RMA provides for resource consent requirements and their monitoring, and monitoring of discharges and abstraction points by regional councils.

The preliminary arrangements will change the status quo

103. The Coalition Government has committed to a locally-led approach to improving water services through its policy, LWDW. This policy ensures that:
- councils retain ownership and control of their water services assets and delivery;
 - central government has stronger oversight of council delivery of water services to ensure that the status quo does not continue, including introducing an economic regulator;
 - councils are required to ringfence assets and funds for water infrastructure with the policy objective that water services will become financially sustainable; and

- there is greater transparency and accountability to consumers, communities and regulators.

104. Bill 2 sets out the framework and initial operating environment for the replacement regime. It seeks to:

- establish foundational information disclosure requirements to support the long-term economic regulatory regime;
- require councils to develop WSDPs to be submitted within 12 months of the enactment of Bill 2 to demonstrate how water services will be organised and managed to ensure that they are financially sustainable and meet regulatory compliance and service standards;
- remove barriers and streamline requirements on councils for establishing water services CCOs under the LGA02 to make it easier for councils to reorganise their delivery of water services into more financially sustainable configurations; and
- consider options for a fast-tracked approach for Watercare and Auckland Council to achieve the financial separation of water services and move to economic regulation ahead of other councils.

What is the policy problem or opportunity in Part A?

105. The overarching policy problem is discussed in detail in the **first RIS**. Without systemic change, council ownership and delivery of water services is financially unsustainable and does not always meet minimum health and environmental quality standards.

106. Current council draft long-term plans (LTPs) for the period 2024 – 2034 signal overall 65 percent more investment in water services than what councils overall committed to in their 2021 – 2031 LTPs. However, it should be noted that this level of increase is not uniform across councils and the amount that individual councils invest will vary from this (including councils with higher and lower rates increases). For some councils who are increasing their rates, this large increase in investment is contributing to large rates increases (averaging 15 percent, with 10 percent increases in each of the two following years after). **Appendix 2** provides a summary of rates increases across current LTPs. However, it is important to note that this is only what councils have projected, and that rates increases do not tell the whole picture of investment needed, e.g. many councils (both with high and low rates increases) are still not sufficiently investing in infrastructure.

107. In the **first RIS**, five root causes were identified as contributing to persistent systematic problems with the delivery of water infrastructure services by councils, being:

- institutional barriers to more efficient delivery of water services;
- poor incentives on councils to adequately invest in and fund water services;
- varied decision-making quality;
- funding constraints; and
- incomplete regulatory and stewardship oversight and monitoring.

108. Below is a summary of specific considerations related to each of the root causes that are particularly relevant to **Part A** of this **third RIS**.

Institutional barriers to more efficient delivery of water services

109. The fragmented and dispersed manner in which water services are delivered across 68 local authorities of varying sizes and capabilities has an impact on their overall quality and efficiency.
110. Specifically relevant to this **third RIS** there are overlapping responsibilities for managing the impacts of stormwater in urban areas across territorial authorities, regional councils, road transport operators and other organisations including any new standalone water organisations. Current legislative provisions do not provide adequate clarity and mechanisms for efficient, integrated and coordinated approaches to stormwater management across organisations. They do not, for instance require organisations with different and overlapping roles in stormwater management to work together to develop integrated plans to inform their respective roles in or approaches to stormwater management. With the frequency of severe weather events increasing due to climate change, this is becoming an increasing problem for many parts of New Zealand.
111. Further, there is little legislative direction or guidance to ensure consistent approaches across councils for rules to protect drinking water sources and water services operations and infrastructure. Instead, each council uses generic bylaw-making provisions and enforcement powers to develop its own approach to rules and enforcement to protect and manage its water services. The inconsistent use of bylaws across councils means that businesses operating across New Zealand can face different rules and requirements in different locations, which results in complexity and additional compliance costs.
112. And finally, consumer protections are tools that can support better outcomes for consumers by driving better customer service and responsiveness. This could be by ensuring consumers are well-informed about the services they receive, can expect appropriate levels of 'customer service' and have routes to complain if problems arise. As with bylaws, the existing consumer protection approaches vary across councils, which may act as a barrier to efficient delivery of water services.

Poor incentives on councils to adequately invest in and fund water services

113. Councils and their executives must prioritise investments and make trade-offs across a portfolio of activities throughout the three-year political cycle. In this context, some councils have made decisions to defer investments in long-life and largely underground assets, in favour of more visible priorities, to the detriment of future rate payers.
114. Specifically, in relation to this **third RIS**, councils and other organisations with overlapping roles in stormwater management are not incentivised through legislative and regulatory requirements to collaborate and take proactive approach to the investment and management of stormwater services.
115. Councils are also not incentivised through local democratic processes or existing legislative requirements to consider compliance costs or interests of businesses operating nationally in their making of local bylaws. Council involvement in water services provision is expected to provide democratic accountability, however, it is not a guarantee that water service providers will be responsive to individual customer interests, problems and priorities.

Varied decision-making quality

116. Water services are capital intensive and complex. Those involved in decisions may not have the skills and capabilities needed to provide effective asset management and delivery of water services or to ask the right questions of those that manage water

services, which leads to overall lower quality decision-making. Further, the politicisation of decision-making can have a negative impact on infrastructure management and investment.

117. Specifically in relation to this **third RIS**, local accountabilities for the making of bylaws result in variable and sometime insufficient decisions on the making and enforcement of rules necessary for the protection of drinking water sources and critical water service infrastructure.
118. There are also siloed responsibilities across organisations for activities critical to the mitigation and management of flood risks which contribute to sub-optimal approaches to decisions on stormwater management.
119. Inadequate planning for stormwater across organisations involved in its management is also an obstacle to ensuring adequate investments in stormwater systems.

Funding and financing constraints (for water organisations and councils)

120. Poor past management and investment decisions have left many councils with water services that have not been adequately maintained or renewed. Further, some councils have not always charged enough through rates and other revenue sources to recover the whole-of-life costs of the water services they provide. The total debt positions of some councils means that they are unable to borrow sufficiently to invest in improvements to existing infrastructure services or to extend the provision of water services to enable growth. Sometimes constrained balance sheets and revenues have led to credit rating downgrades that have further increased costs of investment in water and other council services.
121. As with the **second RIS**, of particular relevance to this **third RIS** is also the constraints on existing council balance sheets to borrow more money to invest in water services, coupled sometimes with insufficient pricing of water services through rates and other charges to generate the revenue necessary to cover the whole-of-life costs of providing water services. This can impact ratepayers and be coupled with additional revenue constraints in other parts of the system (for example, ratepayers and users will have a limit of how much they can pay for water services charges, levies or their rates).
122. However, the impacts on ratepayers can be mitigated through various mechanisms and by striking the balance with respect to debt level, debt phasing and revenue required. Councils and water organisations have options to manage revenue requirements to support their debt, which can manage the potential impacts on ratepayers/users. They could for example transfer less initial debt into the new organisations, lower debt will reduce revenue requirements. They could also better optimise capital investment requirements to reduce the level of investment needed or phase investments to 'smooth' any impacts on ratepayers. This is discussed in more depth in the limitations section.
123. Importantly, the key sub-issue identified is related to the current funding and financing constraints experienced by some water services organisations and councils, and their ability to access more money to provide adequate investment in their networks.

Incomplete regulatory and stewardship oversight and monitoring

124. The comprehensiveness of regulation across water services is incomplete. Current regulation involves regulation of drinking water quality by Taumata Arowai and of the environmental impacts of water services by regional councils.
125. We do not currently have a complete picture of consumer protections in the water services sector or the extent to which consumers are able to assess the quality of the services they receive.

What objectives are sought in relation to the policy problem in Part A?

126. The root causes identified above inhibit water service providers' ability to deliver water services in a financially sustainable manner. This includes being able to provide assurance to their communities that these services are meeting minimum regulatory requirements for drinking water safety, reduce harmful environmental impacts associated with delivery of water services, improve resilience to natural hazards and climate change, or to enable residential development and economic growth.
127. The Departments' proposed approach to solving the policy problem is linked to the key features of LWDW. The policy objective is that local councils deliver water services that are financially sustainable and meet minimum regulated quality standards for communities.
128. As outlined in the **first** and **second RIS**, financial sustainability includes both legacy water infrastructure costs and future costs associated with meeting growth demands. Under the Government's LWDW policy, **financial sustainability** means councils:
- demonstrate revenue sufficiency, so that water services earn enough lifetime revenue from rates or water charges to cover costs;
 - financially ringfencing water services, to enable borrowing against that revenue and separate funding for other council services; and
 - access finance for growth whenever there are users willing to pay the cost of services.
129. In the limitations section of this **third RIS** we outline that council's capacity may constrain their ability to implement change.
130. Further, the delivery of water services will be led by councils and recognises that each region requires an individual solution, as opposed to a one-size-fits-all approach. The aim is that the LWDW will empower communities, improve decision-making quality and set rules for quality and investment.
131. Supporting councils to operate water services in a financially sustainable manner with adequate investment and funding is critical if services are to meet community expectations of quality including drinking water safety, provide for local and regional growth and development, and be resilient against other challenges such as those associated with climate change adaptation.

Section 2: Deciding upon an option to address the policy problem (Part A)

What strategic options could the Government explore in Part A?

132. As noted in the **first RIS**, there are four broad approaches (Strategic Options) available to the Government as it considers what it can do to enable and support local authorities to deliver water services that are financially sustainable and meet minimum regulated quality standards:
- **Strategic Option One:** Status quo, being reliance on the current provisions of the LGA02 to provide for council accountability in financial management and delivery of water services, and current regulatory settings.
 - **Strategic Option Two:** Transitional provisions to focus councils on the sustainable financial delivery of their water services, inform development and implementation of economic regulation and prepare councils for full economic regulation.
 - **Strategic Option Three:** Economic regulation without transitional provisions.
 - **Strategic Option Four:** Economic regulation coupled with stronger direction from central government to councils on how to manage and organise their delivery of water services.
133. The four Strategic Options were assessed in the **first RIS**, with the Department recommending **Strategic Option Two** as it aligns with LWDW and provides the necessary incentives and support for councils to improve delivery of their water services in the lead up to full economic regulation. **Strategic Option Two** aimed to enable and support council reorganisation of water services in the lead up to economic regulation.
134. Economic regulation promotes positive outcomes for customers but requires a long implementation process. This option allows for a ‘pre-regulatory period’ in which the economic regulator will be able to work with the water sector to build its understanding of how to comply with economic regulation, before determining the rules required for the first regulatory period. The establishment of an economic regulator also takes time and resource. Central government will need to communicate with, and educate councils on, the regulatory requirements and develop input methodologies on which to base price-quality regulation.
135. **Strategic Option Two** will also support all councils, regardless of their capability to prepare for economic regulation. For example, it should support suppliers that are ready to move to a stronger regulatory environment and suppliers that will need to gradually shift their mode of delivery to clearer planning through a roadmap and provide greater accountability to their communities.
136. It will also ensure that all councils are focussed on what they need to do and change to put their water services onto financially sustainable footing in the years prior to the full implementation of economic regulation.

What criteria will be used to compare options to the status quo in Part A?

137. The **first RIS** set out six criteria against which both the Strategic Options and four Policy Proposals were assessed against.
138. **Part A** of this **third RIS** builds on this set of criteria in the same way as the **second RIS**. It continues to provide a link between policy options and the Government’s LWDW objectives. The criteria provide the basis to indicate the extent to which each option will

result in changes to the delivery of water services to improve financial sustainability and better meet community quality expectations of those services.

139. However, there have been the same two main adjustments, as was done with the **second RIS**:

- The description and relevance to objectives and root causes, have been amended for the second criteria to explicitly draw out the judgments and decisions needed across the proposals in this **third RIS**, and associated Cabinet paper – this is highlighted in blue.
- The criterion, ‘enables Māori participation in decision-making’ that was included in the **first RIS** has been removed. This was originally intended to assess the extent to which an option enables Māori participation in decision-making that reflects the nature of their rights and interests in freshwater management and provision of water services to communities. This criterion was considered more appropriate for the options in the prior RIS – the options in **Part A of third RIS** do not lend themselves as well to each being considered against this criterion. Accordingly, this **third RIS** includes a stand-alone section on Treaty obligations instead which was outlined in the Introduction.

Table 2: Revised criteria descriptions

Criteria	Description	Relevance to objectives and root causes
Improved incentives, efficiency and accountability for sustainable performance	The extent to which an option supports a more transparent, efficient, and accountable system that drives better decision-making and improved performance for all councils, while providing flexibility.	Incentives and accountability are critical to the success of a locally-led approach to delivery. The problem definition concludes that current incentives on council management of water services are not well aligned to achieving the sustainable financial management of long-life water services assets. It concludes that communities do not have access to transparent and reliable information to hold councils to account for their performance in delivering water services. The problem definition also points to how a lack of economic regulation contributes to weak incentives and accountability. Institutional barriers to exploring and implementing more efficient organisational approaches to water services delivery are compounded by a default preference to be risk averse.
Improved evidence-base to inform delivery decisions	The extent to which an option supports faster and more sustainable investment from water service providers in water services infrastructure. This includes the extent to which an option provides consumers with transparent information.	Water services networks and infrastructure are complex and expensive long-life assets. Good information and capable decision-making and governance are supported by strong evidence, which is critical to sustainable financial management. The problem definition concludes that management of water services is not always informed by good evidence and that councils may not always have the capabilities they need to provide effective governance.

Criteria	Description	Relevance to objectives and root causes
Provides a financially sustainable approach for local council delivery of water services	The extent to which an option addresses the ability of water service providers to use a range of tools to fund and finance investment to ensure their financial sustainability.	This criterion aligns to the overarching objective and is intended to provide for an overall assessment of the effectiveness of an option in providing for improved financially sustainable delivery of water services. The problem definition identifies funding constraints as being critical to financial sustainability and meeting minimum quality standards for communities, and this criterion will include consideration of the extent to which each option addresses these constraints. This criterion also relates to the removal of institutional barriers to the more effective financial management of water services, including the role that financial ringfencing can play as one way to address funding constraints by providing for increased debt financing of water services through their balance sheet separation from other council activities and functions. Phasing of debt and using debt rather than revenue to finance capital works can also be used to mitigate impacts on ratepayers and spread the costs over a longer period.
Enables improved quality, resilience and residential growth	The extent to which an option supports future resilience (across a range of external pressures) and quality of water services delivery whereby growth is not inhibited.	This criterion also aligns to the overarching objective and is intended to provide for an overall assessment of the effectiveness of an option in providing for improved quality outcomes in local provision of water services.
Provides a practical path for implementation	The extent to which an option allows for a smooth transition to a new system. This is in a way that provides clarity to councils on what to expect and predict when responding to regulatory changes. This also includes the extent to which options recognise different capacities and capabilities to effectively respond to new regulatory requirements.	This criterion has been included to assess the practicality of each option as a basis for its successful implementation. Part of this is recognising the different starting points of councils, and the need to ensure that regulatory and other proposals are proportionate to council capability and capacity to effectively respond, and also for requirements to change over time as capability and capacity improves.

What scope will options be considered within in Part A?

140. Eight proposals have already been assessed under **Strategic Option Two** across the **first** and **second RIS** – sitting across the preliminary provisions, as well as the first set of longer-term provisions.

141. **Part A** of this **third RIS** provides for **four additional proposals** to complete the set of enduring foundations. These proposals are:

- changes to the legislative framework to enable the delivery of council owned water services across a wider range of organisational types (led by the Department);
- bylaw provisions (led by the Department);
- consumer protection mechanisms (led by MBIE); and
- stormwater and *overland flow* path management (led by the Department).

142. A further two policy proposals are set out separately in **Part B**. These are part of the second set of policy proposals for inclusion in Bill 3.

While assessed separately, the proposals come together as a package and have a high degree of interdependency

143. Across all of these proposals, as well as the proposals set out in the **second RIS**, there is significant overlap as they come together to form the LWDW ecosystem.

144. For example, the changes discussed in proposals one, two and four all come together to change the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types. Further, there are strong links between economic regulation (discussed in the **first RIS**) and consumer protection (proposal three). Consumer protection supports the overall objectives of economic regulation and focusses on individual consumer experiences.

145. There is a high interdependency between the different proposals and the Government's objective to improve council delivery of water services.

The counterfactual options include the proposals set out in the Local Government (Water Services Preliminary Arrangements) Bill and the decisions already made by Cabinet in June

146. As noted in the Introduction, the preliminary arrangements were agreed by Cabinet in March 2024, with the intention to introduce and pass Bill 2 by August 2024 that will establish a framework and preliminary arrangements for the new water services system. These arrangements (assessed in the first RIS) will support regulatory change over the next six months; these arrangements form part of the 'counterfactual'.

147. Further, the first set of policy decisions (assessed in the **second RIS**) that set the foundations of the longer-term provisions as part of Bill 3 were agreed by Cabinet in June 2024. This includes policy decisions on aspects such as water organisations and economic regulation. As many of the proposals in this **third RIS** build on these decisions, and are consequential, it has been assumed that these arrangements form part of the 'counterfactual'.

Policy options are informed by, and limited to the Government's policy

148. As outlined in Section 1, the policy proposals are informed by, and limited to, the Government's policy and key parameters set out in LWDW, including that:

- councils will retain ownership and control of their water services assets and delivery;
- central government will have stronger oversight to ensure that the status quo does not continue, including introducing an economic regulator;
- councils will be required to ringfence assets and funds for water infrastructure with the policy objective that water services will become financially sustainable; and
- there is greater transparency and accountability to consumers, communities and regulators.

149. Therefore, options such as compulsory amalgamation of council-owned water organisations which were progressed under the previous government, are not assessed.

Treaty of Waitangi analysis: Part A proposals

Enabling access to water services

150. The four proposals within **Part A** of this RIS are focused on updating regulatory processes and provisions to improve the coherence of the water services system. The rationale is that a more coherent system will better deliver quality services and financial sustainability, of which a core component is adequate funding for growth of water services.

151. It is implicit that a more coherent system will improve the ability of all parties to understand and access that system. While these policies are not targeted at Māori, Māori are nevertheless likely to benefit from improved system performance, as discussed above.

Charging and tariffs

152. While there are no specific legislative proposals to address previous under investment for Māori communities, water service providers will have flexibility in how they charge and could address inequalities through differential charges. For example, charge lower (or no) growth charges to Māori communities.⁶ This may align with a water service's policy to promote investment in infrastructure which benefits iwi, hapū or whānau.

Powers to access land

153. Proposal One includes modernised provisions governing the powers of water service providers to access and carry out work on land. These powers will include appropriate protections for all parties. This encompasses a number of different types of landowners and includes protections for types of Māori land (for example - marae, urupā, Māori reservations, Māori land and Treaty settlement land).

154. This represents a greater recognition and protection of Māori land rights than under the status quo and can therefore be considered consistent with the principle of active protection, and an improvement on the status quo.

Stormwater and overland flow path management

155. Proposal Four is for a new legislative framework to clarify roles and responsibilities, improve management of overland flow paths and urban water courses, and introduce new planning and regulatory tools.

156. Improved stormwater management should result in better planning and management of urban water by territorial authorities. This will have multiple benefits including the likelihood of increased use of green solutions to managing stormwater infrastructure, reduced vulnerability to natural hazards and therefore better protection for vulnerable populations, including but not limited to Māori, as well as better protection for surrounding lands and waters.

157. The new planning and regulatory tools do not contain explicit provisions regarding the relationship of iwi/Māori to specific lands or water bodies. However, they will not override RMA requirements or other management tools that do identify and protect rights and interests of Māori as kaitiaki. In addition, territorial authorities will retain the legal responsibility for delivery of stormwater services.

⁶ A water organisation's development contributions policy would be able to set out conditions and criteria (if any) that will apply in relation to the remission of development contributions, as a territorial authority's policy currently can under 201(1)(c) of the LGA02.

158. The proposals preserve the status quo, including the existing obligation on local authorities to provide opportunities for Māori to participate in decision-making, as well as other existing legislative provision for Māori values and interests to be considered in resource management decision-making.

Proposal One: Amendments to the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types

159. Two options are explored below:

- **Option One:** Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework (counterfactual).
- **Option Two:** Modernisation of provisions for all water organisations.

Option One: Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework (counterfactual)

160. Under this option, only necessary amendments would be made to the existing legislative framework to enable the delivery of council-owned water services across a wider range of organisational types. This includes water organisations designed to operate independently of council owners, organisations owned by multiple councils, or partly or fully by consumer trusts.

161. These amendments would sit across a wide range of areas which are outlined below.

Powers relating to infrastructure

162. Under this option, there would be no changes to the following powers as current provisions are considered adequate in the medium term:

- powers to carry out work on land in relation to water services infrastructure, and
- powers to control connections.

163. Under this option, there would also be no changes to the compliance and enforcement for regulatory functions. For offences, only necessary consequential changes would be made to offence regimes, including infringements in Bill 3, and improvements would be considered as part of the Department's broader work on local government bylaws.

Charges and other financial matters

Liability for charges

164. Water charges are currently included as part of council rates, except for examples such as Watercare, which bills property owners directly. The Local Government (Rating) Act 2002 (LGRA) provides a framework for identifying who is liable to pay rates (i.e. who is the ratepayer) which broadly aligns with who owns the property.

165. Under this option, a similar framework to the LGRA will be introduced to identify who should be charged for water with modifications relating to unconnected properties. For unconnected properties, this option will allow for water organisations to charge a "serviceability fee" to properties that could be, but are not, connected to the water network.

166. Councils will also be required to provide water organisations with the necessary information to support charging (e.g. the identity and contact details of the ratepayer for a property the water organisation supplies water to).

Debt collection, receivers, and the impact on borrowing

167. Under this option administrative arrangements would be made between water organisations and councils to set and collect charges. As such, a suitably modified

version of the LGA02 framework would be available for councils to identify who should be charged for water services.

168. If a water organisation defaults on a debt a court-appointed receiver will be able to collect outstanding amounts from water charges.

Distributions and dividends policy

169. Shares in water organisations will either be owned by a council, multiple councils, a consumer trust, or a mix of council(s) and consumer trust(s). Consumer trusts shareholdings are an option if councils want to obtain financial separation by diluting council ownership. Under this option, water organisations will be restricted from distributing funds or issuing dividends to shareholders. The only exception to this will be to allow water organisation to reimburse consumer trusts for the actual, reasonable and necessary expenses incurred in meeting their obligations.

Interaction with Rate Rebates legislation

170. The Rates Rebate Scheme provides support to low-income owner-occupiers. Councils administer the Scheme, and the rebates are funded by the Crown. An unintended inequity may arise if or when councils begin to transfer water services into water organisations. Two ratepayers who pay the same total amount of water charges and/or rates, and who have the same level of income, could receive different amounts of rates rebate if one lives in an area supplied by a water organisation and the other in an area supplied by an in-house council water service. The former would receive less rebate than the latter because water charges would not count as rates.
171. This situation exists in Auckland now as the water charges invoiced by Watercare are not classified as rates. However, Auckland Council provides a rebate on water charges that it funds itself, so ratepayers are not impacted.
172. Therefore, under this option there would be an amendment to the Rates Rebate Act 1973 to include water charges as part of the definition of rates for the purposes of rebate calculations. This will mean that ratepayers will not receive different levels of rebate depending on whether they are billed for water charges as part of their rates bill, or separately through one of the new water organisations.

Necessary tax and financial settings changes

173. Currently water services are mostly supplied by councils (with the exception of Watercare) which are all tax-exempt entities under the Income Tax Act 2007. As set out in the **second RIS**, it is expected that some councils will transfer water infrastructure assets, and responsibility to supply water services, to new water organisations. In addition, these transfers will likely include employees, contracts, liabilities and other matters. In the absence of any amendment to tax legislation, the transfer of assets, employees, contracts, or liabilities may have tax implications for both the council and water organisation.
174. In line with the general tax policy approach – which is to provide specific transitional tax relief in legislation with the broad policy objective of enabling reform to be carried out on a tax-neutral basis and to remove any tax consequences arising solely from the restructure – this option would include new provisions that treat the transferor and transferee as the same person for the purposes of the Income Tax Act 2007 and Goods and Services Tax Act 1985. This will allow those transfers to occur without triggering income tax or GST consequences, for a five-year period from enactment.
175. Under the option, water organisations would be granted income tax-exempt status, recognising that they:

- are not engaged in a commercial activity with a profit-making objective;
- are not in competition with private enterprise (given the monopolistic nature of water services);
- are not able to make distributions to shareholders; and
- are assisting the Government to carry out its social objectives under LWDW.

176. The LGA02 provides an exemption from rates, by deeming land to be non-rateable, in a variety of different cases. Most of the land owned by councils that is used for water services, and may be transferred to a new water organisation, will currently be rateable as it will not fall under one of the exemptions. Some of the land that may be transferred to water organisations will currently be non-rateable. This would most likely be the case if the land related to stormwater services and is used for “rivers control purposes”.

177. Therefore, under this option, water organisations would be required to pay rates on land. This is in accordance with the general principle that water services should be fully funded through water charges. Councils that hold shares in the water organisation would have the ability, as noted above, to remit these rates if they decided that was appropriate. With respect to assets, water organisations will be required to pay rates on pipes that run through land they do not own, or on assets located on land they do not own, which aligns with obligations faced by other network utility providers (such as electricity, telecommunications).

178. The LGA02 explicitly prohibits councils from borrowing in **foreign currency** but is silent on whether CCOs are able to do so. This is expected to pose a problem for water organisations as the total amount of borrowing needed to finance water infrastructure deficits nationally is likely to exceed the amount of New Zealand-based lending available. For avoidance of doubt, this option will explicitly allow water organisations to borrow and enter into incidental arrangements in foreign currency.

Charging for growth-related costs of infrastructure

179. Work is currently underway to improve infrastructure funding settings for councils under the Government’s *Going for Housing Growth* policy. Any new framework for councils to recover growth infrastructure costs will likely mean changes to growth charging mechanisms for water services.

180. Under this option, there would be an interim arrangement, while the *Going for Housing Growth* work is still being progressed, for water organisations to be given the ability to use the current development contributions regime. Development contributions are a statutory charge provided for within the LGA02 that can only be charged by territorial authorities.⁷ Without legislative change, this funding tool would not be available to any type of water services provider except in-house provision.

181. This interim approach would involve enabling water organisations that own or control water services infrastructure to both:

- write their own development contributions policy, using the same framework in the LGA02 (including consultation requirements), and

⁷ An exception to this is that Kāinga Ora is able to require development contributions under some circumstances (Subpart 3 of the Urban Development Act 2020).

- directly charge and invoice those who are liable to pay development contributions under that policy, in line with the current LGA02 framework.

182. Under this option, legislation would also enable councils to administer a water organisation's development contributions policy on its behalf and pass collected contributions on to the water organisation. Such an arrangement would require agreement between the council and the water organisation, potentially including a reasonable fee paid by the water organisation for expenses incurred by the council. In the event where an agreement cannot be reached the water organisation would have to administer the policy directly.

183. Further, there would be an option for a water organisation and a council within its service area to agree to development contributions set by the water organisation being included in the council's policy. This provides the opportunity for the water organisation and council to share resources and reduce duplication of processes.

184. This option would not consider wider changes to improve the development contribution regime more fundamentally. Rather, this would be progressed through the broader *Going for Housing Growth* programme.

185. And finally, under this option the Infrastructure Funding and Financing Act 2020 would be amended so that the Infrastructure Funding and Financing model can be used for water services infrastructure that is to be vested with a water organisation.

Option Two: Modernisation of provisions for all water organisations

186. Option Two would build on the initial amendments outlined above under Option One and bring forward modernisation improvements to address known problems with the current system. These modernisation improvements focus on the following areas:

- powers relating to infrastructure; and
- charging for growth-related costs of infrastructure.

187. There would be no further modernisation changes proposed under this option.

Powers relating to infrastructure

188. Under this option, there would also be several modernisation changes made across the legal framework in two areas.

189. Firstly, councils currently have the **power to carry out work on land in relation to water services infrastructure**. This enables councils to work on land for water services infrastructure, including installing and maintaining infrastructure on land they do not own. While immediate change is not required because councils can already retain or delegate current powers, regardless of whatever delivery vehicle they adopt, this option would include a modernisation of this power. This is because the current legislation is outdated and hard to navigate which does lead to unnecessary compliance costs and protracted negotiations over new connections. There are also less checks and balances on these powers than modern utilities usually need to work within.

190. Therefore, changes would be made to ensure a concise and coherent approach, including alignment with the type of access powers other utilities have, including powers such as access to road reserves, providing additional safeguards for private landowners (such as escalation processes for disputes), and better recognition and protection for Māori land.

191. Councils also have the **power to control connections**. These powers enable councils to control connections to water services infrastructure, a critical aspect of new

housing developments. As with the power to carry out work on land in relation to water services infrastructure, immediate change is not required because councils can already retain or delegate current powers, regardless of whatever delivery vehicle they adopt.

192. Therefore, changes would be made to ensure that provisions are easier to navigate, including bringing it into line with other similar areas which councils administer, such as the Building Act 2004. We note that recently announced policy proposals on consenting for “Granny Flats” may be relevant to this aspect, but policy development by the Ministries for the Environment and of Business, Innovation and Employment is not yet sufficiently advanced to be certain. The Department will continue to be engaged in this work.

Charges and other financial matters

193. There are no changes to charges and other financial matters as part of this option.

Charging for growth-related costs of infrastructure

194. This option would go broader than the interim arrangements proposed under option one and look to address some of the well-known limitations of the development contributions regime. For instance, in order for development contributions to be charged, there must be a clear link demonstrated between development in an area and the infrastructure upgrades required to service that development. However, the Government has signalled that it will be “asking councils to significantly increase the supply of developable land for housing”⁸, which could increase uncertainty about where and when development might occur. Councils in turn would find it more difficult to plan infrastructure investment that is clearly related to specific developments. The very detailed and granular identification and attribution of benefits and costs required by legislation is particularly challenging in the context of brownfield development, where it is difficult to demonstrate costs accurately at the beginning of the development process.

195. Therefore, Bill 3 would provide a mechanism for water service providers to charge for growth-related costs of water services infrastructure, which would be less prescriptive and provide more flexibility than the current development contributions regime. This new mechanism would enable growth-related costs of infrastructure to be better recouped from those causing the need for the investment. This change to growth charging for water services infrastructure would be in place ahead of any changes to the development contributions regime for councils that are made because of the Government’s *Going for Housing Growth* programme.

Summary of options

Includes changes to...	Option 1: Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework	Option 2: Option Two: Modernisation of provisions for all water organisations.
Powers relating to infrastructure	x	✓
Charges and other financial matters	✓	x
Charging for growth-related costs of infrastructure	✓	✓

⁸ <https://www.treasury.govt.nz/sites/default/files/2024-06/cabinet-paper-eco-24-sub-0076.pdf>

How do the options compare to the counterfactual?

	Option One – Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework	Option Two – Modernisation of provisions for all water organisations
Improves incentives, efficiency and accountability for sustainable performance	<p style="text-align: center;">+</p> <p>This option focuses on the minimal changes needed to bring the new water organisations into the broader legislative framework. Therefore, while it improves the efficiency for some aspects, it does not address some of inefficiencies and costs in the system.</p>	<p style="text-align: center;">++</p> <p>As this option looks to build on the necessary changes, while also implementing modernisation improvements, it addresses well known inefficiencies and costs in the system.</p>
Improved evidence-base to inform delivery decisions	<p style="text-align: center;">0</p> <p>This option will not increase or decrease the amount of information available to inform decisions.</p>	<p style="text-align: center;">0</p> <p>This option will not increase or decrease the amount of information available to inform decisions.</p>
Supports a financially sustainable approach for council delivery of water services	<p style="text-align: center;">+</p> <p>This option will provide clarity on who will be charged, what they will be charged for, what can happen with the money collected, and provides certainty for lenders considering what happens when a water organisation defaults on a debt. It provides a specific mechanism for recovering costs of growth from those who place increased demand on water services infrastructure, thereby allowing for reduced water charges for general users.</p>	<p style="text-align: center;">+</p> <p>This option will provide clarity on who will be charged, what they will be charged for, what can happen with the money collected, and provides certainty for lenders considering what happens when a water organisation defaults on a debt.</p>
Enables improved quality, resilience, and residential growth	<p style="text-align: center;">+</p> <p>This option introduces a range of charging amendments that ensuring that water organisations can charge for growth. However, it does not address wider problems with current growth charges such as with the development contribution regime or difficulties with approval processes for new connections. Allowing water organisations to use the development contributions regime is an important tool to help fund for growth.</p>	<p style="text-align: center;">++</p> <p>This option introduces a range of charging amendments that ensuring that water organisations can charge for growth, including progressing broader changes to the development contributions regime. Greater clarity and certainty about land works and connection powers will make processes for residential growth more straightforward. Allowing water organisations to use the development contributions regime is an important tool to help fund for growth.</p>
Provides a practical path for implementation	<p style="text-align: center;">++</p> <p>This option provides for as minimal change as necessary to bring the new water organisations into the new legislative framework. In terms of funding growth-related costs of infrastructure, this option would not pre-empt possible broader policy changes to funding for growth that may arise through the <i>Going for Housing Growth</i> work programme.</p>	<p style="text-align: center;">+</p> <p>This option does include the implementation of significant changes over a shorter time period.</p>
Overall assessment	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

196. The Department recommends a combination of Options One and Two, where certain provisions within the legislative framework undergo minimal amendments, while other provisions are modernised where appropriate.

- Therefore, under this option necessary changes (i.e., Option One) needed to bring new water organisations into the legislative framework would be made to charges and other financial matters, including the liability for charges;
- debt collection, receivers, and the impact on borrowing;
- the distributions and dividends policy;
- the interaction with rate rebates legislation;
- tax and financial settings changes; and
- charging for growth infrastructure.

197. This would be supported by the modernisation (Option Two) of **powers relating to infrastructure**, including the power to carry out work on land in relation to water services infrastructure and the power to control connections, broadly aligning them with the equivalent utilities.

Includes changes to....	Option 1: Existing arrangements with necessary changes needed to bring new water organisations into the legislative framework	Option 2: Option Two: Modernisation of provisions for all water organisations.
Powers relating to infrastructure	x	✓
Charges and other financial matters	✓	x
Charging for growth-related costs of infrastructure	✓	✓

198. A mix of Option One and Option Two is recommended because it is pragmatic and efficient in the timeframes required. It provides the appropriate level of amendment required for each provision within the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types, while doing larger amendments where necessary.

199. For charging for growth-related costs of infrastructure in particular, this option means that the policy development being undertaken under the Going for Housing Growth work is also not pre-empted.

200. The Department has engaged with the TAG and MBIE while developing these options.

201. The TAG was generally supportive of this approach. More specifically:

- For **powers relating to infrastructure**, the TAG advised that while improvements were desirable for powers relating to infrastructure, the current legislation was adequate for councils' needs and was able to be supported with commercial practices.

- For **distributions and dividends**, there were divergent views on whether distributions to shareholders should be allowed with some members seeing them as a normal return on capital investment, while others viewed them as detracting from the goal of ensuring water revenue was only spent on water services.
- For the **growth-related costs of infrastructure**, the TAG was generally comfortable with the interim approach for given the Government's current Going for Housing Growth work on options to improve charging for growth across various types of public infrastructure. Some members considered that in the future a more commercial approach, more akin to Watercare's infrastructure growth charges, could be preferable.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	The changes for water organisations largely enable them to perform the expected functions that were previously performed exclusively by councils. They do not, in themselves, impose additional costs.	Low	Medium
Regulators (includes councils in this context)	Water organisations who choose to have their own development contributions policy will incur some costs, as will those organisations who also choose to administer their own policy. With respect to infrastructure powers, councils will experience some initial increase in costs because their existing powers are being somewhat constrained and some new processes are required. However, once fully implemented, extra costs should reduce because of clearer processes which balance the rights and interests of all parties, e.g. more certainty in approval processes.	Medium	Medium
Others (eg, wider govt, consumers, etc.)	<i>Not identified at this point in time</i>	Low	Medium
Total monetised costs	<i>Not available at this point in time</i>	n/a	
Non-monetised costs	<i>Not available at this point in time</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	The charging changes in this option largely enable the water organisations to perform the expected functions that were previously performed by councils. They do not, in themselves, generate additional benefits to any parties. For infrastructure powers, applicants and landowners will have greater clarity as to criteria, improved notice requirements and appeal provisions, and should experience reduced costs.	Low Low	Medium Medium

	Water organisations will be able to borrow in foreign currency (council cannot do this), so there is better access to a wider range of financing options.		
Regulators	For infrastructure powers, councils and water organisation will have somewhat reduced powers but greater legal certainty and scope for more streamlined processes.	Low	Low
Others (e.g., wider govt, consumers, etc.)	Community interests (e.g. neighbours of proposed new developments, neighbourhood and businesses affected by infrastructural renewal projects) will benefit from clearer requirements and more balanced rights and powers. There will be better alignment with related regulatory processes (Building Act 2004 and RMA) for infrastructure power changes, particularly for new building developments.	Medium Medium	Medium Medium
Total monetised benefits	<i>Not available at this point in time</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time</i>	n/a	

Proposal Two: Amendments to bylaw provisions

202. Two options are explored below:

- **Option One:** Continued reliance on existing bylaw arrangements with necessary changes to include new water service organisational arrangements into the legislative framework (counterfactual).
- **Option Two:** Modernisation of provisions relating to bylaws (the Departments preferred approach).

Option One: Continued reliance on existing bylaw arrangements with necessary changes to include new water service organisational arrangements into the legislative framework (counterfactual)

203. Currently each local authority can regulate the activities of its water services consumers and third parties through broad bylaw-making powers under the LGA02. Bylaws are currently one of the few tools available to local authorities to manage relationships with their water services consumers and others whose activities have implications for the operation of water services over a wide range of matters including:

- control of water catchments (for example, reservoirs);
- management of trade waste; and
- management of water supply and wastewater (for example, sprinkler use during droughts, or disposing of toxic substances in toilets or drains).

204. Under Option One, councils will continue to rely on bylaw making powers provided for in the LGA02 to regulate consumers and third parties in their use of water services and activities that impact on the operation of water services. In situations where councils decide to operate and administer their water services through CCOs or other arms-length organisations, they will be able to delegate use of bylaws to these organisations.

205. To enable more flexible use of bylaws by arms-length council-owned water organisations, a simple amendment would be made under this option to allow water organisations to initiate new bylaws. Because of their potential distance from democratic accountabilities, it is not appropriate to allow new organisations to have bylaw making powers. Councils will continue to be accountable for the making of bylaws.

206. Under this option provision would be made for council-owned water organisations to propose a bylaw to their owning councils which would then assess the proposed bylaw against statutory criteria (such as cost-effectiveness and consistency with existing strategies, policies, or plans). If agreed to by the councils, the water organisation would then consult on the bylaw and, if the statutory requirements are met, the owning council would adopt the bylaw for use by the water organisation.

207. This is similar to the approach used with Watercare, based on the Local Government (Auckland Council) Act 2009, and could be extended to all new water organisations.

208. There would be no changes to offences and infringements arrangements.

Option Two: Modernisation of provisions relating to bylaws

209. Under Option Two, the existin council-led approach to making bylaws for water services would be replaced by a new regulatory approach in primary legislation. This would be designed to achieve a nationally consistent approach to the regulation of council-owned water services' relationships with consumers and others whose activities

impact on water services. This approach would aim to better address some of the well-known challenges to the management and operation of water services including:

- activities with potential to contaminate source water catchments, such as from human and animal faecal contamination;
- discharges of poisonous and corrosive liquids into wastewater and stormwater networks (trade waste);
- unauthorised connections to drinking water supplies; and
- excessive use and wastage of drinking water.

210. Current general provisions in the LGA02 for councils to make and use bylaws would be replaced by specific and fit-for-purpose statutory provisions that would give water organisations the power to **set management plans and make rules to manage specific** aspects of their services and networks across the following areas:

- control of drinking water catchments by specifying land within a 'controlled drinking water catchment area' that would be governed by a water catchment management plan. Any rules with respect to land that is not owned or controlled by the water service provider would only be by agreement with the owner;
- management of trade waste by means of published plans developed with local consultation, and supported by a system of permits, certification, and registration. Local plans will allow flexibility in controlling the thresholds and conditions for discharges to meet local conditions – e.g. the capacity or vulnerability of local systems; and
- management of water supply and wastewater services by water supply and wastewater service providers with offence and infringement tools.

211. The requirements for management plans and enforcement rules will enable more effective and consistent management, while still addressing local issues and needs.

212. These rules would function as secondary legislation.

213. This option would need to include appropriate transitional arrangements (including timeframes, consultation requirements and technical support) to transition out of existing bylaws and into the new instruments.

214. The new provisions would be based on best practice experience from comparable jurisdictions, and detailed consultation with New Zealand local government officials. Once made, the new provisions would result in consistent and predictable approaches to regulation across New Zealand based on consistent and fit-for-purpose approaches to the making of the rules.

215. Under this option, new offences and infringement arrangements would be introduced as necessary for the new provisions. While further policy work is required in consultation with the Ministry of Justice, the Department expects that the penalties would be modelled on similar offences in the LGA02, the RMA, the WSA, Te Ture Whenua Māori Act 1993 (where relevant) and other utilities legislation.

How do the options compare to the counterfactual?

	Continued reliance on existing bylaw arrangements with necessary changes to include new water service organisational arrangements into the legislative framework (counterfactual)	Option Two: Modernisation of provisions relating to bylaws
Improves incentives, efficiency and accountability for sustainable performance	- The current approach to bylaws results in an inconsistent approach to similar issues across New Zealand, which can mean that national developers and builders are required to do things differently across New Zealand with consequent efficiency losses. Current approaches also mean that each council develops and administers its own approach to the making of rules. The current approach is administratively inefficient and results in wider inefficiencies through loss economies from standardisation. There are also ongoing problems from the lack of a graduated enforcement regime which does not have tools for minor offences.	++ Efficiency would be improved for both councils, ratepayers and other interested parties by providing for consistent and standardised approaches based on best practice to the making rules to protect water services – rather than each council independently having to decide whether, what and how to regulate. Efficiency would also be improved by providing for regulations to be administered directly by water organisations.
Improved evidence-base to inform delivery decisions	- The current approach results in fragmentation to the making of rules and is not conducive to the adoption of evidence based best practice approaches.	+ A nationally consistent approach will provide for rules to be developed based on best practice approaches informed by evidence and a good understanding of the issues impacting delivery of water services. This option will enable more effective and consistent management, while still enabling localism.
Supports a financially sustainable approach for council delivery of water services	0 This is dependent on how individual councils decide to apply bylaws to their delivery of water services.	++ Results in consistent approaches across water organisations to addressing known issues in their operation of water services - increasingly financial sustainable approaches.
Enables improved quality, resilience, and residential growth	0 This is dependent on how individual councils decide to apply bylaws to their delivery of water services.	++ Results in consistent and fit purpose approaches across water organisations to addressing known issues in their operation of water services. Should also result in more consistent and predictable regulations and rules that will be beneficial for developers and business operating across New Zealand.
Provides a practical path for implementation	0 The current approach will continue – so no further implementation needed. However, application and use of bylaws can present significant challenges for some councils, particularly where they lack capability or ready access to legal advice.	++ This option is likely to increase council costs during initial implementation as there is a shift from local bylaws to a centrally designed approach. However, it is expected to reduce the costs to councils and other parties once the new regulatory approach is implemented. This option will also be designed to allow for local flexibility as necessary to reflect local needs. A timeframe and provisions for the revocation of bylaws will be included.
Overall assessment	-	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

- 216. The Department recommends Option Two, modernisation of provisions relating to bylaws.
- 217. Under this option there would be specific and fit-for-purpose statutory provisions that set out a national framework. This would give water organisations the power to set management plans and make rules to manage specific aspects of their services and networks.
- 218. Option Two is recommended because:
 - it will improve efficiency and effectiveness of the delivery of water services, as modernised provisions could be used both by councils that continue to deliver water services and by dedicated water organisations; and
 - it will provide a standardised approach while maintaining the ability to allow for local flexibility as necessary to reflect local needs (for example, to allow for local geological conditions such as geothermal supplies or fragility of pipes), which fits with the intentions of LWDW.
- 219. As part of the development of Proposal Two and the preferred option, the Department has engaged with the TAG. The TAG agreed with the need for improvements in these areas but had a range of views on the relative priority for change. While it was noted that this was useful and desirable work, the majority of TAG members did not see it as critical work for Bill 3.
- 220. Detailed plans and rules will be developed in consultation with various local government officials and with reference to comparable overseas jurisdictions.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Some customers may face some initial implementation costs.	Low	Low
Regulators	Councils will face some initial implementation and redesign costs.	Medium	Low
Others (e.g. wider govt, consumers, etc.)	<i>Not identified at this point in time.</i>	n/a	n/a
Total monetised costs	<i>Not available at this point in time.</i>	n/a	
Non-monetised costs	<i>Not available at this point in time.</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Most water services customers will benefit from greater certainty and streamlined and standardised requirements, especially businesses	High	Low

	who operate across multiple council areas that are facing inconsistent requirements in different locations.		
Regulators	After the initial implementation phase, councils and water organisations should benefit from standardised processes which will be clearer and easier to administer and enforce than current bylaw regimes.	High	Low
Others (e.g. wider govt, consumers, etc.)	Better management and enforcement of water supply and wastewater systems will improve water-related public health outcomes.	High	Low
Total monetised benefits	<i>Not available at this point in time.</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time.</i>	n/a	

Proposal three: Consumer Protection

221. Consumer protection refers to rules that aim to safeguard the interests of consumers and the general public against market practices that are misleading, deceptive, unfair or generally inconsistent with consumer welfare.

222. For this work, we consider the purpose of consumer protections in water services is to support the outcomes of the economic regulation regime (see the **second RIS**). If consumers are well-informed and able to effectively communicate demands for better services, it creates greater accountability for their water service provider and can bring about better outcomes. The Department and MBIE have chosen to focus proposals on matters of individual consumer experience (how they are treated by their provider). This is because other outcomes sought by consumers, such as drinking water quality and environmental standards are covered by other regulatory regimes. The economic regulation proposals (in the **second RIS**) are likely to address outcomes around the quality of infrastructure (such as resilience, investment and maintenance).

223. Three options are explored below:

- **Option One:** Rely on existing consumer protection mechanisms (counterfactual).
- **Option Two:** Enabling provisions made for further consumer protection measures to be brought in as needed (MBIE's preferred).
- **Option Three:** Consumer protection measures brought in from day one through a centralised approach.

Option One: Rely on existing consumer protection mechanisms (counterfactual)

224. Under this option, there would be no additional legislative change to bring in further consumer protection measures. Rather, consumers would rely on existing arrangements for matters such as minimum levels of service quality⁹, addressing complaints and to resolve disputes.

225. Water consumers may have some protections available under general consumer protection law, which includes:

- the Consumer Guarantees Act 1993, which requires goods and services (including water) to meet some minimum 'guarantees', including being of acceptable quality, fit for purpose, and a reasonable price; and
- the Fair-Trading Act 1986, which prohibits misleading, deceptive or unfair conduct on the part of water suppliers. For example, it restricts providing false representations about water services

226. However, there are some limitations on how useful these would be in the water services sector, as their application would depend on the situation.

227. In relation to service quality, this would currently be set by each water service provider. In the case of councils, each council must include a 'statement of service levels' in its LTP, and report against these each year. One set of these are 'non-financial performance measures', which include measures about water supply, sewage treatment,

⁹ Where we refer to 'service quality' in this section, we mean matters that would be considered 'customer service' rather than the quality of the water infrastructure service itself.

and stormwater drainage. One of these, 'customer satisfaction', is measured by the number of complaints received.

228. If a consumer has a complaint, it is likely they will be able to make a complaint directly to their water service provider. Councils typically have their own complaints processes, including for water services. The WSA requires drinking water suppliers (including councils and CCOs) to have a complaints process for consumers.
229. Where a complaint is not able to be resolved directly by a water service provider, consumers have some options for further redress to resolve their dispute, such as:
- some councils may choose to voluntarily provide access to external dispute resolution (e.g. such as Utilities Disputes Ltd). These provide an independent and impartial dispute resolution service;
 - consumers can complain to their elected representatives about council conduct and can escalate complaints about local authorities to the Ombudsman;
 - consumers can go through the courts to settle disputes, though many consumers find this process confusing and adversarial (and consequently only a small proportion of consumers use it); and
 - consumers may be able to take a complaint to the Disputes Tribunal, a quicker and less formal way of settling dispute than through a court (for claims less than \$30,000, and only covering certain types of disputes).¹⁰
230. The existing consumer protection arrangements will be augmented by the introduction of the economic regulation proposals discussed as part of the **second RIS**. For example, information disclosure can be used to oversee aspects of the consumer experience, and service quality standards could be used to set requirements relating to responsiveness to consumers. If service quality standards are not met, performance requirements can be used to set specific targets.

Option Two: Enabling provisions made for further consumer protection measures to be brought in as needed (MBIE's preferred option)

231. Under this option, provisions would be made for further consumer protection measures, to be used only if needed – i.e. as a backstop. The intent of this approach is that water service providers have flexibility to implement consumer protections in the way that best suits them and their communities in the first instance, but that there is provision for a more prescriptive approach to be introduced in future if information gathered through economic regulation suggests this is needed.
232. Under this option, the legislation would include the power for the Minister of Commerce and Consumer Affairs to make regulations relating to consumer protection measures. Three new powers envisaged would be :
- **power to enable the Minister of Commerce and Consumer Affairs to recommend regulations relating to consumer complaints.** This could be used to specify requirements relating to complaint processes, the provision of information, and the recording of complaints, and/or reporting;
 - **power to enable the Minister of Commerce and Consumer Affairs to recommend regulations requiring water service providers provide a dispute**

¹⁰ <https://disputestribunal.govt.nz/can-help-with/>

resolution pathway. In doing so, the Minister of Commerce and Consumer Affairs could specify whether there would be a government-appointed dispute resolution provider, or whether each water service provider could appoint their own subject to certain criteria. The regulations could specify a particular water service provider, or class of water service providers, be exempt from the requirement. This process could be initiated by the Minister of Commerce and Consumer Affairs directly, or following a recommendation from the Commerce Commission, where the Minister was satisfied certain conditions had been met (for example, that the status quo has failed to adequately provide consumers with efficient and responsive dispute resolution procedures); and

- **powers to allow the Commerce Commission to create guidelines and/or a mandatory code in relation to service quality.** This could cover matters such as customer service, billing transparency, and communication about network outages. The Commerce Commission could create a mandatory code if there was no existing sector code, or it considered a Commission-led code would better promote the purpose of Part 4 of the Commerce Act 1986.

Option Three: Consumer protection measures brought in from day one through a centralised approach

233. This option is similar to option two above, but with the introduction of mandatory requirements from the outset. The intention of this option would be that a baseline level of customer service is set from the beginning. The requirements could be kept at a high level, so that there could be flexibility in their implementation.

234. Under this option, water service providers would be required to undertake the following actions from day one:

- develop a service quality code to provide assurance to consumers as to how they will be treated by their provider, e.g. communication about outages;
- establish, maintain, and administer a consumer complaints process and ensure that complaints are dealt with in an efficient and effective manner; and
- sign up to an external consumer disputes resolution service, subject to it meeting certain criteria.

How do the options compare to the counterfactual?

	Option One – Rely on existing consumer protection mechanisms (counterfactual)	Option Two – Enabling provisions made for further consumer protection measures to be brought in as needed (MBIE's preferred option)	Option Three – Consumer protection measures brought in from day one through a centralised approach
Improves incentives, efficiency and accountability for sustainable performance	<p>0</p> <p>This option enables councils to undertake approaches that best suit their circumstances. However, it is not clear how consistently status quo protections and practices are applied across councils, or how they would apply to new delivery models. Practices and approaches will therefore likely remain varied, with councils coming up with arrangements that are best suited to their circumstances.</p>	<p>+</p> <p>This option enables councils to undertake approaches that best suit their circumstances. However, it is not clear how consistently status quo protections and practices are applied across councils, or how they would apply to new delivery models. It is expected that the incentive to protect consumers with the backstop provisions will be passed on from councils to the delivery organisations.</p>	<p>+</p> <p>This option sets a baseline level of expectation across providers.</p>
Improved evidence-base to inform delivery decisions	<p>0</p> <p>With the introduction of information disclosure, there will be greater consistency of reporting.</p>	<p>+</p> <p>With the introduction of information disclosure, there will be greater consistency of reporting. If the additional regulation-making power is used to specify further information requirements, this will improve the evidence base.</p>	<p>+</p> <p>With the introduction of information disclosure, there will be greater consistency of reporting. Service quality code and complaints recording may standardise information gathering and impose evidence base.</p>
Supports a financially sustainable approach for council delivery of water services	<p>0</p> <p>There is limited improvement to support a financially sustainable approach for council delivery of water services</p>	<p>0</p> <p>There is limited improvement to support a financially sustainable approach for council delivery of water services.</p>	<p>-</p> <p>This option has the potential to add unnecessary costs of compliance to water service providers, especially if requirements are implemented that are later understood not to be necessary.</p>
Enables improved quality, resilience, and residential growth	<p>0</p> <p>There is limited improvement to quality, resilience and residential growth.</p>	<p>0</p> <p>There is limited improvement to quality, resilience and residential growth.</p>	<p>0</p> <p>There is limited improvement to quality, resilience and residential growth.</p>
Provides a practical path for implementation	<p>0</p> <p>No further implementation required.</p>	<p>+</p> <p>This option provides a practical path for implementation, with water service providers having greater choice over the approaches they use, with no additional requirements on water service providers from 'day one' of the new regime. However, uncertainty will remain as to what provisions may be brought into the future.</p>	<p>-</p> <p>While this option will provide certainty around provisions, the changes are likely disproportionate to challenges faced, and would require a large change for water service providers from day one.</p>

	Option One – Rely on existing consumer protection mechanisms (counterfactual)	Option Two – Enabling provisions made for further consumer protection measures to be brought in as needed (MBIE's preferred option)	Option Three – Consumer protection measures brought in from day one through a centralised approach
Overall assessment	0	+	0

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

- 235. MBIE recommends Option Two, enabling provisions made for further consumer protection measures to be brought in as needed.
- 236. Option Two is recommended because there are a range of existing consumer protections relating to local government water service providers. Further, the democratic accountability councils have to consumers may also provide some level of consumer protection.
- 237. Therefore, there is no compelling case for introducing further consumer protection measures at this stage. Rather, because there is not a comprehensive understanding about how the status quo arrangements will protect consumers, nor the extent to which there are any problems with these arrangements under the new reform system, it is best to initially learn about how consumer protection is working. This means that legislative change will focus on 'backstop' measures that can be introduced at a later date.
- 238. As part of the development of these proposals, MBIE has engaged with the TAG, the Department, and the Commerce Commission.
- 239. TAG members advised that centralised and overly prescriptive requirements (as with Option Three) could add costs.

What are the marginal costs and benefits of the option?

240. There will be costs associated with the preferred option, but these would not be incurred until regulations are made, and costs would be defined at that stage.

9(2)(g)(i)

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Initial costs of compliance expected to be low (focussed on provision of information). Cost of compliance with future regulation will depend on the exact requirement and the design. For example, there would be some initial and ongoing costs to water service providers if requirements are introduced requiring them to collect and report certain information on complaints and comply with a Code. The costs would depend on the requirements and the maturity of the water service provider's existing systems.	Low (of introducing enabling provisions) Impact of introducing requirements through regulations to be assessed if and when this process is initiated.	Medium

9(2)(g)(i)

	Greater costs associated with complying with any mandatory external dispute resolution requirements.		
Regulators	Initial costs expected to be minimal – consumer protection information to be collected as part of economic regulation regime. Greater costs to the Commission as more robust analysis is required of the information, and if new requirements are introduced (for example, costs associated with development and maintenance of a service quality code, and of compliance and enforcement activities).	Low (of collecting information)	Medium
Others (e.g. wider govt, consumers, etc.)	Financial cost to households if further requirements are introduced, as water service providers likely to pass on costs of compliance. Further costs to Government of policy analysis and legislative time to implement future regulatory powers.	Low Impact of introducing requirements through regulations to be assessed if and when this process is initiated.	Medium
Total monetised costs	<i>Not available at this point in time.</i>	n/a	
Non-monetised costs	<i>Not available at this point in time.</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups		n/a	n/a
Regulators	Understanding consumer experiences enables better understanding of how providers are performing overall.	Low	Medium
Others (e.g. wider govt, consumers, etc.)	Assurance that new requirements can be introduced if needed, which would provide access to external dispute resolution, expectation of customer service quality, and requirements around complaints handling. Benefit to Government of having a system that can adapt to changes and be scaled up if needed.	Low	Medium
Total monetised benefits	<i>Not available at this point in time</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time</i>	n/a	

How consumer protection regulation would be funded?

241. There are a number of options that can be considered for funding costs associated with the proposed requirements, including fees and levies, as well as direct Crown funding.

242. Where there are direct beneficiaries of the regulators and where the regulator's activities are necessary to mitigate risks presented by the conduct of an individual or group of individuals, cost recovery mechanisms may be justified.

243. A Cost Recovery Impact Statement was provided with the **second RIS** in June 2024, which described the proposed approach to funding the economic regulation regime for water services. This proposed that a Minister-led levy model is used, and described the rationale for this approach, being:

- there is a predominantly private benefit to consumers served by the water service providers, and it is possible to identify parties that directly benefit from the consumer protection proposals, including being able to identify/exclude those who do not benefit. Therefore, fees and levies are likely to be more appropriate than general taxation (which would be better suited to situations where there are further public benefits);
- a levy is proposed instead of a fee, as levies are usually charged to a group, as opposed to fees which are charged to individuals; and
- the Minister-led model is preferred to the regulator-led model, as this is consistent with the approach taken by the Commerce Commission (the preferred economic and consumer protection regulator) in regulating other utilities. Therefore, it would be efficient to use this model.

244. The same rationale applies to the consumer protection proposals, and therefore a Minister-led levy model is also proposed to fund this aspect of the regulatory regime.

Proposal Four: Stormwater and overland flow path management

245. Three options are explored below:

- **Option One:** Existing stormwater management arrangements (counterfactual).
- **Option Two:** Targeted legislative amendments to clarify the roles and responsibilities for stormwater management and planning.
- **Option Three:** New legislative framework to clarify roles and responsibilities, improve the management of overland flow paths (OLFPs) and urban watercourses, and introduce new planning and regulatory tools (the Departments preferred approach).

Option One: Existing stormwater management arrangements (counterfactual)

246. Under this option, there would be a reliance on what is already provided for in existing legislation, as well as what has been provided for under Bill 2. Territorial authorities would retain responsibility and would continue to charge (e.g. rates) for stormwater services. Territorial authorities can choose to contract or transfer a water services organisation to deliver stormwater services, setting levels of service and performance targets through terms of contract and/or through planning and accountability arrangement such as statement of expectations. Depending on the stormwater management services that are contracted or transferred, the revenue collected through rates may be allocated between councils and water service delivery vehicles to deliver stormwater service outcomes.

247. This means that ongoing uncertainty around legal responsibilities, and overlapping roles and responsibilities, will continue to impact on the protection and maintenance of OLFPs and urban water courses.

248. Under this option, councils would be required by provisions in Bill 2 for WSDPs to provide information on current stormwater service delivery.

249. Taumata Arowai will continue to have oversight and can make environmental performance standards for the provision of stormwater services.

Option Two: Targeted legislative amendments to clarify the roles and responsibilities for stormwater management and planning

250. Under this option, there would be a new legislative framework to improve proactive management of OLFPs and urban watercourses.

251. As noted in the **second RIS**, it is proposed that territorial authorities will retain responsibility for the delivery of stormwater services. Legislation will enable territorial authorities to either provide stormwater services in-house, contract for stormwater services, or transfer stormwater service delivery to water organisations.

252. Under this option, clarity would be provided to territorial authorities and private landowners on their respective responsibilities for OLFPs and watercourses in urban areas by specifying their statutory roles and clarifying legal responsibilities. Legislation would state that territorial authorities are responsible for managing and maintaining the stormwater network in their city or district (i.e. service area). This would include OLFP and urban watercourses that are both on private land and related to the operation of the stormwater network in urban areas.

253. In addition to owning and operating network infrastructure, it would be made clear that territorial authorities have overall responsibility to ensure that the conveyance capacity of OLFPs and urban watercourses that are part of the stormwater network are protected and maintained.

254. Legislation would also set out the responsibilities for private landowners. This would include requirements to not impair or alter watercourses that would impact on the conveyance capacity of that watercourse. If private landowners breach this responsibility, they would be responsible for either eliminating the impairment or paying for the territorial authority to do so. These requirements would be subject to resource management requirements.
255. Transport stormwater infrastructure would also be defined by recognising that the primary purpose of that infrastructure is for transport. This would include all infrastructure owned or operated by a transport corridor manager to collect or discharge stormwater relating to a transport function of the corridor.
256. Stormwater services could be brought into the economic regulation regime at a later date (as discussed in the **second RIS**), through enabling provisions that allow an individual provider's stormwater services to be designated as subject to an economic regulation tool (for example, information disclosure).

Option Three: New legislative framework to clarify roles and responsibilities, improve the management of overland flow paths and urban watercourses, and introduce new planning and regulatory tools (the Departments' s preferred approach)

257. This option builds on Option Two and replaces current bylaws as they relate to the urban stormwater network. A new statutory regime would provide nationally consistent planning and regulatory tools, including:
- stormwater network risk management plans;
 - stormwater rules; and
 - service agreements.
258. There are no proposals to change funding arrangements as councils will continue to rate for stormwater services.
259. **Stormwater network risk management plans** (SNRMPs) would have an operational focus requiring stormwater network operators to identify hazards relating to critical assets in the stormwater network, assessing risks associated with those hazards for their significance to the operation of the network, and identifying how those risks are to be managed, controlled and monitored, or eliminated. The first SNRMP would need to be prepared two years after the enactment of Bill 3, and then reviewed and updated every five years.
260. Draft SNRMPs would be provided by territorial authorities to Taumata Arowai for their review. This will enable Taumata Arowai to issue guidance and align environmental standards for stormwater management to improve consistency.
261. Stormwater rules would provide territorial authorities with a fit-for-purpose regulatory tool to support the protection and maintenance of OLFP and urban water courses. They would be derived from the SNRMP and would apply to private landowners, identifying any specific requirements, including provisions for access to land, and notification requirements.
262. The stormwater rules would not apply to transport corridor managers to avoid the risk that stormwater rules could be made that would conflict with their transport-related statutory functions. Instead of stormwater rules, the service agreements (discussed below) would be used to provide for integrated management of the stormwater network, and transport-related stormwater network infrastructure.

263. Service agreements would set out an enabling framework for agreements that can be used to define roles, responsibilities, and how the parties (territorial authorities, regional councils, and transport corridor manager) will work together, how they would share information, and a dispute resolution process.

How do the options compare to the counterfactual?

	Option One – Existing stormwater management arrangements (counterfactual)	Option Two – Targeted legislative amendments to clarify the roles and responsibilities for stormwater management and planning.	Option Three – New legislative framework to clarify roles and responsibilities, improve the management of overland flow paths (OLFPs) and urban watercourses, and introduce new planning and regulatory tools (DIA’s preferred approach)
Improves incentives, efficiency, and accountability for sustainable performance	- Overlapping roles and responsibilities would remain for catchment management, flood control, emergency management, land drainage, and urban stormwater spread over a range of legislation. This means that there will still be uncertainty across the system.	+ This option supports the coordination and clarity required for the effective management of stormwater services. However, it does not provide a framework or regulatory tools to address wider network performance issues.	++ This option supports the co-ordination required for the effective management of stormwater services. Further, this option provides new planning and regulatory tools to address wider performance issues, such as the requirement for stormwater network operators to identify any hazards that relate to a stormwater network, assess any risks that are associated with those hazards, and identify how those risks are to be managed, controlled, monitored, or eliminated.
Improved evidence-base to inform delivery decisions	0 Under this option, the provisions in Bill 2 will require councils to provide information on current stormwater service delivery for WSDPs.	0 Under this option, the provisions in Bill 2 will require councils to provide information on current stormwater service delivery for WSDPs.	++ This option would improve flood risk information to inform proactive management of hazards and risks to people and property. The WSDPs will provide a framework for stormwater rules to support the management of OLFPs and urban water courses on private land. Further, development of SNRMPs would likely require consultation with the wider community which will ensure there is a holistic view of hazards in relation to stormwater networks. However, uncertainty around legal responsibilities, limited regulatory tools and information gaps are key challenges that impact on the protection and maintenance of the conveyance capacity of OLFPs and urban streams. This means that initiatives to protect and maintain the conveyance capacity of urban watercourses are more likely to be reactive than proactive. This can expose people and property to significant flood risks.
Supports a financially sustainable approach for council delivery of water services	0 No change to the financial sustainability of council delivery of water services.	+ Retaining responsibility for meeting regulatory requirements creates strong incentives on councils to ensure that revenues are sufficient.	+ Retaining responsibility for meeting regulatory requirements creates strong incentives on councils to ensure that revenues are sufficient. Further, it is likely that this option will result in further investment in hazard mitigation and proactive investment decisions.
Enables improved quality, resilience, and residential growth	- There is no change under this option.	+ This option maintains the incentive on councils to align land use planning, stormwater services, and investment to support the management of stormwater services, and leverages councils’ existing networks with the communities.	+ This option improves resilience by requiring stormwater network operators to identify any hazards that relate to a stormwater network, assess any risks that are associated with those hazards, and identify how those risks are to be managed, controlled, monitored, or eliminated. As noted above, it is likely that this option will result in further investment in hazard mitigation and proactive investment decisions.

	Option One – Existing stormwater management arrangements (counterfactual)	Option Two – Targeted legislative amendments to clarify the roles and responsibilities for stormwater management and planning.	Option Three – New legislative framework to clarify roles and responsibilities, improve the management of overland flow paths (OLFPs) and urban watercourses, and introduce new planning and regulatory tools (DIA’s preferred approach)
Provides a practical path for implementation	- There are significant practical costs associated with no change. However, this option avoids redirecting sector effort away from other elements (for example, setting up new water organisations) and provides some time to transition to new arrangements.	++ This option focuses on ensuring clarity of roles and responsibilities, with limited implementation needed.	+ The SNRMPs will take some time to implement. Nationally, there are gaps in information on flood risk that will require investment in flood hazard modelling to resolve and identifying OLFPs will be an immediate issue. While councils will generally understand the location of primary OLFPs, the detailed work to identify all will take time. However, this option does include a lead in time with the first plans to be prepared two years after the enactment of Bill 3, and then reviewed and updated every five years
Overall assessment	-	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

264. The Department recommends Option Three, new legislative framework to clarify roles and responsibilities, improve the management of OLFPs and urban watercourses, and introduce new planning and regulatory tools. This option:

- ensures that there is a clarity of roles and responsibilities, and a balance between the responsibilities of territorial authorities and private landowners, in relation to OLFPs and urban watercourses that are on private land;
- develops a risk-based framework to improve the management of OLFPs and watercourses that are part of a stormwater network in urban areas;
- improves flood risk information to inform proactive management of hazards and risks to people and property; and
- provides a framework for service agreements that enable key agencies to support integrated management.

265. The Finance and Expenditure Select Committee in reporting back on the previous Government's Water Services Legislation Bill, noted that in many urban areas this option will result in little change to current practice other than Auckland, which uses a bylaw to require private landowners to maintain the watercourses on their land.

266. The Department notes that the majority of evidence is linked to major events that are characterised by high intensity rain events where it is likely that some flooding would occur anyway. For example:

- The Auckland floods in 2023 are a good example, where the lack of proactive interventions and maintenance was identified as a contributing factor to flooding impacts. These costs and impacts of that event were significant; four people were killed, 25 suburbs in the city were impacted, major motorways were closed, and 6,000 to 8,000 homes were damaged.¹² The Department understands that following the Auckland floods in 2023, Auckland Council has adopted an approach that is consistent with the balance of roles and responsibilities proposed in Option Three.
- Following the 2020 flood in Napier which was also precipitated by an intense rainfall event, the Napier City Council planned to spend more than \$40 million to upgrade the stormwater system.

267. As part of the development of Option Three, the Department has engaged with the TAG and Taumata Arowai.

268. The TAG considered both the existing complexity of the issues impacting on stormwater management and the potential impact on the sector of implementing the policy. On balance, the TAG's view was that the current arrangements in relation to OLFPs and urban watercourses are impacting on effective management of stormwater network, and Bill 3 provides an opportunity for those issues to be addressed.

¹² [2023 Auckland Anniversary Weekend floods - Wikipedia](#)

What are the marginal costs and benefits of the option?

Affected groups	Comment.	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	<p>Some costs as territorial authorities change from their current arrangements e.g. existing bylaws may need to be adapted into the new statutory regime - plans/ rules /agreements tools. This will be most significant for those territorial authorities who are not proactively managing OLFPs and urban water courses (that have a stormwater function).</p> <p>The costs for territorial authorities to prepare SNRMP will vary depending on each territorial authority's management of OLFPs and urban watercourses – for some, the cost will be collating this existing information for the plans. However, for territorial authorities who may not have identified OLFPs, they will need to invest in flood hazard modelling to identify primary OLFPs.</p> <p>Finally, the proposed option will enable territorial authorities to use stormwater rules (pursuant to a SNRMP) that may restrict activities on that land that could impair the stormwater conveyance of those OFLPs and urban watercourses. While this would be an overall benefit for the wider community, it could have an opportunity cost of for specific private landowners.</p>	Low-Medium (although for some councils it could be med-high)	Low
Regulators	The SNRMPs, and any activities carried out to implement the SNRMPs, would continue to be subject to any RMA requirements. When developing the SNRMP, the territorial authority would be required to consider any relevant plan, including any SNRMPs prepared in accordance with any Treaty settlement, plans prepared under the RMA and Regional Land Transport Plans. As the SNRMPs will be developed by territorial authorities (or on their behalf), it is likely they would also inform the development of those other plans e.g. District Plans (in relation to OLFPs).		
Others (e.g. wider govt, consumers, etc.)	<i>Not identified at this point in time</i> - note impact on private landowners is discussed above.		
Total monetised costs	<i>Not available at this point in time.</i>	n/a	
Non-monetised costs	<i>Not available at this point in time.</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	<p>Greater clarity of the territorial authorities' and private landowners' roles in relation to OLFPs and urban water courses (that have a stormwater function) and more uniform arrangements across the country.</p> <p>While stormwater network infrastructure has been designed to collect and divert stormwater from urban development, in almost all cases, it will discharge that stormwater to the nearest OLFP or urban watercourse</p>	Medium	Low

	and provide a critical "overflow" capacity for the stormwater network. Identifying impacts of those events that can be attributed directly to failing to proactively manage OLFPs and urban watercourses is difficult.		
Regulators	Clarifying roles and responsibilities could further support regulatory systems particularly in relation to future actions to address the impacts of climate change.		
Others (e.g. wider govt, consumers, etc.)	Improved stormwater management will reduce the risk of significant harm from flooding.		
Total monetised benefits	<i>Not available at this point in time.</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time.</i>	n/a	

Part B: Changes to the Water Services Act

Section 1: Diagnosing the policy problem (Part B)

What is the context behind the policy problem and how is the status quo expected to develop in Part B?

269. The first and second RIS, as well as Part A above, describe the context for government policy proposals to improve the performance of council-owned water services, while ensuring that minimum regulatory quality requirements are met. These proposals aim to provide for effective, fit-for-purpose, regulation to ensure that suppliers provide services in ways that meet minimum standards for public health and environmental impacts.

270. The proposals in this section complement Part A. Work to date, across both the preliminary provisions as well as the first set of longer-term provisions, focuses on the support that can be provided to councils to deliver water services that are financially sustainable. However, this is a subset of the wider water services system and suppliers. Therefore, Part B focuses on changes to water services regulation to improve efficiencies for all water providers, which will accompany changes for council water service delivery as part of Bill 3.

There are a variety of ways that drinking water is supplied to communities across New Zealand

271. The provision of drinking water in New Zealand is complex. While councils own and deliver water services to most New Zealanders, there are a variety of ways that drinking water is supplied to communities. A summary of the suppliers is outlined in the table below.¹³ All suppliers of drinking water, except for domestic self-suppliers, are regulated under the provisions of the WSA by Taumata Arowai.

Supplier type	Description
Local government	Territorial authorities and regional councils.
Central government	Ministry of Education (schools); Department of Conservation (campsites and huts); Department of Corrections (prisons); and New Zealand Defence Force (facilities).
Māori suppliers	This group includes iwi entities, kura kaupapa Māori, kōhanga reo, marae, papakāinga, and Māori communities.
Facilities	Such as universities, private schools, hospitals, airports, and ski fields.
Other	Such as mixed-use rural supplies and residential and other private or community supplies not owned by councils.

¹³ Taumata Arowai, Drinking Water Regulation Report 2022, Date July 2023.

Water carriers	Operators who transport drinking water to homes and events without reticulation. Water carriers do not record the population served by water carriers.
Unregistered	Suppliers who own or operate a supply that is not yet registered on the public register of drinking water supplies maintained by Taumata Arowai.
Domestic self-supply	A stand-alone domestic dwelling that has its own supply of drinking water.

272. There are also around 100 mixed-use rural water supply schemes across New Zealand. The schemes provide rural communities with both drinking water and water for commercial farming purposes. The schemes are essential to rural economies and the health and wellbeing of rural communities.

273. Many of the schemes were initially established as stock water schemes, and over time they have expanded to provide drinking water to households, townships, and community facilities (such as halls, schools and churches).¹⁴

Most drinking water suppliers are regulated by Taumata Arowai (except domestic self-suppliers)

274. The WSA requires that all suppliers, regardless of size, must provide safe drinking water and imposes legally enforceable duties on all suppliers (apart from domestic self-suppliers). The main regulatory requirements for drinking water under the Act include:

- **Drinking Water Standards:** These Drinking Water Standards for New Zealand (2022) set the Maximum Acceptable Values (MAVs) for a range of substances which can affect the safety and quality of drinking water. The MAVs are based on guideline values set by the World Health Organisation (WHO).
- **Drinking Water Quality Assurance Rules:** These rules set out how drinking water suppliers must comply with key parts of the Drinking Water Standards and the WSA. Taumata Arowai also administers the rules relating to Drinking Water Aesthetic Values which provide minimum or maximum values for substances and other characteristics that relate to the acceptability of drinking water.
- **Requirement for suppliers of drinking water to register:** A drinking water supply owner is responsible for ensuring drinking water supplies are registered with Taumata Arowai. Registered suppliers have a range of responsibilities set out under the WSA such as ensuring the drinking water they supply complies with the current Drinking Water Standards for New Zealand.

275. Other regulatory requirements include testing, notification of hazards, and complying with orders, directions, and emergency regulations.

276. The WSA does not apply to bottled water that is manufactured and sold by a food business or water that is used for purposes regulated under the Food Act 2014, the Animal Products Act 1999, or the Wine Act 2003.

¹⁴ Morrison Low (2023), Clutha Mixed Use Rural Water Schemes, Clutha Rural Water Assessment Report.pdf (cluthadc.govt.nz).

277. The WSA provides for a proportionate and risk-based approach to regulation, which includes a broad range of regulatory tools and powers including special powers in the case of a drinking water emergency.

278. Taumata Arowai, within the constraints of legislation and regulation and any ministerial directions, has discretion in how it goes about utilising and applying the various regulatory tools and powers available to it. To provide transparency on its approach, its board is required to develop and publish a regulatory compliance strategy and to report annually on its performance.¹⁵

Small scale suppliers were brought into the regulatory regime in 2020

279. Prior to the enactment of the WSA, supplies providing water to populations of less than 100 were not regulated under the provisions of the Health Act 1956. This effectively meant many hundreds of small communities received drinking water that did not have to comply with Drinking Water Standards, and there was no oversight of the quality of drinking water because the supplies fell outside of the regulatory system. There was also confusion about the regulatory requirements for small supplies that fluctuated in size – for example, seasonal destinations such as ski fields and campsites.

280. During the legislative process for the Water Services Bill, there were submissions requesting an exclusion be made for suppliers to very small populations, or types of suppliers such as marae or other public buildings. Māori submitters expressed concerns about the impact on marae and papakāinga that are not connected to council services, which are often already struggling to meet other basic costs and lack technical capability to run complex water supply arrangements.

281. In its report, the Health Committee noted that the National Party members wanted water supplies supplying fewer than 30 end-point users to be excluded from the scope of the new regulatory system, along with individual domestic self-suppliers.

282. The previous government's position – as represented in the WSA – was that all drinking water supplies, other than domestic self-supplies, should supply safe drinking water and comply with drinking water standards. It acknowledged that the previous exemptions made under the Health Act 1956, for small supplies, did not provide for safe drinking water and were subject to a high degree of risk.

283. Therefore, currently, all drinking water suppliers except domestic self-suppliers are either already or soon to be regulated by Taumata Arowai in their delivery of water services. Larger council-owned drinking water supplies are already registered with Taumata Arowai and subject to all of the various associated regulatory requirements. These small supplies will need to be registered with Taumata Arowai by November 2025 and be fully compliant with the regulator regime by November 2028.

284. Since enactment of the WSA it has become clear that there are a very large number of very small private and community owned supply arrangements (estimated by Taumata Arowai to be between 24,000 and 120,000¹⁶) across New Zealand. Typically, these small supply arrangements might involve a single rural property or holiday home agreeing to provide a neighbour or neighbours with drinking water from bore, groundwater, source

¹⁵ Taumata Arowai, Compliance, Monitoring and Enforcement Strategy 2022-2025.

¹⁶ This estimate was provided by analysis undertaken by Beca in 2021/2022 to help refine the estimated number of unregistered supplies.

water or roof water on their property. Many of these arrangements are informal, not commercially structured and can be characterised as informal neighbourly arrangements.

285. By supplying drinking water to a neighbour, a person can become a drinking water supplier under the provisions of the WSA, and therefore subject to all the various regulatory requirements in the WSA summarised above. This includes the requirements to meet the Drinking Water Standards, maintain registration with Taumata Arowai, prepare and submit a water safety plan and all comply with all the various other requirements in the Act.

Taumata Arowai has a complementary role in relation to wastewater and stormwater networks

286. This role relates largely to providing national-level oversight, systemwide performance monitoring, and developing tools to support the wastewater and stormwater sector. It has a specific objective to promote public understanding of the environmental performance of wastewater and stormwater networks. Taumata Arowai is not the regulator of wastewater and stormwater networks, which continues to be done by regional councils.

287. The main regulatory requirements for wastewater and stormwater under the WSA include monitoring and reporting on environmental performance to enhance transparency and enable New Zealanders to make comparisons of performance locally, regionally, and nationally. This includes supporting improvements in environmental performance through:

- setting network environmental performance measures, targets or standards;
- providing guidance such as best practice guidelines, advice and information; and
- supporting the development of knowledge through research, education and training.

288. New environmental performance measures on drinking water networks were introduced following public consultation in late 2022 and are set out in Taumata Arowai's Network Environmental Performance Measures and Guide 2024.

289. Taumata Arowai also works closely with regional councils, which are responsible for environmental planning, resource consents, and related monitoring and enforcement, e.g. for the discharge of wastewater and stormwater to the environment under the RMA.

Taumata Arowai is required to give effect to Te Mana o te Wai

290. Te Mana o te Wai is the fundamental concept of the Essential Freshwater reforms introduced in 2020. It is about restoring and preserving the balance between water, the environment and people by taking a whole-of-system approach to water. This requires looking after wai (water) from ki uta ki tai (mountains to the sea).

291. Taumata Arowai is required to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to its functions and duties. This is set out in section 14 of the WSA which provides that "when exercising or performing a function, power, or duty under this Act, a person must give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the function, power or duty".

292. These are general, unstructured duties, and they apply to a broad range of parties who have a variety of differing roles under the legislation, including:

- Taumata Arowai in relation to all of its functions under both the WSA and the Taumata Arowai—the Water Services Regulator Act;
- regional councils in relation to their source water risk management functions;

- territorial authorities and Crown suppliers in their role as drinking water suppliers; and
 - a very broad range of private drinking water suppliers – these include, for example, farmers, batch communities, campgrounds, or cafes where they supply drinking water.
293. The Taumata Arowai–the Water Services Regulator Act requires Taumata Arowai to:
- as one of its objectives, “give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies the functions and duties of Taumata Arowai”, and
 - as an operating principle, partner and engage early and meaningfully with Māori, “including to inform how Taumata Arowai can give effect to Te Mana o te Wai”.
294. In addition, the Taumata Arowai Māori Advisory Group, Te Puna, is required to provide support and guidance to Taumata Arowai, their Board, Chief Executive and organisation on Māori interests and knowledge as they relate to Taumata Arowai objectives, functions and operating principles. This includes advice and support on engaging and working meaningfully with whānau, hapū and iwi, and developing and maintaining a framework that provides advice and developing guidance for Taumata Arowai on how to interpret and give effect to Te Mana o te Wai.
295. Suppliers give effect to Te Mana o te Wai through drinking water safety plans, source water risk management plans, and in other policies, procedures and plans. This may include engagement with whānau, hapū and iwi Māori early and meaningfully.
296. An interim change was made via an Amendment Paper to Bill 2 to exclude the hierarchy of obligations of Te Mana o te Wai from being part of consideration of the making of wastewater environmental performance standards. This will enable Taumata Arowai to set wastewater standards by mid-2025 that do not have to take into account the hierarchy of obligations under Te Mana o te Wai, whilst the rebalancing of the NPS-FM is undertaken.

What is the policy problem or opportunity in Part B?

297. As noted in **Part A**, without systemic change, council ownership and delivery of water services is financially unsustainable and does not always meet minimum health and environmental quality standards. There are persistent systematic problems with the delivery of water services by councils. Within this context, **Part B** looks across all the players in the water regulatory system, and the challenges with wider regulatory compliance for all water service providers, not just council-specific problems.
298. As noted above, the new drinking water regulatory system was introduced through the WSA. This Act applies to all drinking water suppliers, except ‘domestic self-suppliers’; that is, standalone domestic dwellings that are used primarily for residential purposes and have their own supply of water (such as rainwater tanks or bore supplies). Under the WSA, all drinking water suppliers need to supply drinking water that is safe, meets drinking water standards, and complies with other legislative requirements.
299. Ministers consider that there is a risk that **associated costs of regulation** for water services (including drinking water services provided by the Crown and other non-council providers) are too high, potentially creating a ‘regulatory burden’.
300. Officials have been directed to consider three main types of regulatory costs:
- the costs of regulation on suppliers;

- how cost is considered in Taumata Arowai’s regulatory framework; and
- the costs of giving effect to Te Mana o te Wai.

The costs of regulation on suppliers

301. While the regulatory requirements outlined above are important to ensuring public health and environmental protection, there is risk that the current regulatory approach places excessive costs on water service providers, and in particular smaller water service providers, and therefore their consumers.
302. For small suppliers in particular, these requirements are new and for some they appear onerous.
303. Ministers consider that the regulatory requirements should be proportionate to risk and tailored to the different circumstances, capacities and capabilities of different providers, and clear and practical to implement.
304. Ministers are also concerned that the water services regulator is not giving due consideration to the different circumstances of different providers in its administration of the regulations. While it is unknown if these concerns are materialising due to the early phase of the regulatory regime, there has been sector feedback that this may become an issue as the regime is further implemented.
305. However, this is not just an issue for small suppliers. There are concerns that some of the regulatory requirements under the WSA could be unduly constraining suppliers, and be disproportionate to the benefits, with some of the implementation requirements potentially having practical difficulties. For example, the WSA requires that every local authority and CCO that operates a drinking water supply must be authorised or have its drinking water supply operated by an authorised supplier by 2026 (five years from the WSA’s enactment date).
306. Implementation of the requirement involves the development of regulations by Taumata Arowai to prescribe matters relating to authorisations (including licences, certifications, registrations, and permits), qualifications, skills, and experience of persons to be authorised to operate water services. It also requires time for the establishment of necessary training, qualifications, standards, licensing, and registration systems to enable assessment of the skills and capabilities of persons to be authorised.
307. There is insufficient time between now and 2026 for Taumata Arowai, the water sector and local authorities to implement and prepare for authorisations. Councils are also required to ensure that their drinking water supplies are operated by ‘authorised persons’ from 2026. Recently, the Department of Conservation applied to Taumata Arowai seeking an exemption for 686 supplies due to compliance costs.
308. Further, local authorities will be focussed over the period prior to 2026 on developing WSDPs to reorganise their delivery of water services and in preparing for economic regulation.
309. Submitters on Bill 2 have also raised concerns about regulatory requirements driving up costs for mixed-use rural schemes – which are subject to the same drinking water regulatory requirements as large urban schemes. The submitters said “the bulk of this water is used for farming purposes and with these cost increases, primarily to [meet] new human drinking water standards, water will be unaffordable, and consumers will leave the

scheme in droves simply because of cost and seek more cost-effective options. All this will do is lumber higher cost on those that have no option but to stay connected.”¹⁷

How cost is considered in Taumata Arowai’s regulatory framework

310. Section 18 of the Taumata Arowai–the Water Services Regulator Act includes a list of operating principles that guide and inform Taumata Arowai in its performance and delivery of its objectives, functions, and duties.
311. Consideration of cost is not explicitly mentioned, although it does form part of the proportionate approach that guides Taumata Arowai, with section 3(1)(c) referring to “providing mechanisms that enable the regulation of drinking water to be proportionate to the scale, complexity, and risk profile of each drinking water supply.”
312. This is because previous legislation (the Health Act 1956) allowed suppliers to raise unaffordability as a reason for not complying with drinking water standards and the treatment required to meet them. This was identified in the Government Inquiry into Havelock North Drinking Water as a fundamental weakness in the regime increasing risk to consumers. A deliberate decision was made to not carry that over to the WSA, which means water suppliers cannot use unaffordability on its own as a reason to not meet their statutory duties to supply safe drinking water.
313. Cost is still considered in the current regulatory regime for determining what action Taumata Arowai may take; and is one element of what is reasonable and proportionate in regulatory decision-making. This contributes to a flexible approach designed to incentivise compliance and ensure suppliers focus their efforts on managing risks and hazards.
314. However, Ministers are still concerned that there is a risk of insufficient reference to costs on suppliers in legislation, and that the proportionate approach in agency regulatory documents is not sufficient.

There are costs and uncertainty in giving effect to Te Mana o te Wai

315. All suppliers of drinking water, and councils in their provision of wastewater and stormwater services, must give effect to Te Mana o te Wai as defined in the NPS-FM to the extent that it applies to a function, power or duty required of them under the WSA (section 14 of the Act). For example, the requirement means that in developing a drinking water safety plan or a source water management plan a supplier must give effect to Te Mana o te Wai.
316. The requirement to give effect to Te Mana o te Wai is new. For many suppliers, especially smaller and non-council suppliers that have not had to engage with mana whenua in their operation of water services, the practical requirements and implications of giving effect to Te Mana o te Wai are seen to them as unclear and uncertain, and for some the requirement may appear onerous.
317. The TAG considers Te Mana o te Wai is not well understood by councils and adds unnecessary uncertainty or overcomplicates the regulatory system, particularly as it relates to consenting applications, as Te Mana o te Wai is already a consideration for councils under the RMA and associated regulation. Discussion around Te Mana o te Wai is often aspirational with ideas that are in some cases not affordable or achievable (such as treated wastewater disposal to land for large urban areas). While some TAG members

• ¹⁷ Roger Cotton submission on Bill 2.

were supportive of the general principles of Te Mana o te Wai and better environmental outcomes, other members considered that it does not help in reaching practical or achievable solutions, as it means different things to different people.

318. The sector has also raised concerns as to what giving effect to the requirement might mean for the involvement of mana whenua in their private water supply arrangements.

What objectives are sought in relation to the policy problem in Part B?

319. The Department's proposed approach to solving the policy problem described above is linked to the key features of LWDW:

- as outlined in **Part A**, the overarching policy objective is that councils deliver water services that are financially sustainable and meet minimum regulated quality standards for communities. This includes delivering safe, resilient, reliable environmentally sound and customer-responsive water services at least cost.
- The objective of the proposals discussed in this section, **Part B**, are set by Ministers and complement the broader objectives discussed in **Part A** by focusing on the regulatory system for all water suppliers.

320. As such, the primary objective is to reduce the cost of regulation for water suppliers. There are two sub-parts to this:

- minimise compliance costs on suppliers of drinking water services and on councils in their provision and operation of wastewater and stormwater services; and
- provide for Taumata Arowai to minimise compliance costs in its regulation of water services to protect and promote drinking water safety and the environmental performance of drinking water, wastewater and stormwater networks.

Section 2: Deciding upon an option to address the policy problem (Part B)

What scope will options be considered within in Part B?

The counterfactual options include the proposals set out in the **Local Government (Water Services Preliminary Arrangements) Bill** and the decisions already made by Cabinet in June

321. As noted in the Introduction, the preliminary arrangements were agreed by Cabinet in March 2024, with the intention to introduce and pass Bill 2 by August 2024 to establish a framework and preliminary arrangements for the new water services system. These arrangements and proposals will cause the regulatory landscape to adjust over the next six months. It has therefore been assumed that these arrangements form part of the 'counterfactual'.

322. Further, the first set of policy decisions that set the foundations for the longer-term provisions as part of Bill 3 were agreed by Cabinet in June. These were assessed as part of the **second RIS**. This included policy decisions on aspects such as water organisations and economic regulation. As many of the proposals in this **third RIS** build on these decisions, it has been assumed that these arrangements form part of the 'counterfactual'.

Policy options are informed by, and limited to Government policy

323. As outlined in Section 1, the policy proposals are informed by, and limited to, Government policy. This includes key parameters set out within LWDW, including that:

- councils will retain ownership and control of their water services assets and delivery;
- central government will have stronger oversight to ensure that the status quo does not continue, including introducing an economic regulator;
- councils will be required to ringfence assets and funds for water infrastructure with the policy objective that water services will become financially sustainable; and
- there is greater transparency and accountability to consumers, communities and regulators.

Ministers have directed officials to reduce the regulatory requirements

324. Further, Ministers have directed officials to reduce the regulatory requirements for water service suppliers. Therefore, while there are broad approaches (Strategic Options) available to the Government outlined below, these have not been assessed in **Part B** of this **third RIS**.

325. The three Strategic Options that could have been taken to minimise compliance costs on suppliers of drinking water services, and on councils in their provision and operation of wastewater and stormwater services, are outlined below:

- **Strategic Option One:** Under this option there would be a continuation of the status quo that provides for a proportionate approach to regulation, and which gives Taumata Arowai considerable flexibility and choice in its administration of the wide range of regulatory powers and tools available, coupled with ministerial direction to minimise compliance costs on suppliers.
- **Strategic Option Two:** Under this option there would be a focus on amendments to the Taumata Arowai—the Water Services Regulator Act 2020 and the WSA to provide for more prescriptive direction to the water services regulator on how it is to apply its various regulatory powers and tools.
- **Strategic Option Three:** This option builds on option two, and further focuses on amendments to the Taumata Arowai—the Water Services Regulator Act 2020 to remove specific regulatory requirements that are seen to add cost and to enable the water services regulator to consider costs to suppliers in its administration of regulatory requirements to minimise suppliers' compliance costs.

326. The approach that officials have been directed to take is **Strategic Option Three**, as Ministers are seeking options that look to both improve direction for the water services regulator (including how cost is considered in Taumata Arowai's regulatory framework and the costs of giving effect to Te Mana o te Wai) and reduce the cost of regulation on suppliers.

What criteria will be used to compare options to the status quo in Part B?

327. The following criteria have been chosen to compare the subsequent policy proposals. These criteria are different from the criteria discussed in **Part A** and have been specifically developed to assess options for changes under water services regulation as opposed to council service delivery.

328. This is because these proposals relate to the quality of regulation of water services, including drinking water services provided by the Crown and other non-council providers, rather than the organisation and performance of council water services.

329. However, due to the interconnected nature of the policy proposals and the wide reform programme, we have highlighted the relationship between the criteria set out here. We have noted how the **Part B** criteria related to **Part A** criteria.

Criteria	Description	Relevance to objectives and root causes	Relation to previous criteria
Provides clarity in requirements	The extent to which regulatory objectives and requirements are easily understood, and requirements for compliance are clear and unambiguous.	Many smaller suppliers are unclear what WSA regulatory requirements mean for their operation of drinking water supplies, for meeting regulatory requirements relating to compliance with the technical drinking water standards, for development of drinking water safety plans and source water management plans, and for giving effect to Te Mana o te Wai. Requirements related to authorisations are also unclear.	Improved incentives, efficiency and accountability for sustainable performance.
Ensures the measures and requirements imposed by regulation are proportionate with the level of risk involved	The extent to which regulatory requirements, and the approach taken to their administration, are calibrated to the magnitude of risks to public safety and the environment.	Requirements appear onerous to some smaller suppliers, especially those that have informal arrangements to supply drinking water to neighbours from private bores and domestic supply arrangements.	Provides a financially sustainable approach for council delivery of water services.
Minimises the financial burden while still ensuring effective compliance and protection	The extent to which regulatory requirements are designed and administered in ways that ensure a cost-effective path to compliance, while still meeting regulatory objectives related to public health and the environment.	Smaller suppliers are uncertain what should be recorded to comply with regulatory requirements including with multi-barrier treatment for protozoa and some contaminants such as nitrates that are very difficult and expensive to treat or remove.	
Ensures that there is system alignment	The extent to which regulatory requirements are aligned within the broader system to create a cohesive regulatory environment, reducing conflicts, duplications, and gaps.	The Government has indicated its intention to amend the NPS-FM with implications for requirements related to Te Mana o te Wai.	<i>New criteria.</i>
Provides a practical path for implementation	The extent to which regulatory requirements are designed and administered in ways that are sensitive to the circumstances, capacities, and capabilities of different providers and for how water services are organised and operated.	To be effective, regulatory requirements need to be clear, affordable, and practical for regulated parties to implement.	Provides a practical path for implementation.

Treaty of Waitangi analysis: Part B proposals

330. Based on consultation undertaken as part of the previous reform, there is a clear expectation across iwi/Māori that water services policy should uphold, align, and integrate with Te Mana o te Wai and freshwater management. Te Mana o te Wai is a concept developed under the resource management system and in collaboration with iwi/Māori as a way of describing the importance of freshwater within a Te Ao Māori framework. We note that the central tenet of Te Mana o te Wai is that decisions relating to freshwater should acknowledge and protect the mauri of the water; and support the health of the environment, the health of the waterbody, and the health of the people.
331. In the establishment of Taumata Arowai, iwi/Māori rights and interests were recognised through a suite of legislative provisions, including the operating principles and governance of Taumata Arowai. Several of these are provisions to be amended under these proposals.
332. As noted above, a number of submissions to the Select Committee on Bill 2 raised concerns about the indicated changes to settings that provide for Te Mana o te Wai. The proposals in Bill 3 that further reduce the weight to be given to Te Mana o te Wai (either explicitly or implicitly) are unlikely to meet iwi/Māori aspirations for their taonga, or for their role as kaitiaki of specific waterbodies.
333. Similarly, the proposals to amend the competency requirements for the Taumata Arowai Board and the Māori Advisory Group provisions are unlikely to meet iwi/Māori aspirations with respect to recognising and respecting the Crown's responsibility to consider and provide for Māori interests.
334. It is noted that the intent of these policies is to reduce the cost burden of giving effect to Te Mana o te Wai, and to ensure that decision makers have flexibility to make decisions based on their relative priorities. Further work will be undertaken to articulate areas of decision-making where Te Mana o te Wai is particularly relevant and should be explicitly considered.
335. There is potential for the changes to the application of Te Mana o te Wai to result in decisions that do not align with Māori cultural values, or iwi/Māori aspirations for particular waterbodies. In the context of these reforms, this must be considered alongside the key policy objectives to facilitate greater investment in local infrastructure by reducing compliance costs on suppliers and the Water Services Regulator.
336. Given the potential implications on consent decision making outlined above, and the issues identified in the Treaty impact analysis, officials do not have a recommended option for proposal six.

Proposal Five: Reducing the regulatory burden on all water suppliers (Water Services Act 2021)

337. Two options are explored below:

- **Option One:** No change to current settings and use of existing powers of Ministerial direction to require Taumata Arowai to reduce regulatory compliance costs (counterfactual).
- **Option Two:** Discrete legislative amendments made to reduce regulatory compliance costs (The Department's preferred option to meet Ministerial objectives).

Option One: No change to current settings and use of existing powers of Ministerial direction to require Taumata Arowai to reduce regulatory compliance costs (counterfactual)

338. Under this option, **existing levers** (including legislation and Ministerial powers) would be used to influence Taumata Arowai and how it can act to reduce regulatory compliance costs, in order to meet the objectives set by Ministers to minimise compliance costs on councils and suppliers for their provision and operation of water services.

339. There would be no legislative change.

340. Under the Taumata Arowai—the Water Services Regulator Act 2020, the objectives and functions of Taumata Arowai are to:

- protect and promote drinking water safety and related public health outcomes;
- effectively administer the drinking water regulatory system;
- build and maintain capability among drinking water suppliers and across the wider industry;
- give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the functions and duties of Taumata Arowai;
- provide oversight of, and advice on, the regulation, management, and environmental performance of drinking water, wastewater, and stormwater networks; and
- promote public understanding of the environmental performance of drinking water, wastewater, and stormwater networks.

341. As such, the expectation of the WSA (reflected in the statement of statutory purpose and other references) is that regulation is proportionate to the scale, complexity, and risk profile of each drinking water supply. This flows through to regulatory policy and guidance for Taumata Arowai.

342. Taumata Arowai also has a range of tools to support or require drinking water suppliers to ensure communities have safe and sufficient drinking water. The current approach is tailored to the level of risk to the health of people and the environment and how willing a drinking water supplier is to meet their legal requirements. This includes legislative tools for suppliers to ensure they can comply with requirements. These consider the size, scale, and risk of different suppliers, and are set out in legislation under the WSA.

343. Taumata Arowai, as a Crown Agent, must also give effect to Government policy. Current ministerial levers include:

- issuing a new letter of expectations that outlines the approach expected of Taumata Arowai to be taking in its operations;
- providing direction to Taumata Arowai on its annual statement of expectations;
- influencing the monitoring agency function fulfilled by the Department; and
- ensuring the Board has experience in both direct regulation and meeting compliance, as the Board helps drive the strategic approach of the organisation.

Option Two: Discrete legislative amendments made to reduce regulatory compliance costs (The Department’s preferred option to meet Ministerial objectives)

344. Under this option, there would be a **package of regulatory changes** made to reduce regulatory compliance costs, and the burden on water suppliers to meet the objectives set by Ministers to minimise compliance costs on councils and suppliers for their provision and operation of water services.

The ‘consideration of cost’ as an objective in legislation

345. There would be explicit reference added to the WSA that Taumata Arowai needs to consider costs on suppliers as a key part of its regulatory approach (as opposed to the current policy of it forming part of the proportionate regulatory approach in its regulatory documents).

346. As such, a legislative objective would ensure that the cost of compliance on suppliers is considered by Taumata Arowai through its functions, with the appropriate balance to be taken between public health outcomes and minimum least costs to suppliers.

347. Two further objectives would also be added to ensure the regulatory response (including cost) is proportionate to the scale, complexity and risk profile of each drinking water supply; and to proactively engage with suppliers and network operators to ensure that there is a path to compliance that takes into account the risk profile and capacity of the supplier or network operator itself.

Proactive issue of exemptions from the regulatory regime

348. Exemptions allow suppliers to be excused from legislative requirements when it is disproportionate to the scale, complexity, and risk profile of the water supply to comply.

349. Under the current legislation, a supplier must apply for an exemption and demonstrate they can still provide safe drinking water to consumers. To date, only two exemptions have been granted. Exemptions can also be given for a class of suppliers; however, none have been issued by Taumata Arowai.

350. To help ensure that this tool can be used effectively, this option would include amending the legislation to make explicit that Taumata Arowai can proactively issue exemptions from the regulatory regime without having to wait for application.

351. Currently, section 57(2) of the Act allows exemptions to be granted for all nine requirements that are currently specified, which are:

- to supply safe drinking water;
- to comply with drinking water standards;
- to take reasonable steps to provide aesthetically acceptable drinking water;
- to provide a sufficient quantity of drinking water to consumers at each point of supply;

- to protect against the risk of backflow;
- requirements relating to end-point treatment;
- to have a drinking water safety plan;
- to keep records; or
- to provide information to consumers and have a consumer complaints process.

352. Under this option, an amendment would be made to allow exemptions to be granted for any one or more of the nine requirements that are currently specified, which moves away from the current ‘all or nothing’ approach.

353. Further, this option would include a further item being added to the list in this section so that exemptions may apply to requirements to notify Taumata Arowai of notifiable risks or hazards in section 35 of the Taumata Arowai–the Water Services Regulator Act. Small suppliers, in particular, may benefit from an exemption from this duty.

Authorisation for water service professionals

354. There is provision in the WSA for an authorisation framework to introduce requirements about what training, skills, or experience drinking water and wastewater networks operators should have to ensure the safe operation of drinking water and wastewater networks. The WSA provides discretion about how the framework should be designed and delivered.

355. Under this option, the current statutory timeframe that requires all local authority and CCOs that operate drinking water supplies to be authorised by November 2026 would be updated and extended to within nine years after the commencement date. This would allow for further collaborative work with the water sector on the design and implementation of an authorisations framework.

Reducing the regulatory burden on small drinking-water suppliers

356. Under this option, there would be a focus on reducing the regulatory burden for small drinking-water suppliers through increasing the regulatory threshold to exclude shared domestic suppliers that service 25 or fewer consumers.

357. Further, smaller suppliers will also benefit from the changes above. For example, the extension in timeframe for unregistered drinking suppliers will particularly benefit small suppliers, who are the majority of unregistered suppliers. Smaller suppliers are also more likely to have the characteristics required for any discretionary exemption.

358. Under this option, community suppliers regardless of the number of consumers, will continue to be regulated by Taumata Arowai due to the public health concerns. This approach acknowledges these supplies have higher risks associated with them, including the number of people potentially affected and their degree of vulnerability. Members of the public need assurance that these supplies are effectively managing the safety of their drinking water. This also recognises the importance of these small community supplies who provide civil defence support in emergencies.

Reducing the regulatory burden on mixed-use rural suppliers

359. Under this option, there would be three amendments made to the Taumata Arowai–the Water Services Regulator Act and WSA with the aim to reduce the burden on mixed-use rural suppliers. These include:

- amending Taumata Arowai’s operating principles to specifically refer to mixed-use rural supplies;

- requiring Taumata Arowai to comment on mixed-use rural water schemes in its annual drinking water regulation report to provide greater transparency to consumers, and farmer owners and operators, about the regulation of their schemes; and
- requiring Taumata Arowai to include specific information on mixed-use rural water schemes in its drinking water compliance, monitoring, and enforcement strategy.

360. There will also be non-legislative measures to ensure there is an appropriate focus on mixed-use schemes. The Minister of Local Government will communicate his expectations to the Taumata Arowai Board that they ensure the regulatory response for mixed-use rural water supplies is proportionate to the scale, complexity, and risk profile of each supply; and will encourage the Board to consider establishing a technical advisory group to provide independent advice on the regulatory settings for mixed-use rural water schemes.

361. Councils will be expected to include information on any mixed-use rural water schemes that are part of their water services networks in the WSDPs that will be prepared under Bill 2. The guidance material provided by the Department will also encourage councils to include information in their WSDPs on schemes that are not part of their networks but where other support arrangements may be in place.

Reducing the regulatory burden for consenting wastewater infrastructure and discharges

362. Under this option legislation (the WSA and the RMA) would be amended so that there is a single wastewater standard and regional councils are not able to impose higher standards than what is required in the national wastewater standards, apart from on an exemptions basis.

363. Under this option, changes could also be made to allow Taumata Arowai to specify infrastructure and operating requirements that, if implemented by a wastewater operator, will meet the treatment requirements in wastewater standards.

How do the options compare to the counterfactual?

	Option One No change to current settings and use of existing powers of Ministerial direction to require Taumata Arowai to reduce regulatory compliance costs (counterfactual)	Option Two Discrete changes made to reduce regulatory compliance costs (The Department’s preferred option to meet Ministerial objectives)
Provides clarity in requirements	<p style="text-align: center;">+</p> <p>Taumata Arowai is already required by legislation to 'build and maintain the capability of drinking water suppliers to fulfil their regulatory responsibilities; and provide guidance, advice, or information on matters that relate to drinking water safety and regulation, the management of risks to sources of drinking water, and the environmental performance, management, and regulation of drinking water, wastewater, and stormwater networks; and identify, prepare, or promote national guidelines and best practices that relate to drinking water'. Under current legislative settings, letters of expectations to Board members and ministerial direction could be used to clarify expectations on Taumata Arowai across a range of areas, including the consideration of cost on suppliers and the need to work alongside Crown and council suppliers to help them meet expectations. However, this direction can change depending on the government of the day.</p>	<p style="text-align: center;">++</p> <p>Explicit expectations and requirements to reduce costs would be set in legislation and clear to all, and Taumata Arowai would be legally obliged to comply with them. A single wastewater standard which is aligned to resource consenting requirements will provide greater clarity for wastewater infrastructure operators.</p>
Ensures the measures and requirements imposed by regulation are proportionate with the level of risk involved	<p style="text-align: center;">+</p> <p>Under current legislative settings, proportionality is already an objective of water services regulation, and existing mechanisms such as letters of expectations and ministerial direction could be used to reinforce expectations of Taumata Arowai to take a proportionate approach to its administration of regulatory requirements.</p>	<p style="text-align: center;">++</p> <p>Clear legislative expectations and requirements to adopt the consideration of costs to supplier will help ensure that regulatory standards are proportionate to risk and the circumstances of different water service providers. Providing more efficient consenting pathways for low-risk small-scale wastewater treatment plants that meet the wastewater standard delivers regulation that is proportionate to risk.</p>
Minimises the financial burden while still ensuring effective compliance and protection	<p style="text-align: center;">0</p> <p>If no change is made there may continue to be a higher financial burden on low-risk small suppliers to meet regulatory requirements.</p>	<p style="text-align: center;">++</p> <p>Clear legislative expectations and requirements to adopt the consideration of costs to suppliers may result in additional emphasis and more transparency on cost benefit analysis and minimisation of regulatory costs. Having a single wastewater standard and constraining the ability of regional councils to set higher standards will reduce the financial burden for consenting the bow wave of renewals and upgrades required, as well as for consenting new plants.</p>
Ensures that there is system alignment	<p style="text-align: center;">0</p> <p>If no change is made the regulatory pressure may remain, with a disproportionate impact on some suppliers over others given the 'one size fits all' approach.</p>	<p style="text-align: center;">+</p> <p>Taumata Arowai would be able to direct regulatory tools where to required and suppliers may have greater certainty about Taumata Arowai’s approach.</p>

	Option One No change to current settings and use of existing powers of Ministerial direction to require Taumata Arowai to reduce regulatory compliance costs (counterfactual)	Option Two Discrete changes made to reduce regulatory compliance costs (The Department's preferred option to meet Ministerial objectives)
		Aligning consenting requirements and wastewater standards across the WSA and RMA will ensure system alignment for wastewater infrastructure developers and operators.
Provides a practical path for implementation	- Some aspects of this option will be difficult to implement such as the authorisation for water service professionals by 2026. This is because councils are currently focusing on developing WSDPs, preparing for economic regulation of water services, and (for some) reorganising their approaches to delivering water services. There is also the lack of preparatory work and sector infrastructure to support implementation of an authorisation framework.	++ Deferring the requirement for authorisation 9 years from the commencement date is likely to provide officials with more time to prepare.
Overall assessment	0	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

364. The Department recommends **Option Two**, discrete changes made to reduce regulatory compliance costs as it best meets objectives set by Ministers to minimise compliance costs on councils and suppliers for their provision and operation of water services.
365. This option should provide more certainty to suppliers, ensure the proportionate approach considers cost as well as other factors (e.g., risk), and is an enduring / more stable change rather than relying on the direction and priorities of the Minister of the day.
366. Exempting the requirement for drinking water safety plans for very small community drinking water supplies would reduce the regulatory burden associated with the regime. It may enable Taumata Arowai to direct regulatory effort and help minimise risks for higher risk small drinking water supplies such as community drinking water supplies.
367. The regulatory approach to very small supplies would be primarily via education and advice, although they would still have some statutory duties and associated accountability. The Department considers that support and guidance is more appropriate for very small community drinking water supplies in managing risk.
368. Having a single wastewater standard that is aligned to the resource consenting process in the RMA also supports councils by reducing costs associated with addressing the bow wave of reconsenting required for wastewater treatment plants around New Zealand (around 70 percent of wastewater treatment plants will require reconsenting in the next 10 years). Providing more efficient consenting pathways for low-risk small-scale wastewater treatment plants that meet the wastewater standard would help deliver regulation that is proportionate to risk.
369. As part of the development of Option Two, The Department has engaged with the TAG and Taumata Arowai. The TAG members raised a concern about the general resourcing implications for Taumata Arowai and the shift from a small number of large water providers (under the previous Government's reform programme) to a larger number of smaller suppliers. The TAG also considered that cost-benefit considerations should form part of the regime and be part of assessments of risk. This will allow a balance between ensuring the fundamental outcome of safe drinking water and cost management.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	There may still be some resource costs to become compliant with new regime. May provide opportunities for economies of scale and cost savings for standard approach to wastewater treatment.	Medium	Low
Regulators	Taumata Arowai may have to consider cost and proactively engage with suppliers. This may require more resources from Taumata Arowai to be able to engage with more suppliers and develop cost effective ways reduce regulatory burden such as developing further acceptable solutions or class exemptions.	Low	Low
Others (eg, wider govt, consumers, etc.)	<i>Not identified at this point in time</i>	n/a	n/a
Total monetised costs	<i>Not available at this point in time</i>	n/a	
Non-monetised costs	<i>Not available at this point in time</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	<p>Council and CCO-operated drinking water supplies will still have to ensure their workforce is suitably trained and experienced to meet the requirements of the authorisations framework, however have sufficient time to ensure their workforce meets these requirements. This may reduce the risk that councils will have to poach experienced staff from other council's treatment plants and increase wage costs.</p> <p>Having suitably trained and experienced operators working in water supplies may reduce risk of damage to plant and risks to public health from incorrect water treatment from operator error.</p> <p>The cost of regulatory compliance for small suppliers may be more proportionate to the scale, complexity and risk profile of their drinking water supply.</p> <p>Suppliers may benefit from Taumata Arowai proactively engaging with them, rather than having to develop bespoke solutions for regulatory compliance, they may be able to take advantage of experience and tools available at Taumata Arowai.</p> <p>There would also be cost efficiencies in a single wastewater standard, particularly if it is aligned with resource consenting arrangements in the RMA.</p>	<p>Medium</p> <p>Medium</p> <p>Medium</p> <p>Medium</p> <p>Medium</p>	<p>Low</p> <p>Low</p> <p>Low</p> <p>Low</p> <p>Low</p>
Regulators	Taumata Arowai may have greater certainty about the tools could use to reduce regulatory compliance costs to drinking water suppliers.	Low to medium	Low
Others (eg, wider govt, consumers, etc.)	Workforce training providers will have more time to develop training to meet requirements for the authorisations framework, meaning there may be a	Low to medium	Low

	<p>better market and supply operators may be able to choose a provider whose training is appropriate and cost-effective.</p> <p>It may be less likely that the cost burden of regulatory compliance will be passed on to consumers.</p>	Low	Low
Total monetised benefits	<i>Not available at this point in time</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time</i>	n/a	

Proposal six: Changes to the requirements to give effect to Te Mana o te Wai under the Water Services Act 2021

370. Four options are explored below:

- **Option One:** Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual).
- **Option Two:** Select amendments to modify requirements related to Te Mana o te Wai **9(2)(f)(iv)**
- **Option Three:** Removal of references to Te Mana o te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater.
- **Option Four:** A full uncoupling of the water services legislation from the NPS-FM with a replacement.

371. There are other options that have been considered but not analysed, including:

- uncoupling water service legislation from the NPS-FM with no replacement;
- disapplying the duty from private drinking suppliers (so limiting it to Taumata Arowai and local authorities only); and
- repealing section 14 of the WSA but retaining a requirement for Taumata Arowai to have regard to Te Mana o te Wai as an operating principle in the Taumata Arowai–the Water Services Regulator Act 2020 only.

372. As noted in the Treaty of Waitangi section analysing **Part B** proposals above, the Department does not have a recommended option for Proposal Six. This is because of the potential implications on consent decision-making and the issues identified in /the Treaty impact analysis earlier.

Option One: Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual)

373. Under this option Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in so much that it relates to their respective roles and responsibilities.

374. However, as noted earlier in this **second RIS**, the interim arrangements are being progressed as part of the Amendment Paper to Bill 2, which means that the hierarchy of obligations under Te Mana o te Wai will be excluded from the consideration of wastewater environmental performance standards. Taumata Arowai is able to set wastewater standards by mid-2025 that do not have to take into account the hierarchy of obligations under Te Mana o te Wai, whilst the rebalancing of the NPS-FM is undertaken.

375. There could also be non-legislative mechanisms under this option to ensure that a change in approach to giving effect to Te Mana o te Wai is taken by Taumata Arowai. This could include issuing a new letter of expectations to the Board Chair, and outlining expectations that any framework for operationalising Te Mana o te Wai is in line with the approach of reducing costs wherever possible whilst still ensuring safe drinking water.

376. There is a potential for uncertainty and confusion remaining for suppliers regarding operationalising the concept of giving effect to Te Mana o te Wai if this option is pursued.

Option Two: Select amendments to modify requirements related to Te Mana o te Wai

9(2)(f)(iv)

377. Under this option, there would be amendments made to the current legislative settings, with the aim to provide clarity on what obligations are being placed upon Taumata Arowai and suppliers.

378. This could be done in two ways:

- amendments could be made to section 14(c) from 'give effect' to 'have regard' to, with the desired effect of constraining the meaning and application of Te Mana o te Wai across Taumata Arowai's functions, powers or duties as well as any supplier or person regulated under the WSA. This could be for all functions, powers or duties or for specific activities such as standards-setting (secondary legislation), rules and reporting, exemptions, engagement, regulatory approach and emergency response; and/or
- instead of, or in addition to the first bullet, there could also be amendments made to section 14(c) by more explicitly defining which functions, powers or duties the consideration of Te Mana o te Wai must apply to, with the effect of limiting what Te Mana o te Wai applies to for both Taumata Arowai and suppliers.

9(2)(f)(iv)

Option Three: Removal of references to Te Mana o te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater

382. Under this option there would be two main changes made:

- repeal the requirement to give effect to Te Mana o te Wai in the WSA and the Taumata Arowai—the Water Services Regulator Act; and
- add an operating principle into the Taumata Arowai—the Water Services Regulator Act, which would require Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA in relation to freshwater as part of the exercise of its functions, duties and powers.

383. This means that there would still be a link between Te Mana o te Wai and Taumata Arowai's decision-making but through an operating principle. Further, there will be a link to the NPS-FM overall, rather than only to the hierarchy in Te Mana o te Wai.

384. Te Mana o te Wai would apply to Taumata Arowai given its lead role in regulation of the water services system, but no longer apply directly to regional councils, territorial authorities, Crown suppliers, or private drinking water suppliers. Rather, these parties would be expected to implement the regulatory arrangements Taumata Arowai puts in place.

385. 9(2)(f)(iv)

Option Three: Uncouple water services legislation from the NPS-FM with a replacement

386. Under this option there would be a fundamental decoupling of water services legislation from the NPS-FM, where Te Mana o te Wai is defined and referenced.

387. When the WSA was being drafted, consistency was sought across legislation to ensure an aligned approach to freshwater management and guarantee that it was being managed in a way that prioritised the health of water and reflected the rights and interests of iwi/Māori. It is a unique approach to reference a national policy statement prepared under the RMA that must be adhered to in different primary legislation.

388. Under this option, the decoupling could be achieved by removing the reference to the NPS-FM, as well as removing references to Te Mana o te Wai in the WSA and Taumata Arowai–Water Services Regulator Act.

389. There would be a replacement definition following the decoupling of water services legislation from the NPS-FM. This would replace Te Mana o te Wai with a definition that is specific to the WSA and the Taumata Arowai–Water Services Regulator Act. In this option some reference to the environmental health of water could be retained, but it would be more specific to the regulatory functions, duties and powers that will be undertaken under those pieces of legislation, rather than applying a concept from the resource management framework.

How do the options compare to the counterfactual?

	<p>Option One Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual)</p>	<p>Option Two Select amendments to modify requirements related to Te Mana o te Wai 9(2)(f)(iv)</p>	<p>Option Three Removal of references to Te Mana of te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater</p>	<p>Option Four Option Four: Uncouple water services legislation from the NPS-FM with a replacement</p>
<p>Provides clarity in requirements</p>	<p>0</p> <p>Uncertainty and confusion may remain for suppliers regarding operationalising the concept of giving effect to Te Mana o te Wai without clear guidance in place.</p> <p>The removal of the Te Mana o te Wai hierarchy from wastewater standards reduces the regulatory uncertainty around how the concept should be applied. The hierarchy of obligations will continue to apply when Taumata Arowai develops wastewater measures and targets and reviews wastewater risk management plans.</p>	<p>+</p> <p>This option should provide greater clarity in interpretation and guide Taumata Arowai on how it should exercise its functions in relation to Te Mana o te Wai if the activities to which it applies are specified. The change could also provide greater clarity for suppliers. If the change to move from 'give effect to' to 'have regard to' is made there may still need to be guidance on what 'have regard to' means in practice. The primary role of the Māori Advisory Group was to advise the Taumata Arowai Board on how to give effect to Te Mana o te Wai in its operational activities. 9(2)(g)(i)</p>	<p>+</p> <p>As with Option Two, this option should provide certainty in an area where there is ongoing ambiguity for multiple parties – just in a different way. Suppliers would no longer be required to give effect to Te Mana o te Wai. The primary role of the Māori Advisory Group was to advise the Taumata Arowai Board on how to give effect to Te Mana o te Wai in its operational activities. 9(2)(g)(i)</p>	<p>-</p> <p>It is not clear how the NPS-FM could be operationally decoupled from the WSA without a replacement national policy framework to replace it to guide water decision-making. Some members of the TAG have indicated that they consider Te Mana o te Wai should not be referenced in water services legislation. This is because it is a concept that is open to interpretation, is aspirational, and can mean different things to different people.</p>

	<p>Option One</p> <p>Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual)</p>	<p>Option Two</p> <p>Select amendments to modify requirements related to Te Mana o te Wai 9(2)(f)(iv)</p>	<p>Option Three</p> <p>Removal of references to Te Mana of te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater</p>	<p>Option Four</p> <p>Option Four: Uncouple water services legislation from the NPS-FM with a replacement</p>
<p>Ensures the measures and requirements imposed by regulation are proportionate with the level of risk involved</p>	<p>0</p> <p>In terms of understanding obligations around Te Mana o te Wai the status quo imposes regulatory arrangements that are not clear in terms of how they should be interpreted, both for Taumata Arowai and for suppliers.</p>	<p>+</p> <p>Section 14 and 'giving effect to' Te Mana o te Wai may be contributing towards a lack of regulatory clarity and increasing the cost of compliance in some situations (particularly for wastewater consenting). Therefore, these changes can be seen as proportionate. Changing the legal provisions from 'give effect to' to 'have regard to' Te Mana o te Wai would likely reduce compliance requirements for Taumata Arowai and suppliers. Specifying the activities to which this provision applies will also help with meeting regulatory requirements through providing clarity for operational functions.</p>	<p>0</p> <p>Section 14 and 'giving effect to' Te Mana o te Wai may be contributing towards a lack of regulatory clarity and increasing the cost of compliance in some situations (particularly for wastewater consenting). Therefore, as with Option Two, these changes can be seen as proportionate. In particular, it would apply to Taumata Arowai which is appropriate given its lead role in regulation of the water services system. It will no longer apply directly to regional councils, territorial authorities, Crown suppliers, or private drinking water suppliers. However, Taumata Arowai currently use Te Mana o te Wai as a guiding principle for their strategies and organisational documents. There would be a change period where existing documents would need to reflect a new framework.</p>	<p>--</p> <p>There is a high level of risk associated with decoupling water services legislation from the NPS-FM as it is deeply embedded in the roles and functions of Taumata Arowai. It would take significant work to replace it with some other guiding policy framework.</p>
<p>Minimises the financial burden while still ensuring effective compliance and protection</p>	<p>0</p> <p>Removal of Te Mana o te Wai from wastewater standards (once developed) will likely help to reduce compliance costs and timing associated with meeting regulatory compliance for wastewater consents and standards. Regardless of this change, Te Mana o te Wai still applies to all other roles and responsibilities under the WSA, which continues to create uncertainty about operationalising this concept in other parts of the system, which may create a</p>	<p>++</p> <p>Providing greater clarity on the interpretation and legislative weight around Te Mana o te Wai may help to reduce regulatory compliance costs.</p>	<p>0</p> <p>While this option may provide greater clarity on the interpretation and legislative weight around Te Mana o te Wai and could reduce regulatory compliance costs, it will likely have a phase of uncertainty and cost to Taumata Arowai to implement the change. However, there would be reduced costs to suppliers, particularly private suppliers, who would no longer have a requirement to give effect to Te Mana o te Wai.</p>	<p>--</p> <p>This option could result in a financial burden for Taumata Arowai as their policy documents and operational functions are guided by the NPS-FM, which need to be changed if the NPS-FM was decoupled from the WSA. There will a significant cost in developing and implementing a whole new policy framework.</p>

	<p>Option One</p> <p>Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual)</p>	<p>Option Two</p> <p>Select amendments to modify requirements related to Te Mana o te Wai 9(2)(f)(iv)</p>	<p>Option Three</p> <p>Removal of references to Te Mana of te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater</p>	<p>Option Four</p> <p>Option Four: Uncouple water services legislation from the NPS-FM with a replacement</p>
	financial burden.			
<p>Ensures that there is system alignment</p>	<p>0</p> <p>Under the current system some regional councils are still able to issue consents and associated conditions that impose higher requirements than wastewater standards (e.g., where the NPS-FM has been embedded in regional policy statements and plans). Some have higher level policy requirements in their plans. The system is not well aligned at present and is uncertain until the effects of the 'rebalancing' of the NPS-FM are known.</p>	<p>+</p> <p>Under the WSA, this option brings alignment in the sense of clarity for the regulator and suppliers as to where Te Mana o te Wai needs to apply. However, there will still be uncertainty until the effects of the 'rebalancing' of the NPS-FM are known.</p>	<p>+</p> <p>This option will provide a clear link between Te Mana o te Wai and Taumata Arowai's decision-making. This will likely provide greater consistency and alignment because it does not take the hierarchy out of context and requires Taumata Arowai to consider the broader context. This will include the benefit of linking the concept with engagement that has occurred with local iwi or hapū on regional plans that relate to freshwater, which is important given Te Mana o te Wai is a concept that is given effect to 'at place'. This option will ensure there is a clear link between Taumata Arowai's decision-making and broader freshwater planning – this is currently not properly integrated in the legislative framework, other than in source water risk management plans.</p>	<p>-</p> <p>This option would result in misalignment across the system as there would be no guiding policy framework for Taumata Arowai operational functions, without a new overarching policy framework being developed.</p>
<p>Provides a practical path for implementation</p>	<p>0</p> <p>Under this approach, a lack of clarity will remain for how Te Mana o te Wai is operationalised under the WSA.</p>	<p>+</p> <p>Specifying the activities to which this provision applies will help with practical implementation and provide clarity for water service delivery in terms of what Te Mana o te Wai means in practice for consenting, standards, and operational activities. Having a lower legal bar 'have regard to' versus 'give effect to' will provide an easier path of implementation of water infrastructure consenting, standards and operational activities.</p>	<p>+</p> <p>This option will provide certainty in an area where there is ongoing ambiguity for multiple parties. However, it will introduce regulatory inconsistency across differing legislation affecting water consenting and decision-making as the NPS-FM would still apply under the RMA. This option will also not preempt the broader rebalancing Te Mana o te Wai in the NPS-FM.</p>	<p>--</p> <p>This option would introduce regulatory inconsistency across differing legislation affecting water consenting and decision-making as the NPS-FM would still apply under the RMA even if it was removed from the WSA. However, it is a unique approach to reference secondary legislation that must be adhered to in different primary legislation. It would also take significant time and resource</p>

	Option One Taumata Arowai and regulated parties will continue to be required to give effect to Te Mana o te Wai in their regulation of water services but the hierarchy will no longer apply for the creation of wastewater standards under the WSA (counterfactual)	Option Two Select amendments to modify requirements related to Te Mana o te Wai 9(2)(f)(iv)	Option Three Removal of references to Te Mana of te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater	Option Four Option Four: Uncouple water services legislation from the NPS-FM with a replacement
		However, in the time available, there was not sufficient analysis to determine whether the allocation of Te Mana o te Wai to particular functions is operationally sound.		to bring in a replacement framework and embed it.
Overall assessment	0	+	+	--

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

390. The Department does not have a preferred option given the limited timeframes for policy development and lack of time for analysis, potential implications on consent decision making and the issues identified in the /Treaty impact analysis.

391. The Government intends to progress Option Three: Removal of references to Te Mana o te Wai and introduce a requirement for Taumata Arowai to take account of the NPS-FM and any regional plans prepared under the RMA that relate to freshwater. This option best meets objectives set by Ministers to provide for Taumata Arowai to minimise compliance costs through the regulation of water services to protect and promote drinking water safety and the environmental performance of drinking water, wastewater and stormwater networks.

392. Ministers consider that Option Three:

- provides the greatest certainty in an area where there is ongoing ambiguity for multiple parties;
- would apply to Taumata Arowai which is appropriate given its lead role in regulation of the water services system (and no longer apply to regional councils, territorial authorities, Crown suppliers, or private drinking water suppliers);
- provides a clear link between Te Mana o te Wai, which is integrated in the NPS-FM and regional plans that relate to freshwater, and Taumata Arowai’s decision-making (which will include the benefit of linking the concept with engagement that has occurred with local iwi or hapū on regional plans that relate to freshwater so Te Mana o te Wai is given effect to “at place”); and
- ensures there is a clear link between Taumata Arowai’s decision-making and broader freshwater planning which is currently not properly integrated in the legislative framework.

393. Overall, this option links to the overall NPS-FM, as opposed to only the hierarchy in Te Mana o te Wai. This may provide greater consistency and alignment because it does not take the hierarchy out of context and requires Taumata Arowai to consider the broader context.

394. This option also does not pre-empt the broader rebalancing Te Mana o te Wai in the NPS-FM, as it is done through additional objectives rather than change to the hierarchy.

395. 9(2)(f)(iv) [Redacted]

396. There is potential for the changes to the application of Te Mana o te Wai to result in decisions that do not align with Māori cultural values and aspirations for particular waterbodies. In the context of these reforms, this must be considered alongside the key policy objectives to facilitate greater investment in local infrastructure by reducing compliance costs on suppliers and the water services regulator.

397. As part of the development of some of these options, the Department has engaged with the TAG and Taumata Arowai. The TAG considers Te Mana o te Wai is not well understood by councils and adds unnecessary uncertainty or overcomplicates the regulatory system. This is particularly as it relates to consenting applications, as Te Mana o te Wai is already a consideration for councils under the RMA and associated

regulations. Discussion around Te Mana o te Wai is often aspirational, with ideas that are in some cases not affordable or achievable (such as treated wastewater disposal to land for large urban areas). Whilst supportive of the general principles of Te Mana o te Wai and better environmental outcomes, in their experience it does not help discussions to reach practical or achievable solutions, particularly as it means different things to different people.

398. Some members of the TAG have indicated that they consider Te Mana o te Wai should not be referenced in water services legislation.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Regulated groups	Uncertainty may be created in the short term as the approach to Te Mana o te Wai changes.	Medium	Low
Regulators	Taumata Arowai may need to change the approach they are taking, including not considering Te Mana o te Wai across all functions.	Medium	Low
Others (eg, wider govt, consumers, etc.)	<i>Not identified at this point in time</i>	n/a	
Total monetised costs	<i>Not available at this point in time</i>	n/a	
Non-monetised costs	<i>Not available at this point in time</i>	n/a	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	In the longer term there could be cost savings from the clarity in approach to considering Te Mana o te Wai. 9(2)(f)(iv)	Medium	Low
Regulators	Clarity may likely be provided to Taumata Arowai on how to apply Te Mana o te Wai in the long-term.	Low	Low
Others (eg, wider govt, consumers, etc.)	Broader suppliers may no longer have specific obligations.	Low	Low
Total monetised benefits	<i>Not available at this point in time</i>	n/a	
Non-monetised benefits	<i>Not available at this point in time</i>	n/a	

Part A and Part B

Section 3: Delivering an option (Parts A and B)

399. Many of the proposals assessed in this **third RIS** follow on from and complement the proposals assessed in the **second RIS**. As such, many of the implementation and monitoring considerations remain the same. This includes the implementation of:

- water organisations and the support being provided to councils on the options available to them;
- ring-fencing arrangements and economic regulation; and
- the strengthened assistance and intervention framework.

400. This also means that the monitoring and evaluation arrangements discussed in the **second RIS** also remain. This includes the changing roles of the Commerce Commission and the Department in economic regulation and monitoring the performance of water organisations.

401. Further, as discussed earlier on, the six proposals assessed in this **third RIS** are interconnected and complement each other. Therefore, we have discussed the implementation and monitoring aspects as a whole package, with specifics mentioned where relevant.

How will the new arrangements be implemented for Parts A and B?

402. Firstly, and as noted previously, LWDW was a National Party manifesto commitment as part of the 2023 General Election. The arrangements that are discussed in the RIS are signalled in the 100-point Economic Plan and were announced by the Government in February 2024. As a result, councils are aware of the upcoming changes and the Department has been ensuring councils are aware of the specific changes and implications as part of Bill 2.

403. As with the proposals assessed in the **second RIS**, these proposals in this **third RIS** require significant implementation considerations. The overall implementation of the system needs to be done in a way that considers all the moving parts and different aspects. For example, consideration should be given to how the tools of the economic and consumer protection regulator and Taumata Arowai's measures, standards and targets for the environmental performance of certain networks interact as the new policy and legislation is implemented. This is to ensure regulators do not overlap in responsibilities and increase costs further than what is needed. The legislation will also complement existing provisions for information-sharing between regulators to ensure costs are kept at minimum viable levels.

404. Further, following feedback from local authorities, an exemption process for some of the minimum requirements (as set out in the **second RIS**) is being established. This would be an avenue for councils to use if they developed proposals that did not exactly fit all the criteria. Such a process introduces flexibility into the water organisation framework which means councils would have a broader scope to develop their proposals.

405. While interconnected, there are still a number of specific implementation considerations for the six specific proposals assessed in this **third RIS** across **Parts A** and **B**.

Proposal specific considerations

Implementation of changes to the legislative framework to enable the delivery of council-owned water services across a wider range of organisational types (Part A)

406. As noted in the **second RIS**, to support the implementation of different types of water organisations, guidance will be provided to councils on the range of delivery options available to them. This will build on the information made available following the enactment of Bill 2 to inform the WSDPs and will help councils to assess which vehicles are most appropriate for their circumstances.
407. To support the consequential legislative changes required to enable the delivery of council-owned water services across a wider range of organisational types, these matters will be included in guidance material for councils when considering the options available to them. The Department is also currently considering whether guidance on development contributions policies needs updating as part of the changes.

Implementation of bylaw replacement provisions (Part A)

408. The proposed replacement of bylaws entails giving water organisations the power to make rules, which would be secondary legislation, to manage specific aspects of their services and networks, as well as ensuring the legislation includes the appropriate enforceable offences. The new statutory instruments would include specified processes for making customer agreements, trade waste management regimes with criteria to allow for case-by-case decision-making and drinking water catchment management plans.
409. There would need to be appropriate transitional arrangements (including timeframes, consultation requirements, suspension of current mandatory bylaw reviews during the transition period, and technical support) to transition out of existing bylaws and into the new instruments.

Implementation of consumer protection mechanisms (Part A)

410. The preferred option is for enabling provisions for further consumer protection measures to be brought in as needed. Therefore, there will not be immediate implementation, and any future implementation will focus on ensuring good information is collected to know when the different 'backstop' provisions need to be used. For example, it is expected that the Commerce Commission will oversee water service providers and use tools such as information disclosure (as part of the economic regulation proposals discussed in the **second RIS**) to determine whether a mandatory service code is needed.

Implementation of stormwater and overland flow path management (Part A)

411. One of the main aspects of the proposals around stormwater and OLFP management is the introduction of new planning and regulatory tools, including SNRMPs.
412. These plans will take some time to implement. Nationally there are gaps in information on flood risk that will require investment in flood hazard modelling to fill. As noted above identifying OLFPs will be an immediate issue. While councils will generally understand the location of primary OLFPs, the detailed work to identify all OLFPs will take time. For territorial authorities who may not have identified OLFPs, they will need to invest in flood hazard modelling to identify primary OLFPs. To provide time for that work to be completed we propose that the first plan should be prepared two years after the enactment of Bill 3.
413. As such, transitional arrangements are suggested to aide in the implementation, including:

- territorial authority and private landowner statutory duties to protect and maintain the conveyance capacity of OLFP will only apply to OLFP that have been identified in a SNRMP; and
- the first SNRMP will need to be prepared two years after the enactment of Bill 3, and then reviewed and updated every five years.

414. These SNRMP, and any activities carried out to implement them, will be subject to any RMA requirements. When developing the SNRMPs, the territorial authority would be required consider any relevant plan, including any plans prepared in accordance with any Treaty settlement, plans prepared under the RMA and regional land transport plans. Our expectation is that because the SNRMPs will be developed by territorial authorities (or on their behalf) it is likely they will also inform the development of those other plans e.g. district plans (in relation to OLFPs).

415. To support consistency, draft SNRMPs will be provided to Taumata Arowai for comment ahead of their finalisation. This would complement the approach to risk management plans that has been adopted for drinking water and wastewater in the WSA and will provide an opportunity for Taumata Arowai to issue guidance and align environmental standards for stormwater management to improve consistency.

416. The detail around service agreements is still being developed, but at a minimum the service agreements would set out a framework for:

- defining the roles and responsibilities of each party;
- how the parties should work together; and
- how they would share information and a dispute resolution process.

Implementation of changes to reduce the regulatory burden on all water suppliers (Part B)

417. Under the preferred option, there are a range of cost reduction changes to how suppliers are regulated. These all require different approaches to implementation.

418. The preferred option included introducing the 'consideration of cost' as an objective into legislation. As part of the legislative design process, consideration will be given to how this can best be reflected into legislation without creating unintended consequences. Further, once changed in legislation, it is expected that this will be reflected in other direction-setting mechanisms such as through letters of expectations.

419. Under this option Taumata Arowai will be required to work closely with suppliers to ensure compliance with regulatory requirements. The legislation will be explicit that Taumata Arowai is required to work alongside regulated entities, in particular council suppliers and the Crown, as a priority to help them meet the regulated standards in place. For example, being compelled to work more directly alongside agencies to ensure regulatory requirements can be implemented in the most cost-effective and efficient way, such as the recent experience with the Department of Conservation and helping ensure its sites are compliant with the WSA.

420. The preferred option includes an amendment to the legislation to be explicit that Taumata Arowai can proactively issue exemptions from the regulatory regime. To support this, Taumata Arowai will collaborate with suppliers by conducting horizon-scanning to identify which suppliers could get class exemptions through the proactive approach outlined in the preferred option. Building on the existing legislative requirements around exemptions, there would be the need for Taumata Arowai to publicly consult where class exemptions are being considered and publish the reasons for granting any exemption.

- 421. Under this option, the current statutory timeframe requiring all local authorities and CCOs that operate drinking water supplies to be authorised by November 2026 would be updated to include a requirement for all local authorities and CCOs to be authorised or operated by authorised persons within nine years after the commencement date.
- 422. This is a complex area, which includes a wide range of components and considerations – including designing and putting in place mechanisms for delivering training and authorising particular operators. Under this approach the Department will work collaboratively with the water sector on the design and implementation of an authorisations framework, including the necessary training and support mechanisms.
- 423. Alongside these legislative changes, Taumata Arowai will look to proactively develop templates for acceptable solutions, which should reduce the burden for suppliers to be developing their own bespoke solutions (and reduces their costs). Taumata Arowai may explore developing other tools too (such as verification methods) and use educational tools to support regulation.
- 424. It is important to note that while some of these changes are being made to ‘focus’ Taumata Arowai in this new regime, resourcing will likely be an issue. Taumata Arowai was resourced to regulate under the previous legislative regime of a small number of large water providers, and with the shift to a larger number of suppliers, this will likely require more resourcing.

Implementation of changes to the requirements to give effect to Te Mana o te Wai under the WSA (Part B)

- 425. Under this proposal, there will be several changes to the requirements to give effect to Te Mana o te Wai.
- 426. Therefore, there will need to be consideration as to how this change is implemented and flows through to different planning documents. It is expected that it will take time to see the true impacts of these changes.

427. 9(2)(f)(iv) [Redacted text block]

How will the new arrangements be monitored, evaluated, and reviewed for Parts A and B?

- 428. This section describes the overall approach to monitoring, evaluation and review for water services, including how the Department, MBIE and the Commerce Commission would monitor and review regulatory changes to ensure that they are performing well.
- 429. The overall monitoring and evaluation for the six proposals across **Part A** and **Part B**, would be focused on the degree to which each option is achieving its objectives, with a focus on whether councils’ delivery of water services are financially sustainable and meet minimum regulated quality standards for communities. Monitoring would also need to consider how the Treaty of Waitangi obligations are applied, wherever the Crown has a role, function or responsibility in relation to the monitoring functions listed below.

430. As with the **second RIS**, this section discusses both the overall provisions that will be put in place given the interconnectedness of the proposals, as well as specific points for each proposal. This section also builds heavily on the information of the **second RIS**, as many of the implementation and monitoring considerations remain the same.

There would be a mandatory review of the water services system in five years' time

431. As outlined in the **second RIS**, consideration has been given to mechanisms for maintaining some 'pressure on the system', incentivising councils to restructure their water services arrangements, and considering the long-term effectiveness of the service delivery and associated regulatory systems. As such, there are provisions for a mandatory 'system-wide review of water services' to be undertaken five years after the Bill is enacted. The timeframe and matters to be covered in the review would be specified in the legislation.

432. Further, a performance and evaluation framework will likely be developed to aide in both this review, but also ongoing monitoring of how the policy programme is performing.

433. It is expected that this will include a review of proposals in this **third RIS**, such as consumer protection mechanisms to ensure that they are fit for purpose, and the changes to the WSA outlined in **Part B**.

Ongoing monitoring by the Department

434. Across the package of proposals for LWDW (across the **second** and **third RIS**), the role of the Department would include greater monitoring and oversight of the implementation of these provisions.

435. The Department would need to have an ongoing role in:

- monitoring the implementation of WSDPs (after they have been accepted in accordance with Bill 2) to understand council performance (i.e. are they focussed on water services delivery and on track to achieving financial sustainability) (outlined in the **first RIS**);
- providing advice and recommendations on the potential use of powers of assistance and intervention relating to water services (outlined in the **second RIS**); and
- monitor the implementation of changes to the WSA, and the role of Taumata Arowai.

436. To do these roles effectively, the Secretary for Local Government will be granted with powers to support and enable the Department to undertake these roles (as noted in the **second RIS**).

Monitoring of performance by the Commerce Commission

437. As outlined in the **second RIS**, LWDW provides that the regulation of water services will be brought into Part 4 of the Commerce Act 1986 and regulated by the Commerce Commission. The Commerce Commission will have a range of responsibilities for water service providers and specifically for these proposals, this means having oversight of consumer protection mechanisms.

438. A key feature of the preferred proposals in the **second RIS** is information disclosure, which is an enhanced regime for recordkeeping and transparency to enable the Commerce Commission to monitor regulated suppliers' performance, including relative performance and changes in performance over time. As part of this, the Commerce Commission will also be able to monitor whether a mandatory service code is necessary.

439. MBIE would also monitor the regime as part of its general regulatory stewardship responsibilities.

Policy objective around financial sustainability

440. As mentioned in the **second RIS**, it is anticipated that the package of proposals presented, along with the preliminary arrangements, will result in strong incentives on councils and new organisation options for councils to support the LWDW policy objective.

441. However, different councils will have different starting points in terms of the state of their infrastructure assets, ability to raise revenue and reduce expenditure. They will also have different capacities to respond to incentives and to utilise new organisation options to reorganise their delivery of water services, and different rating bases to fund required investments and costs. There is a risk, some of which is already playing out with particular councils, that some council water service providers would struggle to adequately respond to economic incentives and achieve sufficient efficiencies in their delivery of water services without further central government support.

442. To this end the package of proposals assessed in both this **third RIS** and the **second RIS** includes improved oversight, monitoring and intervention tools to provide and additional support to some councils if necessary and to better understand the extent to which a provider is at risk of financial failure. It would also be important to monitor and evaluate the effectiveness of the proposals in supporting councils to make necessary adjustments to their delivery and management of water services including establishment of multi-council entities and shared service arrangements to realise scale efficiencies.

443. The package of regulatory interventions (both the preliminary arrangements discussed in the **first RIS**, and the long-term provisions discussed in the **second RIS** and **third RIS**, alongside the preliminary arrangements) aim to:

- increase transparency around all relevant costs (including legacy and future water infrastructure costs);
- identify whether prices and charges are sufficient to cover all costs;
- provide incentives and options for councils to reorganise and better manage water delivery services;
- provide for improved ability to borrow (where possible in terms of debt limits and ability to service interest costs to better fund services (including addressing deferred maintenance); and
- achieve efficiency gains through better management and making it easier to reorganise to achieve scale efficiencies including multi-council approaches and shared services.

444. This as whole, is expected to result in improved financial performance for the majority of councils over time. However, as noted previously, there may be some councils that are unable to achieve financial sustainability and fail to respond or cannot achieve improvements. For these councils there will be step in powers as outlined in Proposal Four. In these cases, the system oversight and monitoring arrangements described above, as well as the assistance and intervention framework described as part of Proposal Four, would be important to determine whether changes are having the intended effects and potentially whether further intervention maybe necessary.

An assessment of overarching regulatory oversight is occurring

445. As mentioned in the **second RIS**, as part of the overarching regime, the regulatory environment would need adjustments to ensure effective implementation. The regulatory environment for water services delivery already includes water quality and environmental regulation and will include economic regulation in the future.

446. To be able to improve how water services are regulated and meet the objectives of LWDW, there is a need to look at how the overall regulatory system operates, including:

- who the regulators are and what activities they regulate;
- how roles and responsibilities are arranged across agencies;
- what the current regulatory problems are; and
- how we could change the system to achieve desired outcomes.

447. The Department is working to identify the key weaknesses in the current system and define the objectives for the new regulatory system, taking into account overall principles for good regulatory design as well as principles specific to water services regulation. This work will also highlight what changes are needed to ensure a more cohesive regulatory environment across the regulators.

448. This work will be done once LWDW is implemented. For example, as the economic regulation regime develops, the Government will likely have choices about how the different regulators contribute to the overall regulatory system and could ensure that the regulators' roles, and the allocation of regulatory functions and powers reinforces the intended objectives of LWDW. This will be done once the economic regulation regime is operational.

Appendix 1: Water organisation metrics

1. The following analysis sets out three scenarios where councils join together to form a water organisation. Three different groups are analysed:
 - one for a large metro area;
 - one in a provincial setting; and
 - one for a rural setting.
2. All analysis draws on actual LTP data and actual groups of councils.

Summary

3. The intention of this analysis is to explore how the separation of water services into separate joint organisations supports (or might not support) the 10-year ability of the groups to take on and support the water related debts that the individual councils are forecasting in their LTPs.
4. The analysis also presents the view with respect to council positions if water related debt, expenditure and revenue are removed. This is in effect what debt and debt coverage would look like for the councils associated with the three groups if the water services are placed into the stand-alone organisations.
5. This analysis shows that the separation of water services into standalone organisations, based on three groupings of councils, in different settings and based on actual LTP data, would have viable debt levels and debt to revenue cover.
6. In the example involving provincial councils, the debt headroom is constrained and in that case the entity would be vulnerable to external shocks and unexpected costs. That entity could however use its revenue collection levers to both reduce debt and to service the debt they are expected to have.
7. In all three scenarios, the councils, once divested of the water services debt, expenditure and revenue, will be well placed in terms of residual debt and debt cover.
8. This analysis aims to explore how the separation of water services into standalone, water organisations jointly owned by multiple councils supports (or might not support) the 10-year ability of the groups to take on and support the water related debts that the individual councils are forecasting in their LTPs. The analysis also presents the view with respect to council positions if water-related debt, expenditure and revenue are removed from councils and vested into separate water organisations. This is in effect what debt and debt coverage would look like for the councils associated with the three groups if the water services are placed into the stand-alone organisations.
9. The analysis is based on real (though not yet formalised) groupings of councils in a major city, a mid-size provincial area and a small rural area. Actual draft LTP data were also used where available. The key findings and assumptions are provided below which related to the water services of the councils, assuming they are placed into a new entity such as a council-controlled organisation or consumer trust.

	Metro grouping (10 councils)	Provincial Grouping (4 councils)	Rural Grouping (3 councils)
Will there be adequate debt headroom?	Yes.	Yes, but constrained. May need to increase revenue to support extra debt and/or reduce input debt.	Yes. Has the option to increase revenue to support extra debt if needed.
Could additional capital works be undertaken if needed?	Yes.	Yes, but constrained. May need to increase revenue to support extra debt and/or reduce input debt.	Yes. Has the option to increase revenue to support extra debt if needed
Will debt remain under a 500 percent debt to revenue ceiling?	Yes.	Yes, but constrained. Out-year constraints may necessitate an increase in revenue to support extra debt or initial input debt could be reduced to have a similar effect.	Yes. Has the option to increase revenue to support extra debt if needed.

10. If water services-related debt, revenue and assets are transferred into standalone organisations this will mean the councils themselves will be smaller entities, with lower asset bases and lower debt. Logically, this should have a positive impact on most councils' rate requirements (i.e. reduce rates pressure). The Department has analysed the expected impacts in this scenario with respect to a representative council in each of the metro, provincial and rural groupings.

11. In addition, the Department found that the councils, once divested of the water services debt, expenditure and revenue, will be well placed in terms of residual debt and debt cover. Typically, council debt will fall to approximately half or less than half of the maximum debt they could access via LGFA lending.

12. In summary, the Department expects that the water organisations will be viable in terms of debt levels and debt cover though some groupings may need to increase revenue to provide additional debt headroom. Alternatively, councils could choose to reduce the initial debt they transfer to the water services organisations.

13. Councils that move their water services assets into new water organisations will be materially more sustainable in terms of debt levels and debt to revenue ratios. They will have much greater capacity than currently to deal with external shocks that may require significant unplanned expenditure.

14. The analysis is expanded on below.

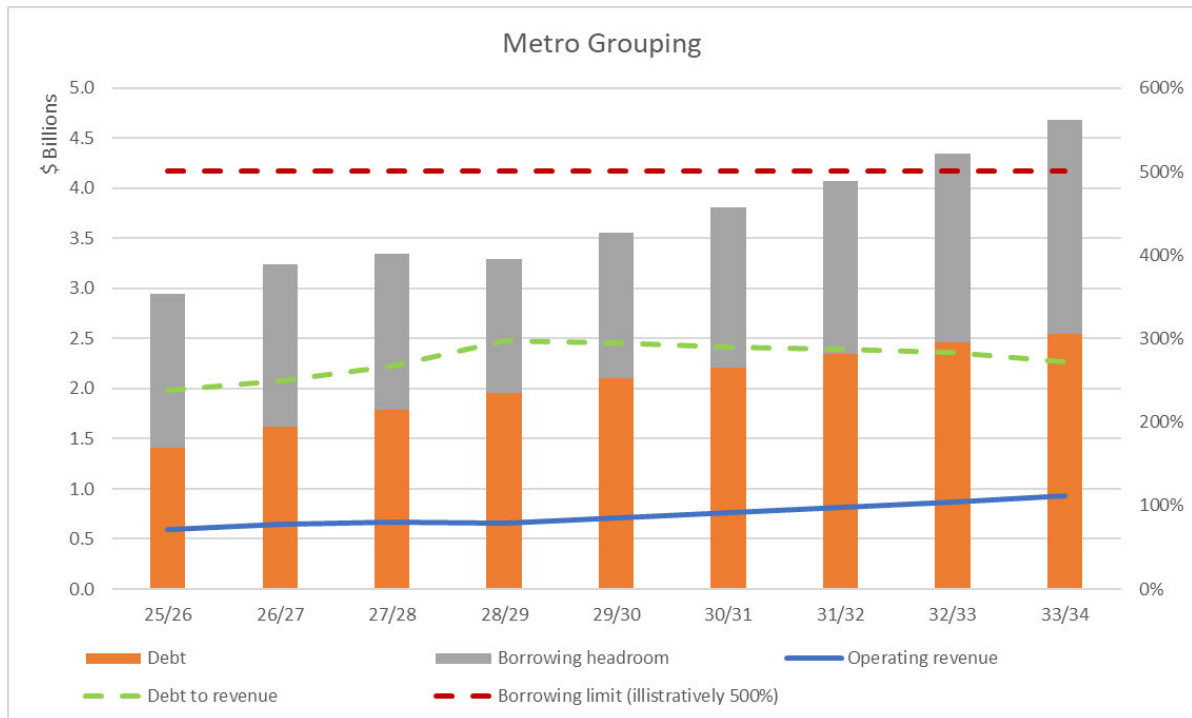
Part A: Councils form joint stand-alone water organisations

15. Our assumptions are:

- all base data is derived from councils' draft LTPs (2024-2034) or the consultation documents. Where these were not available the Departments analysis has been used;

- no adjustments have been made to revenue, additional debt, or the capital programme;
- the maximum debt to revenue cap for a water organisation is assumed as 500 percent. This is the limit for standalone water organisations that is being explored in discussions with LGFA; and
- council data has been anonymised to show a set of councils that form a rural grouping, provincial grouping, and a metro grouping.

Metro grouping

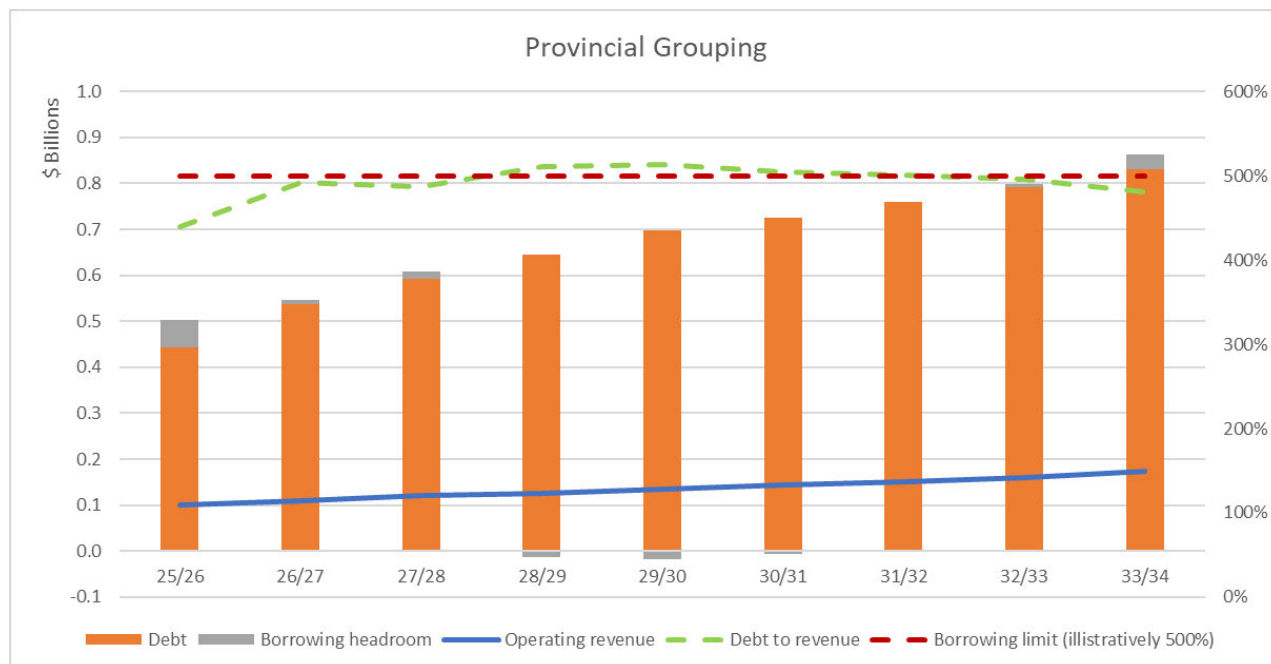


Note: Approx 232,000 rating units and 10 councils

Key points

16. The water organisation can comfortably operate within its means with significant debt headroom.
17. The debt to revenue ratio for the organisation peaks in FY29 and decreases in the outer years.
18. There is significant funding capability if additional capital works programmes are required.

Provincial grouping

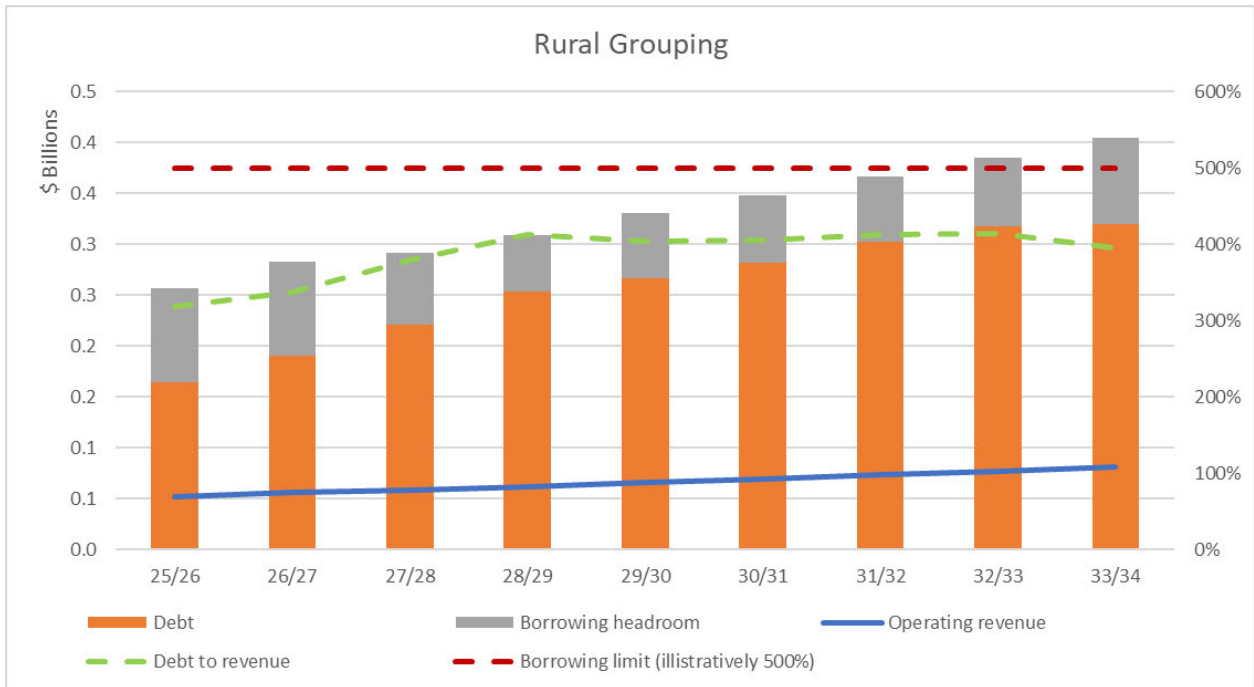


Note: Approx. 74,000 rating units and 4 Councils

Key points

19. Minimal debt headroom to begin with, but the debt trajectory improves in the outer years with debt headroom achieved in year nine and 10.
20. Revenue levers could be used to mitigate the water organisation's debt to revenue ratio expansion in the first two years and create more debt headroom in the outer years.
21. Contributing councils could also decide to place less initial debt into the water organisation to ensure it has sufficient 'headroom'.
22. If additional capital works are required beyond those included in current LTPs, the revenue pathway needs to be increased.

Rural grouping



Note: Approx 41,000 rating units and 3 Councils

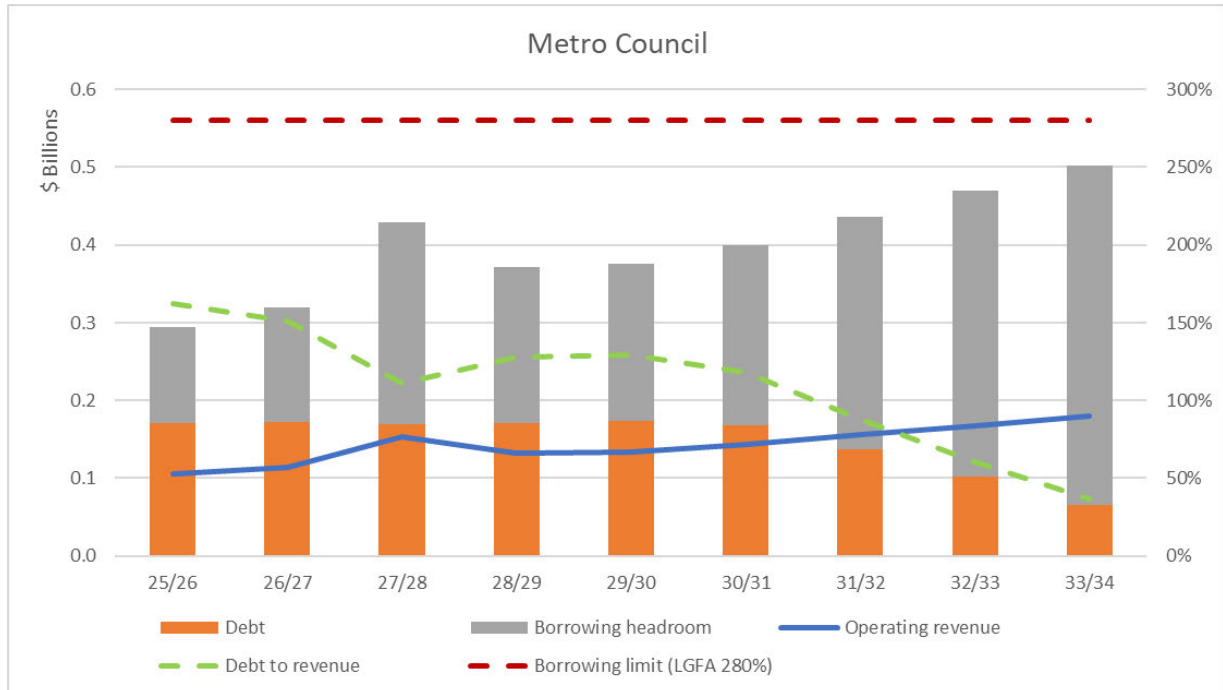
Key points

23. The group stays within its debt to revenue cap throughout the 10-year period.
24. The debt to revenue percentage shows improving trajectory in the outer years.
25. Revenue pathways could be adjusted in the earlier years to mitigate the debt to revenue percentage increasing over the period if required.
26. Contributing councils could also decide to place less initial debt into the water services organisation to ensure it has sufficient 'headroom'.
27. There is moderate funding capacity if additional capital works beyond those included in current LTPs is required.

Part B: Council Examples (if water services are placed into standalone organisation)

28. If the water-related assets and activities are relocated from councils to a standalone organisation, councils show improved financial positions with an improving debt to revenue percentage over time.

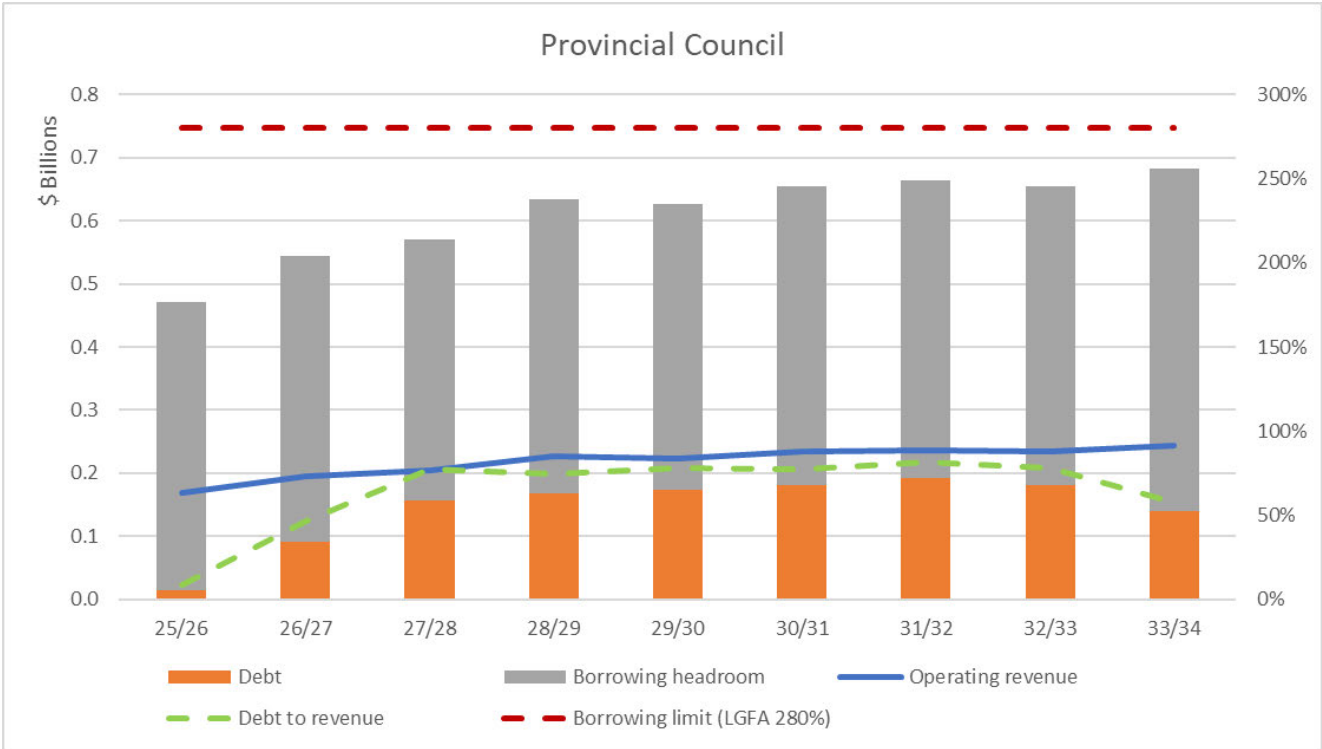
Metro council



Key points

29. This is an example of a single council that was included in the metro grouping. This is representative of councils in the grouping.
30. The metro councils are assumed to be a rated council with a 280 percent debt to revenue limit based on the LGFA rated council limits.
31. The council is operating well within its financial constraints.
32. The debt to revenue percentage shows a steady downwards trajectory overtime indicating that the majority of the council's debt was allocated to water services.

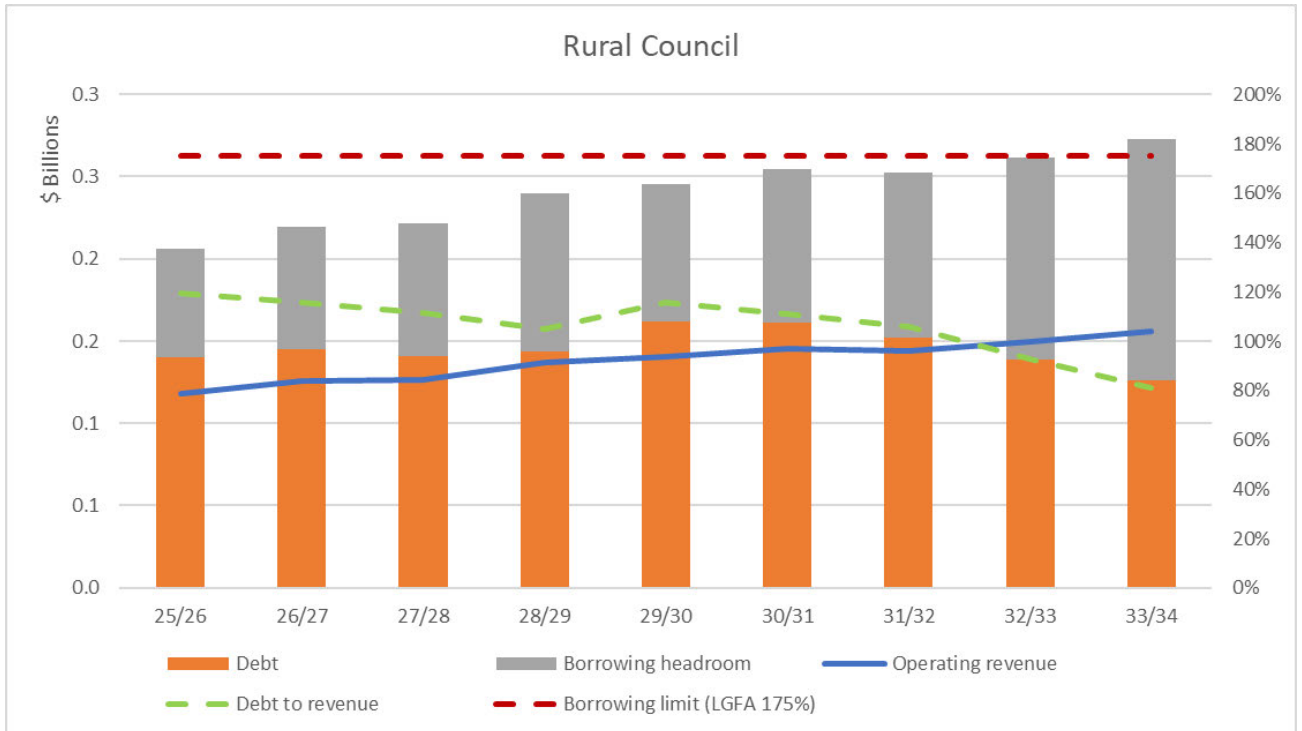
Provincial Council



Key points

- 33. This is an example of a single council that was included in the provincial grouping. This is representative of councils in the grouping.
- 34. The provincial council is assumed to be a rated council with a 280 percent debt to revenue limit based on the LGFA rated council limits.
- 35. The council is operating well within its financial constraints.

Rural Council



Key points

- 36. This is an example of a single council that was included in the rural grouping. This is representative of councils in the grouping.
- 37. The rural council is assumed to be an unrated council with a 175 percent debt to revenue limit based on the LGFA rated council limits.
- 38. The council is operating well within its financial constraints.
- 39. The debt to revenue percentage shows a steady downwards trajectory overtime indicating that the majority of the council's debt was allocated to water services.

Appendix 2: Summary of rates increases

Rates rises drawn from draft LTPs captured to date, and the Department has not verified the accuracy of these figures. Note that the rises are rises to rates revenue and so include growth within the rates base.

Note that no information is available for: Central Hawkes Bay District, Gore District, Grey District, Hawera District, Kaipara District, MacKenzie District, Opotiki District, South Taranaki District, South Wairarapa District, Tasman District, Waikato District, Waimate District, Wairoa District, Western Bay of Plenty District and Westland District.

<i>Increases in total rates revenue</i>	Year ending 30 June									
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
<i>Ashburton District</i>	9.9%	11.1%	10.9%	7.5%	4.8%	5.3%	5.2%	3.8%	3.2%	3.0%
<i>Auckland (Group)</i>	10.6%	5.5%	9.9%	4.7%	4.8%	4.7%	4.7%	3.7%	4.3%	4.3%
<i>Buller District</i>	13.9%									
<i>Carterton District</i>	15.6%	8.5%	13.0%	2.6%	5.6%	2.9%	3.1%	3.5%	2.6%	2.7%
<i>Central Otago District</i>	19.9%									
<i>Christchurch City</i>	14.4%	8.7%	5.7%	5.8%	5.4%	5.2%	4.6%	3.4%	2.2%	1.8%
<i>Clutha District</i>	24.5%	13.9%	15.9%	7.4%	8.4%	2.8%	5.9%	3.8%	2.9%	3.4%
<i>Dunedin City</i>	17.5%									
<i>Far North District</i>	16.8%	8.2%	4.7%							
<i>Gisborne District</i>	11.1%	10.0%	8.7%							
<i>Hamilton City</i>	21.4%	17.1%	17.2%	17.0%	17.2%	10.7%	6.7%	6.7%	6.5%	6.6%
<i>Hastings District</i>	24.0%	16.8%	10.8%	5.2%	5.3%	5.0%	4.9%	4.9%	4.9%	4.9%
<i>Hauraki District</i>	21.0%	12.4%	10.0%	8.0%	6.0%	5.2%	4.3%	4.3%	4.4%	4.5%
<i>Horowhenua District</i>	21.7%	13.6%	11.3%	9.6%	8.0%	3.3%	5.7%	3.8%	1.9%	2.9%
<i>Hurunui District</i>	14.3%	16.1%	6.8%	3.5%	6.7%	3.0%	5.4%	6.6%	5.3%	6.0%
<i>Hutt City</i>	18.0%	12.9%	13.3%	12.4%	11.9%	11.9%	8.1%	8.1%	8.1%	8.1%
<i>Invercargill City</i>	10.1%	10.1%	10.0%	7.0%	6.0%	5.0%	4.5%	4.4%	4.4%	4.4%
<i>Kaikoura District</i>	14.0%	10.1%	6.4%	6.9%	3.3%	0.7%	1.9%	3.4%	0.0%	1.7%
<i>Kapiti Coast District</i>	19.5%	8.2%	8.2%	8.2%	8.2%	8.2%	8.2%	8.1%	8.2%	8.2%
<i>Manawatu District</i>	8.6%	7.5%	8.7%	5.6%	6.1%	6.8%	5.1%	4.9%	6.8%	3.5%
<i>Marlborough District</i>	13.9%	10.5%	9.5%	6.7%	7.1%	5.7%	4.3%	5.0%	4.4%	3.8%

Masterton District	12.2%	8.3%	7.7%	6.4%	7.2%	3.0%	2.3%	2.9%	2.3%	2.9%
Matamata-Piako District	15.7%	6.3%	5.8%	5.6%	4.2%	3.1%	2.4%	1.8%	2.5%	1.4%
Napier City	20.1%	11.6%	9.0%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%	8.3%
Nelson City	17.1%	7.6%	5.4%	5.1%	5.6%	5.9%	5.4%	5.3%	4.6%	3.9%
New Plymouth District	11.5%	10.9%	9.9%	8.8%	6.0%	7.5%	5.0%	4.0%	3.8%	4.3%
Otorohanga District	10.2%	9.6%	8.2%	7.2%	5.3%	2.5%	1.6%	1.5%	4.9%	-0.2%
Palmerston North City	11.3%	10.2%	10.0%	9.1%	7.4%	6.3%	5.6%	5.8%	4.0%	4.1%
Porirua City	18.2%	9.5%	10.7%	16.6%	8.0%	6.2%	5.1%	5.5%	4.8%	4.7%
Queenstown-Lakes District	19.6%	16.9%	14.2%	12.9%	15.8%	9.5%	6.3%	7.0%	5.7%	5.0%
Rangitikei District	12.7%	9.9%	11.8%	11.5%	8.7%	8.4%	6.4%	6.4%	6.4%	6.7%
Rotorua District	11.8%	9.3%	7.5%	5.7%	6.4%	4.3%	3.3%	2.7%	2.0%	2.5%
Ruapehu District	11.1%	9.7%	9.6%	5.8%	5.0%	4.9%	4.9%	4.9%	4.8%	4.8%
Selwyn District	22.2%	17.6%	16.5%	16.0%	10.0%	8.7%	6.5%	6.5%	6.5%	6.0%
South Waikato District	7.2%	9.2%	9.2%	8.2%	7.8%	3.3%	3.3%	3.3%	3.3%	3.3%
Southland District	13.7%	7.7%	11.0%	5.3%	6.4%	5.1%	4.2%	3.1%	2.4%	1.1%
Stratford District	15.5%	6.4%	4.1%	3.2%	6.1%	5.8%	2.7%	2.4%	1.8%	5.4%
Taupo District	17.8%	11.7%	7.8%	6.3%	5.9%	5.6%	4.4%	4.4%	3.8%	2.6%
Tauranga City	14.6%	11.8%	11.9%	9.9%	10.2%	12.5%	7.0%	8.6%	7.6%	8.2%
Thames-Coromandel District	13.5%	13.7%	10.9%	7.8%	5.5%	5.4%	5.4%	5.4%	5.3%	5.3%
Timaru District	15.6%	12.0%	12.0%	4.8%	4.7%	4.6%	4.5%	4.5%	4.4%	4.4%
Upper Hutt City	21.3%	21.4%	21.3%	7.2%	5.9%	5.3%	5.9%	6.3%	3.9%	8.4%
Waimakariri District	10.7%	6.6%	6.4%	7.1%	5.7%	5.8%	4.8%	4.4%	4.2%	3.9%
Waipa District	26.5%	11.1%	11.7%	12.8%	5.8%	8.4%	6.4%	4.4%	6.1%	4.5%
Waitaki District	13.6%									
Waitomo District	11.6%	7.7%	5.5%	3.9%	3.7%	3.8%	3.4%	1.5%	2.6%	0.6%
Wellington City	16.9%	10.0%	12.3%	6.5%	6.3%	5.1%	5.8%	4.1%	5.5%	4.6%
Wellington Regional	19.5%	13.3%	13.3%	8.1%	6.7%	3.0%	3.1%	1.5%	1.5%	1.9%
Whakatane District	20.4%	12.1%	10.3%	8.3%	8.4%	6.7%	2.5%	3.3%	2.9%	2.2%
Whanganui District	11.0%	7.0%	7.3%	5.0%	3.9%	3.2%	3.7%	3.4%	2.1%	2.7%
Whangarei District	13.5%	13.7%	10.9%	7.8%	5.5%	5.4%	5.4%	5.4%	5.3%	5.3%

Increase in combined water and sewage rates	Year ending 30 June									
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Ashburton District	26.0%	10.2%	6.9%	7.0%	7.4%	12.3%	4.2%	5.3%	2.4%	4.0%
Buller District	17.2%									
Carterton District	6.8%	17.6%	14.2%	5.1%	9.6%	5.7%	4.6%	5.8%	3.9%	4.5%
Central Otago District	52.3%									
Christchurch City	7.5%	6.6%	7.0%	8.3%	6.9%	6.1%	5.9%	3.9%	1.7%	1.8%
Dunedin City	15.0%									
Far North District	30.2%	8.9%	18.9%							
Gisborne District	10.0%	9.9%	11.0%							
Hastings District	32.0%	21.0%	18.3%	11.2%	8.2%	3.4%	2.5%	2.4%	2.5%	3.2%
Hauraki District	28.1%	18.6%	20.1%	14.2%	8.9%	6.8%	6.9%	7.0%	7.1%	7.2%
Horowhenua District	23.3%	20.7%	23.0%	19.1%	10.0%	7.0%	10.0%	4.4%	-0.1%	4.8%
Hurunui District	19.2%	8.8%	8.8%	8.8%	8.8%	8.6%	8.5%	8.8%	8.8%	8.8%
Hutt City	20.9%	20.0%	19.3%	17.5%	17.5%	11.4%	8.1%	4.9%	6.7%	7.9%
Invercargill City	16.5%	10.0%	10.0%	6.0%	9.0%	8.0%	6.2%	4.9%	4.4%	12.0%
Kaikoura District	32.5%	8.6%	10.4%	4.5%	6.5%	6.1%	-2.6%	4.0%	-1.8%	1.3%
Kapiti Coast District	19.4%	21.9%	6.4%	7.2%	6.8%	5.9%	2.7%	5.1%	6.1%	4.0%
Manawatu District	7.6%	5.6%	7.3%	9.8%	0.5%	8.2%	4.3%	4.7%	5.6%	2.4%
Marlborough District	10.8%	10.9%	19.9%	9.9%	9.2%	8.6%	9.7%	6.9%	7.4%	7.2%
Masterton District	8.8%	6.1%	7.7%	2.7%	5.5%	4.3%	1.8%	1.6%	3.5%	3.3%
Napier City	2.1%	8.8%	1.8%	11.9%	11.5%	12.7%	13.8%	13.1%	15.3%	13.1%
Nelson City	8.4%	10.3%	9.6%	6.2%	10.3%	3.8%	8.6%	5.0%	9.6%	2.5%
New Plymouth District	16.8%	12.0%	15.9%	9.3%	1.7%	7.0%	6.3%	5.0%	5.8%	6.0%
Otorohanga District	9.4%	19.9%	7.6%	2.1%	3.0%	2.1%	2.4%	2.4%	1.6%	1.9%
Palmerston North City	14.9%	7.8%	9.9%	13.4%	14.1%	6.4%	8.7%	4.5%	9.1%	8.3%
Porirua City	15.9%	14.0%	13.6%	15.2%	8.9%	5.6%	5.1%	3.7%	4.3%	3.7%
Queenstown-Lakes District	17.0%	17.2%	23.3%	23.8%	21.4%	15.8%	14.9%	11.5%	11.2%	5.9%
Rangitikei District	11.5%	9.9%	9.9%	9.9%	8.7%	8.5%	6.5%	6.5%	6.5%	6.5%

Rotorua District	20.9%	8.0%	6.8%	4.8%	9.6%	4.1%	2.6%	1.6%	1.0%	2.3%
Ruapehu District	11.7%	4.3%	4.3%	2.4%	6.8%	7.9%	3.5%	4.6%	5.3%	2.5%
Selwyn District	22.9%	20.7%	17.7%	13.9%	9.3%	9.1%	8.9%	8.9%	8.9%	6.9%
Southland District	18.0%	8.0%	30.6%	10.6%	13.6%	9.9%	7.0%	4.4%	1.2%	0.7%
Stratford District	17.2%	3.7%	3.7%	1.9%	0.9%	2.7%	0.3%	1.4%	2.7%	11.1%
Taupo District	27.1%	7.3%	9.4%	11.2%	6.6%	5.6%	8.0%	3.0%	5.7%	5.2%
Tauranga City	11.9%	9.6%	13.1%	13.8%	16.0%	15.1%	4.3%	6.2%	13.0%	10.8%
Timaru District	14.9%	5.2%	4.0%	3.0%	6.7%	5.3%	-2.9%	0.1%	2.4%	-0.8%
Upper Hutt City	49.4%	13.8%	14.7%	10.2%	7.1%	17.7%	15.5%	15.1%	7.3%	16.0%
Waikato District	12.4%									
Waimakariri District	14.9%	6.0%	4.3%	4.6%	6.6%	3.0%	2.0%	1.7%	1.8%	1.5%
Waipa District	8.3%	19.3%	8.3%	10.1%	4.5%	6.5%	4.7%	3.7%	5.9%	4.4%
Waitomo District	15.0%	12.5%	6.9%	10.2%	7.2%	7.0%	5.1%	1.3%	3.9%	1.8%
Wellington City	25.9%	10.8%	23.6%	7.7%	7.9%	6.2%	6.6%	6.8%	6.3%	6.5%
Whakatane District	22.2%	12.7%	7.3%	9.3%	7.7%	5.2%	2.6%	3.1%	4.2%	2.7%
Whanganui District	19.6%	5.5%	6.5%	2.6%	4.4%	4.6%	6.0%	5.3%	1.9%	2.5%
Whangarei District	3.4%	4.2%	11.5%	12.4%	4.5%	4.4%	4.3%	4.3%	4.2%	4.3%