

SUBMISSION

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LGNZ.
Te Kāhui Kaunihera o Aotearoa.

< How we
deliver three
waters
services
needs to
change. >



Water Services Entities Bill

Local Government New Zealand's submission

22 July 2022

We are. LGNZ.

Local Government New Zealand (LGNZ) provides the vision and voice for local democracy in Aotearoa, in pursuit of the most active and inclusive local democracy in the world. We support and advocate for our member councils across New Zealand, ensuring the needs and priorities of their communities are heard at the highest levels of central government. We also promote the good governance of councils and communities, as well as providing business support, advice, and training to our members.

LGNZ has a broad remit and takes a national, whole of sector, and non-partisan perspective. Getting the reform of three waters service delivery right is a critical concern for us but is not the only area of focus for LGNZ or its members. We have broader interests in the role that local government plays as leaders in placemaking and community wellbeing outcomes. That is reflected in this submission. We are also actively engaged in a number of other reform programmes that affect local government and are relevant to this reform – including resource management reform and the Future for Local Government Review.

Executive summary

The local government sector acknowledges that how we deliver three waters services needs to change. Broader system failure has created longstanding issues, affecting many communities and their wellbeing.

Our sector is unified in seeking better outcomes for communities through Three Waters Reform – but we are not unified in our views on the Government’s model. LGNZ has encouraged our member councils to make submissions that reflect their communities’ unique circumstances and perspectives.

LGNZ supports the Government’s objectives for Three Waters Reform and the broad reform programme. But we continue to point out areas where the Government’s model could be improved. This submission makes specific suggestions for change in response to the sector’s commonly held concerns – as well as focusing on how to make the legislation as workable as possible.

The key concerns that have been expressed by the sector include:

- loss of local voice and influence, with not all councils being directly represented on the Regional Representative Groups (RRGs);
- how communities can effectively engage with large, bureaucratic and complex entities with multiple layers – and be guaranteed local service when they need it;
- how the Water Services Entities (WSEs) can effectively engage with individual communities given their scale;
- whether the legislation adequately recognises and enables the close connection that three waters services and infrastructure have to many other activities that councils perform –

including councils' vital roles in placemaking and wellbeing, provision for economic growth, and taking the lead in civil defence emergencies; and

- the absence of conventional local government accountability mechanisms.

Our detailed submission sets out many areas where we suggest changes to the legislation and the broader reform programme, including an appendix recommending changes to the Bill's wording (**Appendix 1**).

Our high-level recommendations

- Phase transition where that makes sense. Water Services Entities should start operating when they and their councils are ready;
- Explore the delay of stormwater transition where that works for councils. The stormwater proposals are underdeveloped and their impacts uncertain. Drinking and wastewater could transition first, with stormwater waiting till the WSEs are up and running and resource management reform is implemented;
- Address councils' placemaking role – and how this interfaces with the three waters system – in the legislation. Councils must be seen as leaders in placemaking and have the right powers over WSEs to deliver on that role;
- Ensure central policy direction comes with greater central government investment. Any centralised control via a GPS needs to be followed by funding from the centre. Central government also needs to assist with assessing and funding the investment needed to address historic degradation and inequalities;
- Closely involve councils in developing the WSE constitutions. Councils and communities must also have strong mechanisms to feed into the development of the WSEs' various planning and accountability documents;
- Address how funding and pricing decisions will be made, and the issue of affordability. This includes making sure small or isolated communities don't pay disproportionately more;
- Change any transition provisions that place an unreasonable burden on councils so that they are workable and reasonable; and
- Resource iwi/Māori to participate in the new system.

Thank you for the opportunity to submit on the WSE Bill. We would like to appear before the Select Committee in person to speak to our submission.

Introduction

Context

1. The local government sector acknowledges the need to reform how we deliver three waters services in Aotearoa New Zealand. Broad system failure has created longstanding water issues affecting a number of communities and their wellbeing, and these issues have worsened with time. The local government sector is unified in seeking better outcomes for communities through reform, including:
 - a. better results for public and environmental health;
 - b. giving effect to the principles of Te Tiriti o Waitangi;
 - c. contributing to broader community wellbeing outcomes, including those linked to urban growth and development, economic growth and job creation, and equity; and
 - d. addressing climate change mitigation and adaptation, as well as building resilience to natural hazards.
2. We understand the Government's policy bottom lines (set out in Part 1 of **Appendix 3**). None of the policy bottom lines conflict with values that are shared widely across the local government sector. However, the sector doesn't necessarily accept the policy choices taken to deliver on those bottom lines; for example, the governance implications driven by the balance sheet separation bottom line. LGNZ acknowledges and supports the Government's commitment to partnership with iwi/Māori in the Three Waters Reform Programme. We strongly support retaining three waters assets in public ownership and want to see the best possible safeguards (including legislative protection) against privatisation. We also support the reform objectives (set out in Part 2 of **Appendix 3**), the broad reform programme, and the broader objective of a thriving, resilient and sustainable local government system.
3. Our sector is diverse and does not share a single perspective on the policy choices reflected in the Government's proposed model. The large and complex scale of the reform makes it impossible for councils to have simple binary yes/no positions. Major institutional reform also naturally engages ideological and political views about the best way to deliver on objectives. Some of our members are vocal opponents of the Government's proposed reform model and/or are advocating for an approach that the Government has considered but does not deem viable. There are members of LGNZ who support the Government's model. Yet others are unsure and/or unwilling to express a view because the reform has become contentious and highly politicised.
4. Although we acknowledge that major reform is challenging, the current system settings, combined with inaction over many years, have created the situation that councils and their communities now face. Councils have worked hard in the face of a broken system. However, we cannot expect different outcomes if the status quo continues. Transformational reform in three waters service delivery – as opposed to incremental changes – is clearly necessary. Perhaps the worst outcome would be yet more debate on the 'correct' policy and institutional settings, which would put real change on ice. This

would create more uncertainty for a sector that already has staff making decisions on the basis of expected reform.

5. This reform is particularly challenging because of its complexity. The interactions and interdependencies that are relevant to planning, funding and delivering three waters services are many and varied, and make it difficult for people to grasp its scope. But this complexity is unavoidable. It is a feature of the current system and will inevitably feature in any new model as well. This submission will explore some of these interactions and interdependencies, and our suggestions for how they can be addressed.
6. The reform is also difficult for the sector to engage with, and for some to form a view on, because there is so much detail still to come. This detail sits in Bill 2, the economic regulatory regime, the Government Policy Statement (GPS), the constitutions and other Government reform programmes, in particular the reform of the resource management system. The whole picture will not be known until the last piece is in place. This means the arrangements put in place by the enacted WSE Bill may need to be open to further submissions and adjusted later to appropriately reflect matters that can only be determined and understood when the subsequent bills and other reform outcomes are known. The Government must preserve flexibility to accommodate this. This will ensure that the complete reform package (including how it relates to other reforms) is well-integrated, coherent and efficient.

Background

7. Previous governments have explored three waters initiatives aimed at addressing the same issues our communities face today. However, these attempts at reform have met resistance, which has led to them being paused and effectively abandoned. It wasn't until the Havelock North drinking water contamination incident in 2016, which led to widespread campylobacteriosis, that reform became an imperative.
8. The current Government conducted a detailed policy process and investigation of options. This included analysis of alternative approaches, including against the Government's policy bottom lines. The Government determined that alternative approaches to the one currently on the table fell short in being able to deliver on its bottom lines.
9. With a majority government determined to enact reform, LGNZ's National Council decided more than two years ago to engage in good faith with Ministers and DIA officials so that we could influence and optimise this process as much as possible. This meant a focus on guiding and testing the Government's preferred approach as it was developed, so that it was as good as it could be. We (and Taituarā) have brought local government representatives to the table with the Government during the policy development and entity design process, as part of the Three Waters Steering Committee. The Government has been open to ideas and testing from our sector. Being at the table, from the early days of the Steering Committee to now, has won significant changes to the model and process from what was originally proposed, which represent tangible gains for the sector.

10. The Government's original WSE model has been subject to other considerable feedback, including during an eight-week period in August and September 2021 brokered by LGNZ. As a result of LGNZ's advocacy, the Minister established a working group with equal representation from the local government sector and iwi/Māori to identify a strengthened approach to representation, governance and accountability. LGNZ strongly supports all the recommendations of that group, which go some way towards addressing key sector concerns. While nearly all the recommendations were adopted by the Government, there is one exception that we discuss in this submission.
11. At the same time as working inside the tent, LGNZ has continued our outward-facing advocacy for the model to address the sector's key concerns – because the current version of the model does not go far enough. These concerns include ensuring sufficient local representation and local accountability, and that WSEs will support councils to perform their critical role as leaders in community wellbeing and placemaking. Any new system must recognise these elements and the legislation must reflect them. In LGNZ's view, the draft Bill does not go far enough in acknowledging and embedding local government's critical placemaking role.

Intent and scope of LGNZ's submission

12. Our submission is focused on the legislation and the model that is on the table. If the Bill becomes law, we want the issues the sector has identified in the current version of the model to have been resolved, so that it is as workable as it can be. LGNZ has a responsibility to make sure that if this reform proceeds, it addresses as many of the sector's concerns as possible. Although local government engagement with Ministers and central government officials has resulted in significant improvements to the model, the sector still has concerns that are widely shared. These concerns would equally apply to any new model proposed for three waters service delivery.
13. This submission outlines those key concerns and how we think this legislation and the reform programme should address them. Our aim is to ensure the legislation is not only workable and well-aligned with council and community needs, but that it better reflects the role the water services entities will play in a broader system focused on community wellbeing, placemaking and supporting growth and development.
14. Our substantive submission is in two parts: first, a detailed, thematic analysis of the sector's concerns with the proposed legislation; second, an **Appendix 1** that recommends specific wording changes to the Bill to meet these concerns.
15. Also accompanying our submission is an independent think piece that explores the role of three waters in placemaking, including why good integration of three waters and placemaking is critical for communities (see **Appendix 2**). The placemaking paper looks at interactions between the WSE Bill and other legislation and regulation that governs placemaking, and how the WSE Bill currently provides for placemaking. The paper and this submission make suggestions as to how the Bill could better support councils to continue to play their vital placemaking role.

16. We have not submitted on issues that are primarily the focus of other submitters (for example, Taumata Arowai, Taituarā or iwi/Māori). We have included some questions and matters for clarification, without presenting them as requests for change.

Relationship to submissions by member councils and Taituarā

17. We have encouraged our members to submit on the Bill. Individual councils' perspectives are important because they reflect how the proposed reform will work for individual communities – based on their unique preferences and circumstances. While our submission cannot detail specific preferences held by individual councils and communities, it provides a national perspective and captures commonly held concerns.
18. We have been provided with a copy of the Taituarā submission on the Bill. LGNZ and Taituarā each bring a slightly different lens to the content of the Bill. Like Taituarā, LGNZ is keen to ensure that the final policy decisions, whatever they may be, are designed in a way that can be practically implemented. LGNZ supports the Taituarā submission, in particular the points it makes on refinements to the Bill that focus on operationalising the detail.

Select committee engagement with councils and communities

19. Given the significance of the Bill and community interest in this reform, we encourage the Select Committee to travel to hear oral submissions.

Specific comments on the legislation

Our detailed analysis below takes a thematic approach to the Bill and key issues for the sector. See **Appendix 1** for alternative wording to the proposed Bill to address some of these key issues.

Concerns around the four entity model

20. We are clear that the model needs to work for councils and their communities as well as providing improved water service delivery. The sector has a wide range of views on the Government's four-entity model and many oppose it in its entirety. These views also include different positions on whether the model will improve water service delivery, which we have encouraged the sector to submit on.
21. We are pleased that thanks to significant input from the local government sector and others, the model on the table is better than the original proposal. However, a range of common concerns remain. These include:
 - a. continued concerns around loss of local voice and influence, with not all councils being directly represented the Regional Representative Groups (RRGs) and not enough clarity or confidence that other mechanisms will enable that;
 - b. the creation of large, bureaucratic and complex entities that involve multiple layers. This creates concerns around how communities of interest can effectively engage with these entities;
 - c. the singular focus of the water services entities on three waters, despite three waters services and infrastructure being closely connected to many other activities that councils perform. These include supporting community wellbeing, development and placemaking. Councils remain concerned at the lack of clarity around how the WSEs will connect into the broader system;
 - d. the standing of the WSEs in the overall public sector delivery framework. In particular, whether they will be unique creatures of statute without peers, due to their separation/independence from both the Crown and territorial authority owners; and
 - e. the absence of conventional local government accountability mechanisms.
22. These concerns are discussed in further detail throughout this submission.

Local voice must not be compromised by centralisation

23. Three waters reform, like resource management reform, sets out a shift to an aggregated, regional approach to planning, funding and delivery. This must be balanced with local consultation and democratic input from the communities that are effectively pooling resources to access the advantages of greater scale and expertise, and who will depend on

(and pay for) the WSEs to deliver services that are critical across all aspects of community wellbeing.

24. But communities must still have their say on things that matter to them, and influence over decisions that affect them. This is a critical concern for councils. In other words, the regional/aggregated approach of the WSEs should not leave communities worse off in terms of influence than they are under the current system. Local needs and preferences should not be further distanced from the decision makers.
25. The legislation proposes a range of mechanisms for allowing councils and communities to have input on things that matter to them, which we support. But this needs to be balanced against the risk of creating a system that is more complex and bureaucratic than currently exists. If additional administrative layers are introduced, effective direct channels to communities and consumers must be created. And it must be demonstrated that their introduction will (over time) support and enable better outcomes for communities/consumers than they experience now (or would experience in the future under the current system). There is little confidence in the sector that the proposed model will enable that.

Councils' leadership role in community wellbeing and placemaking is critical

26. Councils are leaders in community wellbeing – and the WSEs must support councils to continue to play that critical role. We want to see express reference to community wellbeing and councils' role in that in the Bill, given three waters services are integral to community wellbeing.
27. Placemaking is another a critical function for councils. As recognised in the Heads of Agreement that LGNZ signed with the Crown in July 2021, councils are leaders in placemaking – given their connections and proximity to their communities. Councils' placemaking role, which is linked to achieving positive wellbeing outcomes for their communities, must be respected, supported and enabled in the new three waters system. Councils need to remain at the centre of the local, long-term planning aspect of the three waters system – and broader planning that water service delivery connects to. The Bill must reflect that.
28. More specifically, the activities of the WSEs will obviously influence and shape placemaking outcomes, including the ability of communities to protect and advance important outcomes, and meet growth and development needs. Mechanisms to connect WSEs to local concerns include: the strategic guidance and oversight of the RRG (including advice from any Regional Advisory Panels (RAPs)), any GPS, the compliance parameters set by Taumata Arowai, pricing parameters set by the economic regulator, and other express requirements set out in the Bill. However, the reform will result in major system change. The currently integrated (if flawed) system is being reconfigured and three waters elements will be separated out. The reshaped component parts need to be joined and connected, so that each can perform its roles effectively, and deliver long-term value and benefits to communities.

29. How the WSEs integrate with other council planning processes that relate to community wellbeing and placemaking (for example, long-term planning, broader council asset management planning, resource management planning, urban growth partnerships and so on) is a key concern. Councils want to see functions and processes that are integrated and mutually reinforcing. Stormwater is a particular example of the need for co-ordinated planning and shared responsibility. The place of the WSEs in the wider system, relative to councils and other bodies should be explicit. This includes in relation to central government agencies whose activities influence or impact on three waters service delivery, such as the Ministry of Housing and Urban Development and Kāinga Ora. The Bill should acknowledge and make clear that WSEs are the enabler and implementer of wider plans for community wellbeing, growth and development.
30. Consistent with this, no priority is given to supporting and enabling councils' critical placemaking role in the Bill. We would like to see a specific objective and operating principle addressing this included. The current focus in the Bill's objectives around housing and urban development doesn't capture the breadth of councils' placemaking roles. We also suggest that a particular focus on 'housing and urban development' would be better addressed through the GPS mechanism.
31. We recommend that clauses 11 and 13 of the Bill require the WSEs to recognise, support and enable councils' role in placemaking and community wellbeing, as expressed in the long-term plan and annual plan adopted by each council following a community consultation process. This is on the basis that the WSEs could be given standing to participate in council consultation processes or that councils' community consultation processes could be co-ordinated with the WSE's own need to engage with local communities. It would make sense to engage with the community once and well, and share the cost, so that relevant community needs and aspirations can feed into the preparation and finalisation of plans that relate to the delivery of three waters services. Specific amendments to clauses 11 and 13 are recommended in **Appendix 1**.
32. While we are supportive of the operating principle around WSEs partnering and engaging early and meaningfully with councils and communities, how this will work in practice to create clear and reliable connections between three waters decisions by WSEs and the broader system remains to be seen. This will be critical to councils continuing to play their placemaking role.
33. We also support the operating principle of WSEs cooperating with, and supporting, other WSEs, infrastructure providers, local authorities and the transport sector – all of which are critical to placemaking outcomes and influence or depend on the provision of three waters services. However, again, the issue is how this will work in practice. Our suggestion above of deliberate co-ordination (including for cost efficiency and community convenience purposes) should be required by the Bill.
34. It should also be made clear in the Bill that a WSE electing to act consistently with a council's Long-Term Plan (LTP) will not be construed as the WSE acting under the direction of that council. In our view, the WSE should be able to give weight to being aligned with

council LTPs when selecting between available options for how to meet the water service delivery needs of a community.

35. Competing and conflicting priorities of WSEs and individual councils and communities must be resolved in a fair and balanced way. This includes making reasons and trade-offs clear, after appropriate dialogue and due consideration of the relevant positions. This needs to be clearer in the Bill. More clarity is needed around when, for example, a conflict between the priorities of a WSE and council would confer on the council a right to complain or escalate the matter as a dispute to be mediated. WSEs prioritisation and investment frameworks should be publicly accessible so that communities can understand how competing priorities are managed.
36. Although the planning framework provided for in the Bill accommodates it, we are also concerned by the lack of consideration given to the interface with current (and potentially forthcoming) resource management and land use systems. Having to submit on this Bill before we know key details of the new resource management system or other related parts of the three waters framework is far from ideal. We're concerned by the lack of clarity about which part of the system will end up determining particular matters that other parts of the system need to adopt or comply with. The quality of the interface between the three waters and resource management systems will help determine whether they are seen as successful in practice.
37. The independent think piece accompanying this submission (included as **Appendix 2**) sets out a number of connections between three waters service delivery and councils' critical placemaking role. It makes specific suggestions for how the Bill could better support and enable councils to continue to play that critical role.
38. To address the concerns outlined above, we suggest specific wording changes to the Bill in **Appendix 1**.

Transition should be phased

39. The local government sector and broader water industry are facing significant capability and capacity challenges. There are multiple, significant reform programmes underway simultaneously that affect our sector. We know the same is true for iwi/hapū, who are being asked to support various existing processes as well as participate in these and other reforms. To help alleviate some of the pressure and to ensure the reform is effective, a phased approach to transition should be explored. We are aware that a staged approach to implementing the new resource management system is being contemplated, which would mean different regions transition to the new system at different times. A similar approach should be looked at for three waters reform.
40. Our sector is interested in exploring whether three waters services could be transitioned to the four entities when they and their constituent councils are ready. Our sector is also interested in exploring whether one entity could be piloted first. To ensure the reform

doesn't lose momentum, timeframes and deadlines for transitioning should be agreed to in advance.

Potential staged approach to stormwater

41. The Government's proposals for stormwater remain underdeveloped. This is not necessarily due to a lack of effort but because of their inherent complexity and the diversity of arrangements.
42. The scope and impacts of reform on stormwater management are uncertain. There is some concern in the sector that stormwater represents a source of material risk for the WSEs and councils that is hard to quantify and therefore hard to justify.
43. Further clarity is also needed on how flood protection assets in drainage district areas will be managed in the new system. The disconnect between flood protection activity and local stormwater activity will need to be addressed. In a storm event, water seeking a path does not differentiate between flood and drainage assets.
44. Transitioning stormwater to the WSEs is also complicated by the timeframe for resource management reform, as it's not yet entirely clear how stormwater can be designed to fit with that regime. This also creates a risk of needing to make a 'double change' in a short period.
45. Stormwater closely connects with a number of other council roles and functions, including flood and drainage management, roading, parks and catchment management. Many of these involve material overlaps and serve different functions at different times. Given the intrinsic links between stormwater and other council services and functions, it may be difficult in some cases to immediately identify stormwater assets, let alone transfer them to the WSEs and then be able to sensibly manage them.
46. However, one countervailing risk is that should stormwater assets be retained by councils but all their three waters staff (including those with stormwater and drainage expertise) transfer to the WSEs, then those councils would not be left with any capability to manage stormwater – particularly smaller councils.
47. Given this complicated situation, a one-size-fits-all approach to stormwater is unlikely to work. Instead, further thought should be given to a staged approach to transitioning stormwater. This would mean drinking and wastewater transition to the WSEs first and, in the interim at least, a "joint arrangement" between a WSE and council/s be put in place for stormwater, with its own transition pathway.

Te Mana o te Wai and Te Tiriti o Waitangi

48. We support the Government's focus on Te Mana o te Wai, which makes the health of water central. Te Mana o te Wai creates a 'first right' for water, in the interests of both the environment and current and future generations. Te Mana o te Wai is an inclusive concept

that is consistent with the long-held desire of iwi/Māori to help bring solutions based in mātauranga Māori and Te Ao Māori. It represents an approach that will deliver benefits for all New Zealanders and is broadly supported by local government. Many in our sector have already embraced Te Mana o te Wai, and not merely because of its now-mandatory application via the NPS-Freshwater Management.

49. We also support the requirement for the WSEs to give effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
50. We are aware of race-based misinformation about Three Waters Reform. We strongly support the need for a broad education programme that helps people understand Te Mana o te Wai and the representative arrangements in the reform.
51. We support the requirements around the development of Te Mana o te Wai statements, and that these are reflected in the WSEs' strategic planning and reporting documents. As a complementary measure, councils could ensure that they apply Te Mana o te Wai to their own decisions that affect water. This would include leveraging their own mana whenua relationships, which should complement the guidance and advice those same mana whenua representatives will be providing to the WSEs from the broader perspective of their takiwā. Te Mana o te Wai should guide all proposals and planning options that impact on three waters, from the earliest stage of consideration, and before options are presented to either the WSE or consulted on with communities by councils. Again, this is a chance for thoughtful co-ordination and collaboration, not the off-loading of responsibility to another agency.
52. Te Mana o te Wai statements should, if at all possible, be woven into transition arrangements. They should be there from the first day that the entities are stood up. We appreciate that doing so may stretch the available capacity of iwi/Māori but they should determine whether this is the case, and the Crown should be prepared to support them in whatever way is necessary to enable them to fully participate in the co-design/co-creation phase of the reform. This must be prioritised as a key piece of work through the transition period.
53. This reform presents an opportunity to think about how a similar obligation to give effect to the principles of Te Tiriti/the Treaty is reflected in other local government legislation. There should be consistency across all activities that impact on communities and connect with councils. The new resource management system includes a proposed shift to giving effect to the principles of Te Tiriti/the Treaty, with potential for Te Mana o te Wai to be incorporated into the Natural and Built Environments Act (in addition to Te Oranga o te Taiao, which was included in the exposure draft of that Bill). We have heard strongly through our engagement with councils on the Future for Local Government review that there is support for such a shift, and a need for consistency across different systems and settings.
54. While the Crown is the Treaty partner, it will rely on the WSEs to ensure that Te Tiriti/the Treaty principles are respected and applied in practice, and otherwise discharge commitments made by the Crown under Te Tiriti/the Treaty as they relate to water as a taonga for iwi/Māori. We support this but the cost of doing so should remain with the

Crown and not be passed onto the WSEs. Clauses 9 and 13(e) of the Bill must not have the effect of transferring the cost of being a good Treaty partner from the Crown to the WSEs and therefore local communities.

55. Iwi/Māori will need resourcing and support from central government to participate in the new system. They will also ongoing support from the WSEs once they are established. In the first instance, mana whenua will need support from central government to develop Te Mana o te Wai statements, with the WSEs having a role in supporting and maintaining that resource and capacity over time. We make further recommendations around the support that mana whenua need below but fully acknowledge that this is a matter for iwi/Māori to engage with directly with the Crown on.
56. We support the requirements in the Bill around continuing education of all WSE Board members with respect to the principles of Te Tiriti/the Treaty. However, we think that to truly realise Te Mana o te Wai, and give effect to the principles of Te Tiriti/the Treaty, WSEs will need partner closely with mana whenua in the same way some councils already are.
57. Clarity around where, and with whom, duties and responsibilities lie is critical. So too is having confidence that the person/group with the duty or responsibility will be able to discharge it. It is not clear who will constitute a 'person' for the purposes of clause 4(1) and 5 of the Bill. Will individual representatives on a RRG or RAP, or the 'group' of persons that make up the RRG or RAP, or both, be a person for this purpose? When giving advice to an RRG, is a RAP a person performing a function under the Act? If the RRG and RAP share equal membership of representatives from councils and mana whenua, have co-chairs and operate by consensus, how might Treaty principles apply to their work, especially for a RAP that is designed to play an advisory/advocacy role into the RRG? All of these issues require further clarification. Connected to this is the need for clarity around the impact of this reform on existing mana whakahono ā rohe arrangements. Councils with these arrangements are keen to ensure that their existing partnerships are not diluted by a shift to the new three waters system.
58. It is also unclear how entities will be held to account if there is non-compliance with the principles of Te Tiriti/the Treaty and Te Mana o te Wai, particularly if Te Mana o te Wai is less than fully realised in order to achieve commercial goals or objectives that are challenging to reconcile with retaining the full health of the affected water. Further clarity is needed around who regulates and upholds Te Mana o te Wai.

The GPS should be phased and connected

59. We support, in principle, the ability for the Minister to issue a Government Policy Statement (GPS) on Water Services. We also recognise the need for a Crown intervention framework and the importance of overall system oversight. But this does mean that a significant amount of power is concentrated in the centre – potentially at the expense of local input and control.

60. We have a number of concerns about the GPS specifically, and some suggestions for how to address them.
61. Councils and communities must have opportunities to feed into the development of the GPS. There are lessons that should be carried across from the experience of Waka Kotahi and councils with the Land Transport GPS (including the impact of changes on long-run planning and funding commitments that link to projects that may take years to plan, approve and construct). In fact, there should be a specific requirement for the Minister to consult with all councils around the development of the GPS and the potential for regional GPSs, given the connection to environmental matters, placemaking and other matters. In time, there may also be a need for input from the joint committees that will be established through the reform of the resource management system.
62. We suggest that the Minister could hold off on issuing the first GPS until WSEs have established themselves and their relationship/engagement protocols with councils (and the other principal actors and regulators in the three waters service delivery model). The other fixed settings of the model will set appropriate parameters for each WSE during the establishment phase without the need for additional considerations and potential complexity being added by the Minister.
63. Related to this (and irrespective of whether a GPS has been issued), the Minister should take active steps to ensure that other central government agencies whose activities influence or impact on three waters service delivery act in ways that support each WSE during its establishment phase and into the future. These agencies include the Ministry of Housing and Urban Development, Kāinga Ora and the Ministry for the Environment. We would also expect to see other government agencies whose activities influence or impact on three waters service delivery be encouraged or compelled to act in a manner that is consistent with, and aligned to, the Three Waters GPS. They should also be required to give effect to (or at least have regard to) both the WSE and local council placemaking plans.
64. When formulating the GPS, the Minister should take into account and be explicit about where and how other central government agencies will assist in making sure there is alignment. This includes the ability for a WSE to identify where any central government agency action is not sufficiently aligned with local long term strategic and planning settings that councils and their WSE have agreed to. The WSE should also be entitled to identify the additional or wasted costs associated with any lack of alignment, and pass that cost on to the Crown.
65. We are concerned about how the GPS will integrate with other national direction developed under the new proposed National Planning Framework.
66. Central government should fund delivery of any requirements provided for in a GPS that add or detract from what the WSE is already doing or planning to do. If there is no such departure, or the GPS adds little to what is provided through the parameters set by Taumata Arowai or the economic regulator, then the need for a GPS could be questioned.
67. An alternative approach could be for the Minister to have an opportunity to provide input on both the RRGs' draft Statement of Strategic and Performance Expectations, so that the

Minister can identify any dissonance with the national-level outcomes sought by the Government.

Central policy direction must come with central investment

68. Ultimately, if there is more central policy direction, we'd expect to see greater central government investment. Central government must invest not only in the establishment of its preferred model, but also its future success. If the Minister is to be granted a mandate to issue a GPS that the WSEs must give effect to, then that mandate must be accompanied by a commitment to fund.
69. In particular, central government must:
- a. bear the costs incurred in establishing the new WSE model;
 - b. contribute to the cost of remediating historic infrastructure deficits caused by the existing system;
 - c. contribute to the cost of funding local-level activities that enable the Crown to meet its responsibilities under the Treaty;
 - d. contribute to the cost of complying with the GPS requirements outside existing plans; and
 - e. make an annual financial contribution to the WSEs to fund meaningful participation of mana whenua representatives on RRGs.
70. We want to see a commitment from central government that its actions will be well-aligned with the local long-term strategic and planning settings that councils and their WSE agree to and are operating within. Where there is not alignment, central government should bear the resulting costs – not local communities. This includes alignment between the GPS and the Government's other policy settings with council/WSE long-term strategic and planning settings (for example, policy settings around skills training and immigration). This would better recognise that central government will continue to materially influence the landscape (including for people and contractor resources) in which councils and WSEs will operate.
71. We're disappointed that the Government didn't pick up on the Representation, Governance and Accountability Working Group's recommendation 44¹, and see this as a necessary element in justifying central government's ability to set expectations through a GPS. It is essential to create a level playing field for each WSE as it faces future demands and challenges. These deficits are as much a legacy of central government action (or inaction) as

¹ The Representation, Governance and Accountability Working Group's recommendation 44 was that: The Crown confirm to iwi and councils the size of investment required to address issues of historic degradation of waterways and inequalities in the provision of water services for their consideration, along with a plan as to how addressing these issues will be funded.

they are the result of local government decisions and choices. Any other approach would amount to an unfunded mandate. For these reasons, we also strongly disagree with the introduction of clause 26 of Schedule 1 of the Bill. This represents a cost-transfer (dis-investment) by Government, on top of the ongoing cost that consumers will fund to support running the WSE model once established. It's also unclear what the nature and extent of the 'Crown's interests in, and relationship with, the water services entities' are beyond the proper administration of the Bill, for the purposes of clause 26 (Part 2) of the Bill (which sets out the Minister's role).

72. To address these various concerns, we suggest specific wording changes to the Bill in **Appendix 1**.

Communities need assurance of service when things go wrong – locally and quickly

73. Councils and their communities have a number of concerns around how they will genuinely and meaningfully connect with large-scale, multi-regional entities – particularly given the existing relationships and connections that communities have with their local council.
74. Councils play a key leadership role in civil defence and emergency management. This can mean taking or requiring actions to help manage an emergency event, such as managing three waters services or assets to reduce the likelihood of flooding.
75. Across the motu, some Civil Defence and Emergency Management (CDEM) Groups (which involve councils) have developed strong partnership approaches with Lifeline Utilities Agencies, but others experience difficulty getting engagement and support from public sector Lifeline Utilities. We see the need for clarity on roles and responsibilities for preparing for, responding to and recovering from emergency events between WSEs as Lifeline Utilities and CDEM Groups. This will help to support strong multi-agency planning, response and recovery.
76. The CDEM Trifecta work programme and Three Waters Reform programme need to connect. WSEs need to be clearly defined as a Lifeline Utility in any new emergency management legislation.
77. There is currently no certainty around on-the-ground presence in different locations – and this assurance is critical. For example, who will respond quickly to broken pipes or blockages? There must be dedicated, on-the-ground, local delivery and maintenance teams who are able to provide 24/7 responsiveness. We also support the legislation (or constitutions) preserving a preference for local contractors to be used and retained for scheduled and reactive works. This could be achieved via 'broader outcomes' (of the kind referenced in the Government Procurement Rules) and rural/regional workforce development policies.
78. Related to this, it would be helpful to clarify whether clause 117 of the Bill is intended to be an avenue by which WSEs could contract the delivery of these sorts of water services back to councils.

Feedback on Regional Representative Groups

79. Representation of council views and needs in the three waters system is critical. We support, in principle, the establishment of and arrangements for regional representative groups (RRGs). This includes the arrangements around both local government and mana whenua representation. In particular, we are pleased to see stronger accountability between the WSE boards and RRGs – including requirements for the RRGs to appoint boards, set the Statements of Strategic and Performance Expectations (SSPE) that boards must give effect to, approve key aspects of the Statements of Intent that will guide the boards, and monitor and report on performance. These additional accountability tools create a direct link back to local representatives and local input.
80. It is good to see the RRGs given appropriate clout, in terms of their ability to set strategic direction for the WSE. And we are pleased to see the Regional Advisory Panel model, if it is clear that RAPs provide a channel back to individual councils. The RAP should ensure that councils' specific needs are known to, and factored in by, the RRG. This gives a balance between top-down (strategic-governance led) guidance for the WSE board and direct bottom-up (operational-planning led) engagement by councils with WSE management and planning processes.
81. The role and function of the RRG and its members (including what they will not be doing or responsible for) needs to be clear and understood by all stakeholders. Stakeholders need to know where to go in the overall WSE/three waters system to seek influence or accountability for particular matters. For example, whether to go to Taumata Arowai, the economic regulator, the WSE board/management, the RRG or their council.
82. In terms of direct engagement with all communities in the area covered by a WSE – we don't see that as the responsibility of an RRG. This engagement should be an ongoing responsibility of the WSE. It should not be something that the RRG seek to channel through the SSPE and the board appointment process. We would suggest that a RAP provides a forum and channel for the relevant local councils on behalf of their local communities, but not those communities more broadly. The RAP would then report into and advise the RRG on constituent council views. The RAP should have a council representative and mana whenua representative from each locality within the geographic boundaries set for the RAP. Once the RRG has the benefit of advice from each RAP, the RRG would be responsible for assessing trade-offs and competing demands across the whole WSE area.
83. The representatives appointed to the RRG from a WSE area should combine not only appropriate skills but also ensure representation of the urban, provincial, and rural councils within that area. We also would encourage an express empowering provision for the RRG to include a non-voting Crown representative. This representative could help ensure that the RRG has a good understanding of all relevant central government policies and expectations. It would also help to seed and share (across all the WSEs) best practice approaches and innovations. And could potentially provide early warning of issues before they become 'problems' that might require the more formal Crown intervention responses.

Appointments to the RRG

84. We're pleased to see that all councils will be involved in making appointments to the RRG and that constitutions will be able to establish rules to govern that appointment process. There is a lack of clarity around what the process will look like (although we expect it will be set out in the constitutions), but it should be co-designed with councils. Flexibility around the appointment of RRG chairpersons/deputy chairpersons/co-chairpersons and co-deputy chairpersons is also positive.
85. We make further comments around competency requirements, collective opinion and vacancies in **Appendix 1**.
86. In respect of the provisions around resignations from the RRG, there needs to be specification around what happens in the event a council representative on an RRG who is an elected member is not re-elected in local government elections.
87. Likewise, there needs to be scope for an 'alternate' to be appointed by each RRG representative. This alternate should be chosen from a pool of alternates to ensure that there should never be an absence of representation. Alternates should be determined as part of the initial appointment process (as opposed to being at the election of the relevant representative when a vacancy arises).
88. It will be important that the RRG and a RAP can continue to operate despite any shortfall or imbalance in the 'required' number of representatives (including because of a failure or inability to appoint representatives or a sudden loss of eligibility or mandate to continue). If there are no 'alternate' representatives available, or any other cause of vacancy such that the RRG does not have full membership for an RRG meeting, will the remaining representatives continue to have full powers on the basis that the voting power is still shared 50/50 between the council representatives (taken as a block) and the mana whenua representatives (as a block)?
89. We anticipate that the constitution will contain rules for responding to sustained under-performance (or non-attendance) by a RRG representative. Can the relevant co-chair initiate removal and request the relevant council/s or mana whenua group appoint a replacement?

Other questions of clarification

90. How will the tension (and possibly conflict) be reconciled between the collective duty on the RRG and the personal/individual responsibilities and accountabilities that each RRG representative has to the stakeholder group that appointed them? This includes the kaitiakitanga-based responsibilities of mana whenua representatives, the responsibilities of individual elected members to act in the interests of the communities they represent, and the responsibilities of chief executives to act in the interests of the organisations they lead. Are these barriers to consensus? There may be matters where an RRG representative has to breach another duty in order to comply with the collective duty. The Bill itself should provide guidance (and relief) on how council representatives are to manage any conflicting duties. It should not be left to each representative to seek their own legal advice and worry

that fully embracing the discharge of their duties under the Bill will be exposing them to personal risk when it comes to any other duties they may owe to their appointers/employer.

91. To address a number of the concerns outlined above, we suggest specific wording changes to the Bill in **Appendix 1**.

The role of Regional Advisory Panels

92. If used in the way we suggest in this submission, the Regional Advisory Panels will be a critical mechanism for ensuring that guidance and advice on individual councils' views on local needs, preferences and concerns are fed up to the RRG in a co-ordinated and structured way. A RAP will provide an opportunity for local representation into the RRG for local-level issues of material conflict and concern – and an escalation point. This should be reserved for material/strategic matters that are not more appropriately dealt with at the direct operational and planning interface between individual councils and the WSE boards and management.
93. The need for WSEs to remain independent from their council owners means that it is not possible for individual councils to provide strategic input direct to the WSE board. This input is reserved for the RRG, which adopts a region-wide lens. However, it is entirely appropriate – and necessary for the legitimacy of the model – that individual councils provide direct input to their RRG on material/strategic issues. The RAP feature of the model can be used to achieve this.
94. In this submission, we concentrate on council-focused RAPs, acknowledging that iwi/Māori-focused RAPs or issue-specific RAPs could be created by an RRG.
95. The role and function of each RAP, including what they will not be doing nor responsible for, needs to be clear and understood by all stakeholders.
96. The RRG and WSE board will still need to apply a regional lens to the inputs received from a council-focused RAP to ensure the overall WSE plan can be delivered within the overall available funding, resources and other operating constraints. In terms of protocols and expectations between a RAP and RRG, it will need to be clear that the RAP is advisory only, and that the RRG will stand between any RAP advice and WSE operational implementation via strategic guidance given through the SSPE and approval of the WSE's Statement of Intent.
97. Requiring RAPs for every city/district covered by a WSE area would ensure all territorial authorities and the communities they represent can feed into the choices being made by an RRG. As drafted, the Bill would require even a council-focused RAP to have an equal number of mana whenua representatives sitting on it. It's not clear whether this is necessary, nor how it might work in practice, if there is no rohe/takiwā that neatly corresponds to the council district boundaries used to define a council-focused RAP. We suggest that, depending on the purpose/focus of a RAP, whether it should have equal membership should be a matter for decision by the RRG. The critical factor is that the RRG

itself has equal membership. It is the RRG that will receive the advice/recommendations from each RAP. The RRG will not be bound to adopt or follow that advice.

98. We see value in flexibility to determine the geographical areas that the RAPs represent. This includes whether there is a RAP for each council or whether a RAP could include smaller aggregations of councils. If there is an expectation that this will be embedded in the first constitution, then there is less need for this to be expressly stated as being a requirement in the Bill.
99. The Bill states that a RAP needs to be 'established by the constitution'. It's not clear whether this means by a process set out in the constitution, or whether the actual RAP and its membership and purpose need to be set out in the constitution. This needs to be clarified.
100. There may be benefit in a WSE management representative being an observer on each RAP so that they can have direct line of sight on the issues and concerns that will play into the RRG. These would overlap with the issues and concerns needing to be discussed and resolved directly between the WSE and that particular locality.
101. To address these concerns, we suggest specific wording changes to the Bill in **Appendix 1**.

WSE Boards' composition and accountability

102. We agree that the WSE Boards should be competency based. However, this is a marked departure from the status quo, where elected members of a council are, together, ultimately responsible for the governance of three waters service delivery. Although elected members bring local voice to this role, three waters is not the singular focus of any council or councillor. It may not be an area in which councillors have knowledge, expertise and experience. Because this form of local voice will be absent from the Board, it's critical there is local voice input at other layers of the WSE model and otherwise throughout the three waters delivery system. Together, the new ways of sourcing and channelling local voice need to be at least as effective as the status quo approach. Accountability of board members to the RRG is a good way of creating a direct link back to democratic, local input.
103. Broadly we agree with the knowledge and expertise requirements for Board members that the Bill sets out. However, given the absence of local voice at the Board level, we would like to see the Bill make specific provision for some knowledge and expertise of local government and broader urban growth and development considerations to be included in the list of competencies that the collective board must have. It isn't clear who will decide whether the overall board composition meets the threshold of collectively having enough knowledge and expertise of the kind required by the Bill, nor what the consequences will be if a stakeholder group wishes to challenge if it has been satisfied. Is this something that should be expressly reserved to the Minister for determination, following consultation with the RRG?
104. While the requirement in the Bill that the boards hold a minimum number of public meetings is a good accountability mechanism, we would prefer a presumption of open

meetings unless there are good reasons to support matters being considered in closed session. This would be more consistent with the approach that is taken to council meetings.

Constitutions and their development

105. We broadly support the approach to constitutions, including the ability for local customisation. We support the ability of RRGs to make changes to constitutions so that they can address relevant local matters, including as circumstances change over time.
106. We agree that the Minister should engage with councils on the development of constitutions. All council owners should have input into the development of the constitutions (including the representative appointment processes), and the timeframes for providing input must be meaningful. We would like greater clarity around the process for creating and adopting constitutions.
107. We recommend the formation of a ‘Local Governance Design Panel’ to support the development of the constitutions. This would take an approach similar to that of the Representation, Governance and Accountability Working Group. The Panel should develop a constitution in two stages:
- Stage 1:
- a. Take a national-level view of good governance content that everyone can agree on and that reflects the content required by the Bill.
 - b. Produce a template constitution that is 80% there, and ready for regional customisation.
- Stage 2:
- c. Split into four WSE-specific Local Governance Design Panels, retaining relevant representatives from the Stage 1 Panel but adding other regional representatives. This would include representation required to identify and address unique local features and needs. This could involve a ‘citizens’ assembly’ type approach.
 - d. Produce a final WSE-specific constitution for the Minister’s endorsement.
108. We would expect broad engagement with all council owners throughout this process.
109. Although we support RRGs having the ability to change constitutions, we recognise there is a risk that an RRG may fail to act in time or at all (in response to changed circumstances, for example), and that changes may not be quick or easy to agree. There is an opportunity to use the establishment approach we’ve suggested above to create default positions that an RRG could fall back on, for example in respect of:
- a. Board appointment and remuneration policies
 - b. Representative appointment processes

- c. Template Statement of Strategic and Performance Expectations, including how it might reflect local (by district) service level performance measures
 - d. RRG co-chairpersons: the template/default position should be co-chairpersons.
110. We agree that the constitutions should provide for local authorities and local authority representatives being compensated by the WSEs (as per clause 91(j)).

Planning and strategic documents

111. Currently councils have the democratic mandate to make decisions on behalf of their communities across their portfolio of responsibilities. They also perform a number of planning roles and functions that are closely connected to three waters service delivery – including planning for growth.
112. Councils are concerned about how they and their communities will feed into key WSE planning decisions and accountability documents, aside from the input councils have via RRGs (including via council-focused RAPs) and communities have via consumer forums. More clarity is needed around how councils' existing council engagement with communities and their strategic planning and decision-making will inform the various planning and accountability documents that the WSEs will be responsible for preparing. This includes existing documents like long-term plans, annual plans, asset management plans, infrastructure strategies, regional policy statements, regional and district plans, and other community plans. Once resource management reform is implemented, thought will also need to be given to how the new regional spatial strategies and natural and built environments plans will feed in. We recommend that there's a specific requirement for the various WSE planning and accountability documents to take into account council planning/strategy documents. Where possible, the WSE documents should give effect to those council planning/strategy documents. We recognise that council and community preferences will need to be balanced with compliance with regulatory standards, set by both Taumata Arowai and the economic regulator.
113. The WSEs should be seen as an enabler and implementer within the wider planning environment, which includes community wellbeing, growth and development. While they may be 'plan makers' for the delivery of three waters services, councils are concerned that WSEs do not (including by default) dictate the shape of other council and community plans, and growth and development needs. Water services are intrinsically linked to other council assets and infrastructure, and to urban development and growth. Councils need to remain integral to decisions about where growth and development happen. Decisions by WSEs and developers need to recognise and support councils' broader leadership role in placemaking and community wellbeing, which includes managing and planning for growth.
114. We expect that WSEs will have the ability to feed into the development of the proposed regional spatial strategies (RSSs). Our view is that the asset development and investment decisions that the WSEs make should be consistent with the future development and infrastructure needs that are identified in the RSSs.

115. Related to this, there is currently a degree of assumption, or expectation, that funding will simply follow the development of RSSs. However, there is a risk that if there are not specific mechanisms to guarantee funding from infrastructure partners (including WSEs), RSSs will not be implemented nor deliver the long-term outcomes they are intended to achieve for regions and communities. This issue needs to be resolved through both the WSE Bill and the proposed Spatial Planning Act.
116. While we appreciate that a core purpose of three waters reform is to remedy historic under-investment in three waters infrastructure, many of our communities will still have significant growth and development needs to meet in the short and medium-term. The WSEs' various planning and accountability documents will need to strike an appropriate balance between the scale and priority of work required to address current deficits (including to ensure compliance with the standards set by Taumata Arowai), as well as new investment that will be needed to support and enable both brownfield and greenfield development.
117. We support the Statement of Strategic and Performance Expectations being prepared by the RRG to ensure it is reflective of local input, including via council-specific RAPs. The same goes for the RRG oversight/review of proposed Statements of Intent, Asset Management Plans, Infrastructure Strategies and Funding and Pricing Plans.
118. We anticipate that WSEs will rely to an extent on councils to help collect and coordinate feedback from their constituencies to develop various WSE planning and accountability documents. This is because councils have a democratic mandate to engage with their communities and well-established capability and processes for doing so. There will probably also be a need for the WSEs to draw on councils' understanding of other inter-dependencies with planning, funding and delivering water services. If councils are relied upon by the WSEs to do this (including to avoid duplication of effort), their costs should be met by the WSEs. Otherwise there is an unfunded mandate issue. As already noted above, councils' community consultation process could be co-ordinated with the WSEs' own need to engage with local communities.
119. The WSEs will need to balance a range of competing priorities and interests when making decisions and trade-offs. Not all of these will be capable of being reconciled with each other. A WSE should be obligated to articulate how it has resolved and weighted competing considerations when making a material decision that will result in a significant stakeholder group being disappointed with the outcome – including making its prioritisation/investment frameworks publicly accessible. This will help give smaller councils in particular assurance about how their communities' needs will be included in work programmes and priorities.
120. Making this transparently available will also build trust and confidence in the WSEs' decision-making processes and provide the RRG with an evidence base for reviewing WSE board performance against the Statement of Strategic and Performance Expectations and Statement of Intent. Although implicit, we see value in making it express that Te Mana o te Wai shall at all times be the preeminent consideration.
121. To address some of these concerns, we have made a suggested change to the wording of the Bill set out in **Appendix 1**.

Funding and pricing

122. We want to see more detail on how funding and pricing decisions will be made – acknowledging that a lot of this detail is likely to come in Bill 2. The sequencing of the Bills means that when submitting on the core model, reflected in this Bill, councils are being asked to ‘assume’ that pricing and funding elements will be resolved satisfactorily later. This includes the impact on councils’ own future requirements for their own funding and rating. The detail still to come relates to critical issues like price harmonisation or the ability to socialise costs and adopt differential pricing to support social equity.
123. With respect to the current Bill, we are concerned by the absence of reference to affordability in its objectives and operating principles, as well as the absence of any linkage to overall affordability once other rates and levies are taken into account. Councils are particularly concerned by this given that they will continue to make rating decisions and so have broader concerns around affordability, equity and communities’ ability to pay for different services (which may also include IFF levies).
124. It’s not clear whether the absence of reference to affordability is intended to allow the RRGs (or GPS) to give strategic guidance to the WSEs about pricing. For example, to allow differential tariffs to socialise the cost of delivery for some groups so as to manage affordability and manage issues such as water poverty. Or this absence could be to recognise the role that the economic regulator and Taumata Arowai will play – especially given each will have ‘social equity’ as part of its mandate. This needs to be clarified.
125. Further thought also needs to be given to whether the WSEs boards should be entitled to initiate and make regional policy (‘political’) choices and decisions regarding approaches to charges and pricing, or whether they should be more constrained as an implementer/service delivery agent. This includes being constrained and shaped by the RRG mandated strategy, which itself will be subject to oversight, guidance and direction by any GPS and the relevant regulators. Given the RRG comprises regional community representatives, there is perhaps a case for it to be at the centre of setting the parameters regarding service levels and pricing. This needs to be worked through in further detail with the sector, particularly as Bill 2 is developed. We don’t want to see smaller or more isolated communities paying an unreasonable differential for water and support protections that would prevent this.
126. Related to the issue of funding and pricing, the longstanding historical deficit in infrastructure investment and the legacy of central government decisions impacting water services need to be addressed – and funded. Central government must develop a funding plan – otherwise we run the risk of setting up new entities that will continue to underinvest, or be unable to address the existing deficit, or costs will fall regionally rather than nationally.
127. Finally, there’s no clarity on what role councils may be expected to play in billing. Our strong position is that councils must be given a choice about whether or not they’re involved in billing for water – it shouldn’t be a given that they will, even during transition.

Debt transfer

128. To be able to assess the impact of the new WSE model (including the post-transfer shape of a council's own balance sheet), councils require certainty about how the debt transfer will work. This includes what borrowing will be eligible, the process to identify and confirm amounts, as well as transfer mechanics. This needs to be clarified urgently.

Community engagement provisions

129. We agree with the requirements for the WSEs to engage with and seek input directly from communities. The engagement provisions set out in the Bill seem sufficiently broad, and appear to allow for engagement in a wide range of ways.

130. We also support the establishment of consumer forums. However, it's critical that the breadth of communities covered by each WSE area is represented in these fora. Specifically requiring this in the legislation (or constitutions) would guarantee this and provide an accountability mechanism.

131. It's not entirely clear whether the consumer forums will reflect existing council boundaries. If they were to reflect council boundaries, this would mean councils could attend and factor consumer feedback into other planning roles and functions, as well as their broader assessments of community wellbeing priorities and outcomes. We suspect that there will be natural linkages between the matters discussed by community forums and the adjacent/impacted responsibilities of councils. It could be cost- and resource-effective for councils to utilise the inputs from the community forums for other purposes.

132. We support the requirement for a consumer engagement stocktake and agree that this should be made public. We believe that councils should have input into this stocktake because they will inevitably continue to receive feedback from their constituents on three waters services. WSEs should meet the costs of councils in performing that role to avoid an unfunded mandate issue. We recognise that there may also need to be input into this stocktake from other actors in the system too, for example Taumata Arowai and the economic regulator.

Protections against privatisation and WSE shareholding arrangements

Protections against privatisation

133. The transfer of three waters assets and direct operational control from local councils to a larger scale regional entity is significant and transformational for councils. It is important that every available tool is utilised to preserve public ownership of those assets and the capability to deliver the associated services. The risk of privatisation of three waters assets (or the asset-owning entities) is a key concern for councils and their communities. It has

been one of the issues raised repeatedly as the Government's model has been tested and refined with the sector.

134. We support the protections against privatisation that are included in the Bill, including the changes made as a result of the recommendations of the Governance, Representation and Accountability Working Group. Subject to the issue of entrenchment, the Bill and adoption of the Working Group's recommendations on WSE shareholding arrangements all but cement ongoing public ownership of the WSEs for the benefit of the local communities that they serve.
135. The vulnerability that remains is a subsequent Parliamentary majority abolishing the statutory protections. We encourage cross-party political support for entrenchment of the Bill's provisions that protect against privatisation of the WSEs. Ideally this would be 75% but any level greater than a bare Parliamentary majority would offer a level of enhanced protection against this future risk. We are concerned that the protections proposed, while strong, are not as strong as they are currently under the Local Government Act without entrenchment. We note that if a subsequent Government were to prefer an ownership model that placed three waters assets and their direct control back with councils, then entrenched anti-privatisation provisions should not present a barrier to this.

WSE shareholding arrangements

136. The key benefit of the WSE shareholding arrangements is that they further signify and reinforce the collective community/public ownership of the WSEs. While collective public ownership was provided for in the exposure draft of the Bill, the Bill now expresses this in a way that references the concept of a shareholding.
137. When assessing the WSE shareholding arrangements provided for in the Bill, we recognise that shareholder rights and powers are not being relied upon in the same way as councils currently do for exercising strategic influence and accountability over their Council-controlled Organisations (CCOs). However, that form of influence and accountability will not be absent but delivered in other ways in the new model (as referenced throughout this submission). The fact that the shareholder rights are limited and solely focused on protecting against privatisation is not an indicator that strategic influence and accountability is absent from the model. It is those other elements of the model that need to be assessed for their ability to achieve the same outcomes, consistent with the independence/balance sheet separation bottom line set out in the Government's policy requirements. This bottom line requirement is the reason why shareholder rights and powers of the kind currently held by councils with respect to their CCOs are not able to be used as the model for the new WSEs.
138. As a result of the work done by the Representation, Governance and Accountability Working Group, LGNZ does not propose to challenge or recommend further changes to the collective public ownership of the WSEs.
139. We note that there is no provision in the Bill for later disaggregation (or further aggregation) and this seems an oversight.

Transition and implementation at a high level

140. The success of the three waters reform programme is critically dependent on a smooth and well-managed transition. The sector is concerned about the transition and the current planning that is underway. It is also concerned about the communications and engagement about the transition. It's critical that central government works closely with local government on both the establishment and the transition.
141. Resourcing the transition is essential, which is a further reason why local government is concerned that the Government didn't pick up the Governance Working Group's recommendation 44 (explained in further detail above).
142. The sector also has concerns at the various transitional provisions that remove councils' autonomy during the transition period as contained in Schedule 1, Subpart 4 (clauses 21 – 24) of the Bill. For example, there is concern that these clauses appear to limit councils' ability to deliver or accelerate existing approved plans, to negotiate requests to second staff, and to meet information requests. The sector's view is that these provisions signal a lack of trust and confidence in councils. The demands on councils to deliver business as usual (including water services) will continue unabated – in a pressured and resource constrained environment. Because of this, DIA's ability to direct or restrict councils' activities should be limited to those circumstances where there is deliberate obstruction or attempts to undermine the success of the reform. This includes ensuring legitimate choices made by councils in connection with three waters are not viewed negatively by DIA when it comes to assessing the amount of council debt that may be 'transferred' from the council to the WSE. It also includes quantifying a council's entitlement to seek compensation for costs so as to ensure that it is not worse off as a result of the reforms.
143. The administrative burden and uncertainty of clauses 21 – 24 of Schedule 1 is unreasonable and unworkable, and should be a fall-back protection for the Crown, not a generic requirement applicable to all councils. It is at odds with the more constructive type of relationship dynamic that needs to exist for both the WSEs and councils to succeed in performing their roles and functions due to the high level of co-dependency and integration that will need to exist from 1 July 2024. This constructive relationship is needed as much during WSE establishment and transition as it is afterwards.
144. The transition to the new three waters system will have, and is already having, significant implications for councils' workforces. Uncertainty about future roles is leading to a number of council staff seeking alternative employment opportunities.
145. Some councils have raised concerns about the wording of clause 16(1)(b) of Schedule 1 of the Bill, which refers to "senior managers" not being included in the guarantee of employment. Councils consider that this is inconsistent with commitments made previously by the Government that all staff except "senior executives" would be offered employment on terms and conditions substantially the same as what they have today.

146. Broadening the exclusions from senior *executives* to senior *managers* greatly widens the scope of roles that are not guaranteed employment in the WSEs. However, we acknowledge the term “senior management” is not defined in the Bill and that the lack of definition may be contributing to the uncertainty. We would like to see either the term senior executive used instead or that senior management is defined to include people in executive roles rather than senior technical oversight roles. We also suggest each council needs to be consulted with on the precise application of this definition to their individual circumstances and roles.
147. Employment security is crucial to retaining staff during the transition phase of the reforms. Expanding the scope of those not guaranteed a role will place additional burdens on local authorities and on the NTU to fill roles vacated by staff moving in search of security.
148. To address these concerns, we have recommended changes to the wording of the Bill in **Appendix 1**.
149. Community engagement and education is a key component that needs to be built into the transition programme. As part of this, the Government needs to better engage with communities to help them understand that responsibility for water services will be transitioning from local authorities to the WSEs – and what this will mean in practice. We anticipate that local government will have a role to play around educating its communities too, but it needs support and resourcing from central government to do this.
150. We support the inclusion in the Bill of provisions around commissioning a review of the operation and effectiveness of the governance and accountability arrangements under the Bill, and a review of the WSE legislation. The review of governance and accountability arrangements should consider how the WSEs are interacting with councils and communities, and the review of the effectiveness of the legislation should specifically consider how the WSE legislation is interacting with other key legislation (such as the Local Government Act, Rating Act, Resource Management Act and new resource management legislation). Local government must be recognised as a key stakeholder in these reviews.

Connections with other reform programmes

151. There is a need for the Government to provide assurance and build confidence that all the current reform pieces will come together to form a coherent system. This includes the three waters service delivery model and the resource management reforms – as well as the Government’s broader work programme on things like climate change and addressing housing challenges. In the interim, the three waters system will need to connect coherently with the existing resource management system, including aspects such as existing mana whakahono ā rohe arrangements. That coherent system will need to deliver clear and efficient processes and inter-connections that do not conflict, are well aligned, appropriately sequenced and avoid unnecessary duplication of effort.
152. We appreciate that this outcome is an objective of all reform programmes. It may take time to achieve and requires some patience and ‘learning by doing’. However, it must remain

front of mind. The relevant enactments (and other policy documents) may need adjustments over time given the contemporaneous reform works in progress that are not being co-ordinated as a single, integrated programme but nevertheless need to come together in practice due to their many co-dependencies.

153. What's more, the same consumers/users will be engaging with each of the reformed systems, often at the same time. All stakeholders are resource constrained and need to use their resources (including scarce people expertise) to best effect. For example, by combining strategic planning and mana whenua input across more than one regulatory silo to avoid duplication of effort and limit risk of inconsistencies.
154. We are pleased to see a focus in the Bill on climate change mitigation and addressing and adapting to the impacts of natural hazards. However, more clarity is needed on how this will be managed against other, potentially competing objectives and priorities (such as addressing growth and urban development needs). Central government needs to give clear direction around how it expects those trade-offs are to be approached and managed, and how the activities of central government agencies will contribute to these outcomes in a complementary way. And as noted further above, we believe there's a need for WSEs to be required to clearly articulate how they have resolved and weighted competing considerations when making material decisions.
155. A number of key provisions in the draft Bill have been carried across from the Crown Entities Act. We suggest that the Finance and Expenditure Committee seek assurance from officials that they have made enquires to ensure that there is nothing in the Crown Entities Act experience that would benefit from amendment given the chance. In particular, this includes whether the application of that Act in practice has revealed deficiencies or room for improvement. This would help ensure that the Bill is as good as it can be, rather than merely consistent with analogous legislation where there might be a recognised need for change or improvement.
156. Somewhat related to the reform of three waters is the issue of investment in and delivery of flood protection infrastructure – which is currently a function delivered by regional and unitary authorities, and some territorial authorities. We support regional and unitary authorities (and territorial authorities where that's the case) remaining responsible for flood protection infrastructure. However, we do believe that co-investment (along the lines of the proposals put forward by Te Uru Kahika (Regional and Unitary Councils Aotearoa) earlier this year) needs to be seriously explored.

Appendix 1: Changes to statutory clause wording

Councils' place making role is critical

1. **Part 2, subpart 1 – cl 11 and 13 and subpart 6 – cl 57:** require WSEs to recognise, support and enable council role in placemaking and community wellbeing (as expressed in the LTP and Annual Plan adopted by each council, on the basis that the WSE will have standing to participate in the council consultation and planning process and the preparation and finalisation of such plans as they relate to the delivery of three waters services)
2. **Clause 11(c)** – replace the reference to 'housing and urban development' with 'council performance and delivery of local placemaking function in support of community wellbeings, as evidenced by long-term plan and annual plan'.
3. **Clause 13(f)** – add the following at the end:
 - 'including to enable local input into major decisions affecting a particular locality and otherwise seek to:*
 - (i) ensure alignment between the planning functions of the WSE and the broader placemaking planning functions of a territorial authority; and*
 - (ii) explain and resolve areas where there is a conflict or an absence of alignment about a material matter'*
4. **Clause 57(2)** should have a reference to 'local government, including its role and functions' added
5. **Clause 57(2)(b)** should add the following underlined words: 'network infrastructure industries (including water-related network infrastructure)'
6. **Clause 115** should add the following new subclause (4): 'Clause 115 does not limit clause 11(c) or 13(f) (which provide for water services entities to enable and support local placemaking);'
7. **Clauses 149(b), 152(b) and 155(b)** of the Bill should also include an express reference to 'councils' in addition to consumer and community input – so that the WSE must report on how it has considered and incorporated council feedback. We note that a reference is already included to councils in the relevant parts **of Schedule 3** of the Bill with respect to the preparation of the same plans.
8. We would like to see the meaning of 'problem' in **clause 174** of the Bill expanded to include adverse consequences for a council in the proper performance of their roles and functions under the LGA.
9. **Clause 196(3)** of the Bill should also include specific reference to the performance of council roles and functions under the LGA.

Stormwater

10. **Change proposed (Part 3 – clauses 117 and 118):** These clauses could helpfully be expanded to expressly accommodate a hybrid arrangement between a council and its WSE to accommodate the particular challenges of stormwater assets. In particular, arrangements for the delivery/management of stormwater involving assets that are best retained by a council (meaning they would be identified as relevant to water services but excluded from transfer as contemplated by **clause 5(4)(b) of Schedule 1** to the Bill) because the primary purpose of those assets relates to something else (e.g. a reserve) but that same asset at times also performs a stormwater function and, as regards its stormwater function, the WSE should have active involvement in the maintenance and management of that asset because it is responsible for the overall stormwater network.
11. On its face **clause 117(1)** of the Bill could allow WSEs to contract the delivery of specified water services out to councils and this may prove helpful if it allows the WSE to contract for the delivery/management of stormwater involving those council-owned assets which the council also manages for other purposes, on a basis that ensures this occurs in a way that supports the WSE's effective and efficient management of the overall stormwater network. However, **clause 117(2)(b)** of the Bill (the apparent need for the WSE to own the underlying assets) could be a barrier to this as a solution unless it is made clear that this clause is designed to prevent the WSE transferring ownership of the assets as part of that arrangement – which would not be the case if those assets were never transferred into the WSE by the council as part of the reform process. As worded, it is possible to construe 'maintain ownership of the infrastructure and assets relating to the water services' as more directive (i.e. not a prohibition on transfer but that the WSE needs to own all the relevant assets and it is not contemplated that the WSE would use third party assets in the provision of the services being contracted for by the WSE). If such an arrangement for stormwater was structured as a 'joint arrangement' under **clause 118** of the Bill, the LGA consultation process would apply, which should not be necessary for an arrangement that is essentially a continuance of what the council already does. **Clause 118(3)(c)** of the Bill also raises a similar asset ownership question to that identified above for **clause 117**.
12. If providing for a hybrid/joint management approach is seen as desirable, then it would be preferable for the Bill to expressly address the matter rather than leave it to be manufactured under provisions that were designed with other circumstances in mind.

Central policy direction must come with central investment

13. That **clause 26 of Schedule 1** of the Bill is removed.
14. **Clause 131(b)** of the Bill should include a standalone reference to councils.

Feedback on Regional Representative Groups

15. When applying 'benefit of all communities' and 'future' communities **in clauses 29(a) and (c)** of the Bill it should be made clear that the period of time over which this may be assessed is a matter for the RRG (as a whole) to determine in its discretion so as to avoid it becoming a matter of legal debate and challenge by interest groups who might prefer it to be a shorter or longer lens. It would be helpful for the Bill to specify whether or not the three elements set out in clause 29 of the Bill are to be given weight consistent with the order in which they are listed in that clause?
16. **Clause 32** of the Bill should require a representative spread across the urban, provincial and rural councils within a WSE area. This should also be captured in **clause 91(a)(ii)** as well as in the content of the constitutions.
17. Given that a maximum of seven representatives may represent the interests of up to 22 local councils, it will be just as important for representatives who are elected members or CEs (refer **clause 32(2)(a)** of the Bill to meet the competency requirements that apply senior managers who are eligible for appointment under **clause 32(2)(b)**. These competency requirements will be relevant to whether an RRG can effectively perform its role in the overall system.
18. We would like it to be clear that the constitution (including the first constitution approved by the Minister, reflecting council views expressed in the consultation process associated with the development of the WSE constitutions) will define what 'collective opinion' means for the purposes of **clause 32(2)(b)** of the Bill and that this will be binding on all council owners.
19. Each of **clause 32(1) and 33** of the Bill states that the named group 'must appoint' representatives. It needs to be clear what consequences flow from a failure to do so and the consequences may need to be reflective of the reason for the failure. So too in the case of vacancies which may arise for a range of reasons. Will the department/Minister take steps to enforce this, will it constitute a 'problem' or will the Minister be entitled to fill the 'vacancy' until such time as an appointment process is complete (so that the RRG always has a full complete of members). The answer will depend on the circumstances and each will raise its own issues given that RRG membership is a critical element of the model for ensuring that local voice shapes the strategic settings that each WSE must work within.
20. If the resignation of an RRG representative is material to whether or not the RRG meets the 'collective' requirements standard under **clause 38(2)** of the Bill, then the Bill should expressly provide a grace period during which that deficiency can be corrected without compromising the legitimacy/legality of what the RRG does in the interim. This same point will be relevant at the WSE board level too (**clause 57(2)** of the Bill).
21. **Clause 91** should also expressly contemplate provision for a non-voting Crown representative to join the RRG.
22. The Bill should contain a clause that expressly contemplates the appointment of 'alternates' for RRG (and RAP) representatives to ensure that the 'representative' element of those

appointments is always front of mind, and the particular group they are there to represent (in addition to taking a region-wide view, as is embedded in their duties) is always present and available.

23. The Bill needs to accommodate vacancies (whether arising from a failure or inability to appoint or from resignation, including a person ceasing to be eligible for appointment) and allow for the continued operation of the RRG (or a RAP) despite there not being a full complement of the number of representatives mandated by the WSE constitution or an imbalance between the number of council representatives and the number of mana whenua representatives.

The role of Regional Advisory Panels

24. Although there should be flexibility to determine the geographical areas that the RAPs represent (refer **clause 46** of the Bill) there should be an express requirement that sufficient RAPs are established to as to provide actual representation of all geographic areas/takiwā, to ensure local voice across WSE areas is captured. The mandate for a RAP should extend to providing prospective advice on how a RRG should perform/exercise duties and powers as well as the review of actions/decisions already undertaken by the RRG – **clause 46** of the Bill should state this more clearly.
25. If council-specific RAPs are to perform the role/function we describe earlier in this submission (i.e. local representation – advocacy even - into the RRG, to assist the RRG perform its governance-related role for the whole service area) then the collective duty referable to the whole service area (contained in **clause 47 of the Bill**) should be changed to recognise that this is not the primary function of such a RAP (that is the role of the RRG) but that the RAP should ‘take into account’ or ‘have regard to’ those broader matters.
26. **Clause 45(1) of the Bill** states that a RAP needs to be ‘established by the constitution’ – this should say ‘expressly contemplated by the constitution or established in accordance with the procedure for doing so set out in the constitution’
27. That **Part 2, subpart 5** of the Bill is amended to expressly contemplate (and enable a constitution to provide for) council-specific RAPs across the WSE region, including with the power to appoint non-voting regional council observers and giving each relevant council a right to appoint a local elected member (or council CE) to provide specific advisory input to the RRG on: (i) the development of the SSPE, and (ii) matters that an individual council wishes the RRG to know about relating to material/significant planning/investment choices or decisions made (or proposed) by the WSE which are materially at-odds with the planning/investment decisions made by that council, such that a place-making matter which the council considers (acting reasonably, and based on supporting evidence) of high importance will not be capable of being implemented in the manner contemplated by the council’s LTP because of the position adopted by the WSE. A RAP could :
- (i) escalate material conflicts/concerns affecting their local area to the RRG
 - (ii) help inform RRG’s strategic guidance for the WSE board

- (iii) assist the RRG is reviewing the performance of the WSE board
28. We suggest that **clause 45** be amended to provide mana whenua with the option of whether or not to appoint any or an equal number of representatives on a council-specific RAP.
29. In light of the representation/escalation role we suggest for the RAPs referred to above, we do not think it is appropriate for **clause 47** to impose a collective duty focused on the interests of the whole WSE region. That collective duty should only sit with the RRG (as recipient of the RAP advisory inputs) or any RAP that is formed to provide subject matter advice that relates to the whole region. However, we query why advice of that nature cannot be procured directly by the RRG from whomever they might choose for that purpose (and without having to form a RAP to enable that).

WSE Boards and composition

30. In terms of the public availability of WSE information (refer **clause 61 of the Bill**) the reference to ‘a water services entity’ should only extend to the operational entity (the WSE board and operational aspects of the business, including committees of the board) but not the RRG or any RAP. **Clause 15(1)(b) of the Bill** states that a WSE is separate from its board members and its RRG. The reference to RRG presumptively extends to any RAP but this should be made clear by adding in a reference to ‘the entity’s regional advisory groups’.
31. Viewed from the point of view of the council owners of the WSE, is the information held by RRG/RAP representatives (in their capacity as such) intended to be ‘official information’ of (i) any council that may have appointed that representative to represent them, or (ii) the council that the representative may be an elected member, CE or senior manager of?

Constitutions and their development

32. **Clause 91(a)(ii)** should state, as a guiding principle, that it is intended that the appointed council RRG representatives should be able to (between them) fairly represent the interests of the spread of urban, provincial and rural councils within a WSE area.
33. Unless expressly agreed otherwise in the WSE-specific constitution design process, this could extend to the permissive matters referred to in **clause 92(2)** of the Bill on the basis that changes can subsequently be made in a considered way through a formal change process (once the WSE has been established and is in operation and the relevant stakeholders have a better sense of what they may actually require to best reflect the particular needs of their region).

WSE operating principles

34. We recommend that **clause 13(c)** is expanded to include ‘decision-making processes and the balancing of competing considerations’.

Protections against privatisation

35. We query whether the ‘relevant date’ definition in **clause 16(3)(d)** should be expressed in the singular: ‘a date on which a divestment proposal (as defined in **clause 1 of Schedule 4**) that affects a water services entity named in **Parts 1 to 4 of Schedule 2**, or its service area, or both, takes effect’. Also, the addition of the underlined words in **clause 16(4)**: ‘The monitor must notify every allocation or reallocation, as soon as practicable, to the Minister, the water services entity, and every territorial authority owner for the affected water services entity.’

Connections with other reform programmes

36. We recommend amending **clause 13** to add the following additional subclause (h):

(h) ensuring that the approach adopted by the water service entity when engaging with others (including as regards the timing of engagement and the form of information it requires) is well aligned with other planning and approval processes, including those of regulatory bodies dealing with the same subject matter, so as to avoid duplication of effort and enhance the user experience of those wishing to engage with the water services entity

Transition and implementation

37. We recommend amending **clause 1 of Schedule 1** to add the following additional definition:

***senior management role** means a senior executive manager role in a local government organisation that does not involve technical expertise in a three waters service on a day-to-day basis.*

38. **Clause 21 of Schedule 1 of** the Bill should add the following new subclauses (c) and (d):

- c) excludes a decision (including if that decision satisfies a matter listed in subclause (b) above) that is required so that a local government organisation can –
- i. *comply with obligations it has under legislation:*
 - ii. *undertake urgent repairs or respond to unexpected circumstances in a manner that is consistent in all material respects with its general practices before the establishment period:*
 - iii. *re-prioritise, alter or accelerate activities contemplated under its long-term council community plan or annual plan in circumstances where the local*

government organisation considers, on reasonable grounds, that the result of the decision will not satisfy the requirements of clause 23(3):

- d) excludes a decision to do something that has been disclosed to, or is otherwise known to, the national transition unit (not being a matter under subclause (c) above) unless the chief executive of the department has advised the local government organisation in writing before that decision is made that the chief executive considers it to be a decision to which clause 23 applies.

Appendix 2: Placemaking paper

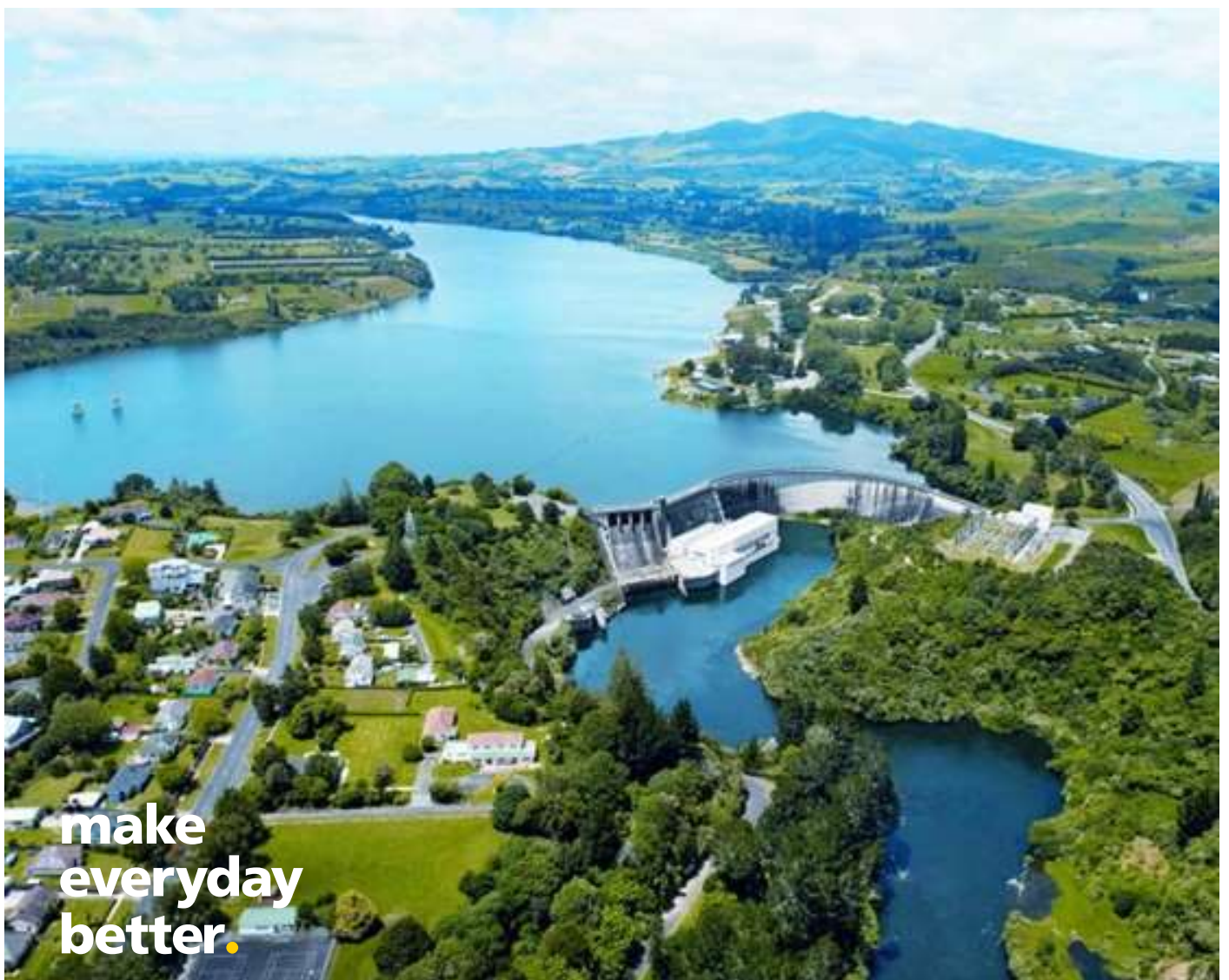
[see following pages]

Independent Thought Piece

Placemaking and Three Waters

Prepared for Local Government New Zealand
Prepared by Beca Limited

20 July 2022



**make
everyday
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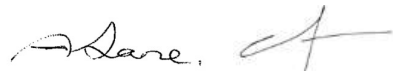
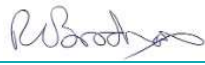
Appendices

Appendix 1: National Policy Statement for Urban Development (NPS UD) interlinkage with three waters infrastructure

Appendix 2: Specific provisions where possible submissions could be made

Appendix 3: International case studies

Document acceptance

Action	Name	Signed	Date
Prepared by	Robert Brodnax, Annika Lane, Marsha Badon, John McCall		20.07.2022
Reviewed by	Chris Upton, Annika Lane		20.07.2022
Approved by	Robert Brodnax		20.07.2022
on behalf of	Beca Limited		

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Executive summary

Placemaking is a core function of local government. Simply defined, placemaking is a multi-faceted approach to the planning, design, and management of public spaces to achieve outcomes for community. Central to placemaking is the provision of infrastructure that meets the needs of the community. Like all infrastructure, three waters infrastructure has a critical role in placemaking, providing the water supply and wastewater services that allow our communities to exist as well as providing multi use greenspace through our stormwater networks.

With increasing centralisation of infrastructure and planning functions across water, health, environmental management, and education sectors, it will become increasingly difficult for local communities to have meaningful input into how services will be delivered to meet their local aspirations.

The challenge for the Government is to find a way of gaining the benefits of increased centralisation whilst not impacting on the ability of communities to shape the places that they live in so that they deliver the outcomes that are important for individual communities. This paper examines the proposed functions of the Water Service Entities (WSEs) and suggests ways in which the role of water infrastructure and service delivery in place making can be enhanced without losing the benefits of centralisation.

Key recommendations proposed in this paper are as follows:

1. Placemaking and a commitment to wellbeings should be front and center to the delivery of water services and a core component of the Water Service Entity legislation.
2. It will be important to provide a statutory requirement to provide for placemaking outcomes. This can be achieved through requiring a principle that all action and investment should be place-based to secure multiple benefits - requiring spatial strategies, district / development plans and supporting documents to focus on the qualities and character of places and provide opportunities for regeneration (to ensure the most disadvantaged and fragile communities are prioritised for development and investment). The same “place-based” principle could equally apply to other reform processes underway or potentially occurring in the future.

The Place Principle set out below is a good start for a New Zealand principle although it would need to be adjusted to reflect our unique operating environment created by the Treaty of Waitangi and the Crown’s partnership with iwi.

The ‘Place Principle’ recognises the following:

- Place is where people, location and resources combine to create a sense of identity and purpose and is at the heart of addressing the needs and realising the full potential of communities. Places are shaped by the way resources, services and assets are directed and used by the people who live in and invest in them.
- A more joined-up, collaborative, and participative approach to services, land, and buildings, across all sectors within a place, enables better outcomes for everyone and increased opportunities for people and communities to shape their own lives.
- The ‘Place Principle’ requests that all those responsible for providing services and looking after assets in a place need to work and plan together, and with local communities, to improve the lives of people, support inclusive and sustainable growth and create more successful places.

The intention of this requirement is to reinforce rather than duplicate other systems and the placemaking requirements therein.

3. The Water Services Entities Bill could be amended to strengthen the WSEs' role in achieving government and community outcomes and contributing to placemaking. We recognise that there is more detail to come in the subsequent Bill(s) regarding how the WSE's will integrate with the planning system, but we suggest there are several themes that relate to planning and placemaking in the Bill which could be strengthened. These include sections relating to the following:

- Representation and governance;
- Accountability, monitoring and reporting;
- Alignment to well-beings and community outcomes (central government direction); and
- Alignment with funding and financing cycles.

1 Defining placemaking

1.1 Introduction

Placemaking has been broadly defined as an all-inclusive, multi-faceted approach to the planning, design, development, regeneration, and management of the built environment. Successful placemaking results in sustainable, well-designed homes and strong communities; meets peoples' needs; harnesses the unique characteristics of each place; and improves the overall quality of life.

At the core of the concept of placemaking is a principle that all action and investment should be placed, based to secure multiple benefits, requiring spatial strategies, district plans and other strategies and plans to focus on the qualities and character of places and ensure focus on opportunities for regeneration (to ensure the most disadvantaged and fragile communities are prioritised for development and investment). In New Zealand, local authorities are the lead agencies for placemaking given their broad functions for planning, infrastructure, and community wellbeing.

International experience with centralisation or regionalisation of infrastructure delivery and planning has recognised this principle in a variety of different ways. Most recently in Scotland, the Place Principle has been introduced by the Scottish government in partnership with the Convention of Scottish Local Authorities (COSLA), the 'voice' of Local Government in Scotland, in response to concern about the impacts of centralisation on local communities. The principle was developed in partnership with the public and private sectors, the third sectors and communities, to help them develop a clear vision for their place¹.

The 'Place Principle' recognises the following:

- Place is where people, location and resources combine to create a sense of identity and purpose and is at the heart of addressing the needs and realising the full potential of communities. Places are shaped by the way resources, services and assets are directed and used by the people who live in and invest in them.
- A more joined up, collaborative, and participative approach to services, land, and buildings, across all sectors within a place, enables better outcomes for everyone and increased opportunities for people and communities to shape their own lives.
- The 'Place Principle' requests that all those responsible for providing services and looking after assets in a place need to work and plan together, and with local communities, to improve the lives of people, support inclusive and sustainable growth and create more successful places.

1.2 Role of placemaking in three waters

Effective placemaking realises the needs and aspirations of a community for a particular 'place'. Through a more collaborative approach to development, a 'place' can be viewed in its entirety, rather than focusing on isolated components. Such an approach includes breaking down the silos between local authorities, planners, designers, engineers etc. through expanding the focus of each discipline's profession / agenda and bringing accountability to the community's aspirations. It also generally requires the establishment of reporting models with consequences where community aspirations (as are often defined in planning documents) are not achieved.

Given infrastructure is an inherent part of any development, this creates opportunities for three waters infrastructure to go beyond being designed to meet current and future demand, but also contributing to,

¹ *Place Principle: Introduction* (2019) Scottish Government Publication – Factsheet.

where possible, community aspirations. Such examples could include decentralised drinking water and wastewater systems or adopting green infrastructure (parks, street trees, green roofs etc.) over generic but fit for purpose stormwater solutions to development.

Under the reforms, the strong connection between departments within a local authority under the same governance, which supports placemaking, will not exist. To ensure that placemaking occurs with local communities, the Water Services Entities bill will need to require it explicitly. The legislation attempts to achieve this through a series of new structures, but it does not establish how those structures should behave or work with communities or ensure vertical integration of engagement from a community level through to sub-regional and regional planning. The Place Principle (or a New Zealand version of it) would give statutory weight to community expectations, the ability to work with infrastructure providers who have their communities’ interests at heart and provide some assurance that the new Water Entities can be held to account if they fail to do so.

1.3 International examples

A brief review of three international case studies was undertaken to observe how integration between the concept of placemaking and water asset management practice occurs (or doesn't) in planning frameworks / structures overseas. The case studies were chosen based on the fact they resemble, in part, the future direction of the New Zealand planning system. The following table includes some key observations from that review with a more detailed summary of each case study provided in **Appendix 3**.

Case Study	Key Observations
Australia	<ul style="list-style-type: none"> • Utility providers hold an operating licence with the State Government. This licence can specify ‘Community Service Obligations’ (CSOs) that go beyond the provision of core services (such as maintaining assets). • These CSOs may not currently extend to obligations to support local government carrying out planning functions. However, they do put obligations on operators to demonstrate that their pricing submission and various components (e.g. capital projects) have strong stakeholder, customer and community support.
Scotland, United Kingdom	<ul style="list-style-type: none"> • A ‘place principle’ has recently been adopted within the Scottish planning system requiring stakeholders and local authorities to collaborate and involve the community when undertaking statutory planning requirements. • Scottish Water is a public sector body that, under current planning legislation, has a statutory duty to engage in various stages of the development plan process, in addition to commenting on all outline or full planning applications which are referred by a local authority. Working within the Scottish planning systems puts a statutory obligation on stakeholders / local authorities to consider the ‘place principle’. • It is anticipated that ‘placemaking’ will form a ‘principal policy’ in the fourth National Planning Framework (currently underway) further embedding ‘placemaking’ as a statutory requirement in the Scottish planning system.

Ireland, United Kingdom

- As a state-owned entity, Irish Water is expected to comply with the outcomes of the Irish National Planning Framework which includes strong linkages to 'placemaking' and community outcomes.
- A 'place principle' equivalent is absent from the Irish planning system.

These international examples demonstrate that a statutory duty can be imposed on a water entity to engage in placemaking in a number of ways, including contributing to and engaging in planning authority processes at various stages, from strategic planning to contributing to delivery programmes and commenting on planning applications. Taking a collaborative approach between an infrastructure provider and local authority ensures a more proactive and cohesive response to development / placemaking, recognising that places are shaped by the way resources, services and assets are directed and used by the people who live in and invest in them.

2 Placemaking in New Zealand – achieving government outcomes

2.1 Overview

The recently released New Zealand Infrastructure Strategy² (“the Strategy”) notes that transforming New Zealand’s infrastructure requires seizing opportunities that will make the greatest impact. The Strategy identified three opportunities, as follows:

- Leveraging New Zealand’s low emission energy resources
- Planning for generations to come
- Better infrastructure through pricing

Section 6 of the Strategy outlines “what [New Zealand] need[s] to do” to realise these opportunities and the five strategic objectives³ contained within the Strategy. Regarding ‘placemaking’, the Strategy concludes:

- Spatial Planning is an opportunity to rethink how we plan infrastructure and services, using ‘place’ as a framework for integrating and aligning infrastructure service provisions. Achieving it requires infrastructure providers, land use planners and other stakeholders to develop shared frameworks for how cities and regions should grow and change over time.
- Effective spatial planning relies on well-informed, long-term decisions. Addressing ‘place based’ social and economic issues like unemployment, poverty, housing affordability and crime should all be seen as central to spatial planning as the delivery of roads and water. The long-term outlook and strategic nature of spatial planning means everyone involved can commit to a long-term view for the projects and planning initiatives that are needed

The Strategy sets out ‘Core Principles’ that should be adopted by public agencies and decisions makers when they plan and invest in infrastructure to promote good decision-making. Core Principle 7 - *meaningful stakeholder engagement is undertaken at appropriate points throughout project development and delivery* - would require delivery agencies to engage with relevant stakeholders when identifying problems and before arriving at a preferred solution. Depending upon the project, relevant stakeholders could include iwi, users, affected neighbours or other interest groups, private infrastructure owners and operators and, where public funding is required, the general public.

We suggest that the national direction provided through the Infrastructure Strategy provides a platform for arguing that placemaking and a commitment to wellbeings should be front and centre to the delivery of water services and a core component of the Water Services Entity legislation.

2.2 Placemaking in Government Policy Statements

Elements of thinking aligned with the place principle are reflected in existing Government Policy Statements for Housing and Urban Development and Transport, which flow into the strategic documents of delivery agencies such as Kainga Ora and Waka Kotahi. Despite these acknowledgements, a common criticism by local government and communities of these agencies is that they do not consistently consider placemaking and sometimes fail to adequately acknowledge placemaking function in their decisions. The water reforms are set up to follow the same basic path, with a Government Policy Statement for Water which may include similar acknowledgement of place but no statutory requirement or hook to ensure that the WSE’s and the regulator(s) include placemaking in their decisions.

² Rautaki Hanganga o Aotearoa New Zealand Infrastructure Strategy 2022 – 2052. New Zealand Infrastructure Commission.

³ Enabling a net-zero carbon emissions Aotearoa; Supporting towns and regions to flourish; Building attractive and inclusive cities; Moving to a circular economy; and Strengthening resilience to shocks and stresses.

The risk in this approach is that each Ministry and organisation defines place differently and works separately to achieve its own interpretation of placemaking following its own approaches and priorities.

There is value in establishing a common approach to placemaking in New Zealand that applies consistently across all government agencies and other participants in the task of placemaking. The Place Principle set out above is a good start for such a New Zealand principle, although it would need to be adjusted to reflect our unique operating environment created by the Treaty of Waitangi and the Crown's partnership with iwi.

2.3 Urban Growth Partnerships

The Government has actively attempted to improve collaboration between central and local government in a way that aligns with the idea of the place principle through the Urban Growth Partnerships in Hamilton (Futureproof), Tauranga (SmartGrowth), Queenstown and Christchurch. In these partnerships, ministers sit alongside mayors and councillors on joint committees to undertake long term strategic planning work. Those organisations are now evolving to take on a role in tracking collaborative implementation of the actions required to deliver on their strategic plans. They often include quite strong provisions related to placemaking in their documents as policies or principles but do not as yet report on the effectiveness of their placemaking activities. As a minimum the WSEs should be expected to participate actively in these fora.

Because the partnerships function is at a regional scale it is difficult for them to interact at the level of detail required for local placemaking activities, in essence they can identify where growth should occur and what infrastructure might be required to support that growth, but they do not operate at a scale that allows the community to engage in the design of a park or open space or the way in which a particular waste water treatment plant is designed and operated to manage impacts on the local community. This level of local placemaking is essential and is currently delivered by the local authorities working directly with a community where council planners, elected members, community engagement teams, engineers and consultants and community representatives work together under a single governance body to deliver on the place function.

This clear accountability framework that links back to a single governance body will not exist under the proposed reforms. It is replaced by a series of new interlinked structures with as yet uncertain accountability requirements back to local communities. It is unclear where accountability for delivering on local place-based outcomes will lie within the system and how local communities can engage effectively in the WSE decisions that affect them.

3 Interactions between the Water Services Entities bill and other legislation/regulation that governs placemaking

3.1 Overview

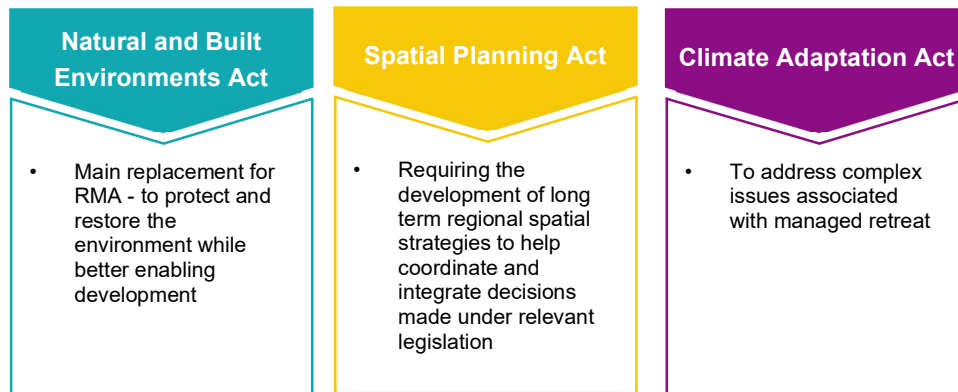
Placemaking to enable positive outcomes for existing and future communities and environments is multi-faceted and requires interactions between multiple pieces of legislation and regulation that relate to different but interconnected systems.

Two key systems that must be well integrated with the functioning of the WSEs are the planning system and the local government funding system

3.2 The Planning System and implications of the Resource Management Reforms

We are currently in a time of significant resource management 'overhaul'. The current Resource Management Act 1991 (RMA) is to be repealed and new legislation is to be enacted that is based on the recommendations of the Resource Management Review Panel. The three proposed acts are the Natural and Built Environment Act (NBA), the Spatial Planning Act (SPA) and the Climate Adaptation Act (CAA).

While the current system is effects based, the new system will be outcome-based and is intended to provide greater ability to achieve better placemaking for New Zealand.



The proposed new system is still under development and there is no certainty on what will be enacted. In addition, there are limited details currently available on some components of the proposed new legislation. Accordingly, we have focussed on the interactions with the existing RMA on the assumption that interactions with three waters activities will not be reduced moving forward. We do, however, provide some thinking based on what we know now about the proposed Acts under the new system, particularly the SPA.

National direction in the planning system

There are multiple pieces of national direction under the RMA that reference infrastructure (including three waters infrastructure) that are, in some way, tied to placemaking and the role of the WSE. The table below provides a summary of this national direction. The NPS on Urban Development Capacity (NPS UD) is of particular note, as shown in Diagram 1, as it requires significant contributions from those responsible for managing water infrastructure on behalf of councils already. Appendix 1 provides further detail on the NPS UD as a key national direction instrument for linking placemaking and three waters infrastructure, including the roles of Housing and Business Capacity Assessments (HBAs) and Future Development Strategies (FDSs).

Table 1: National Direction that references infrastructure (including three waters infrastructure)

Instrument	Reference to Infrastructure
National Policy Statement on Urban Development Capacity 2020 (NPS UD)	Quantifying existing and future demand and managing the provision and capacity of development infrastructure (including three waters infrastructure) to achieve well-functioning urban environments is central to the NPS UD.
New Zealand Coastal Policy Statement 2010 (NZCPS)	Several policies (1, 6, 10, 25 and 27) directly reference infrastructure in the context of existing and future function in coastal environments (e.g., managing community outcomes, population growth, hazard risk, protection, and reclamation).
National Policy Statement for Freshwater Management 2020 (NPS FM)	Section 3.22 refers to the management of specified infrastructure in natural inland wetlands.
Draft National Policy Statement for Indigenous Biodiversity (Draft NPS IB)	Includes guidance for managing adverse effects on SNAs for development in association with nationally significant infrastructure and development in association with on-site infrastructure.
National Policy Statement for Highly Productive Land (exposure draft) (NPS HPL)	<p>The valuing highly productive land discussion document released in October 2019 includes provision for nationally significant infrastructure on highly productive land where it can largely co-exist with using highly productive land for primary production, there are significant public benefits from that infrastructure, and there is a functional need to be in that environment.</p> <p>In addition, the criteria to identify highly productive land for local authorities is proposed to include supporting infrastructure.</p>

NPS UD requirements

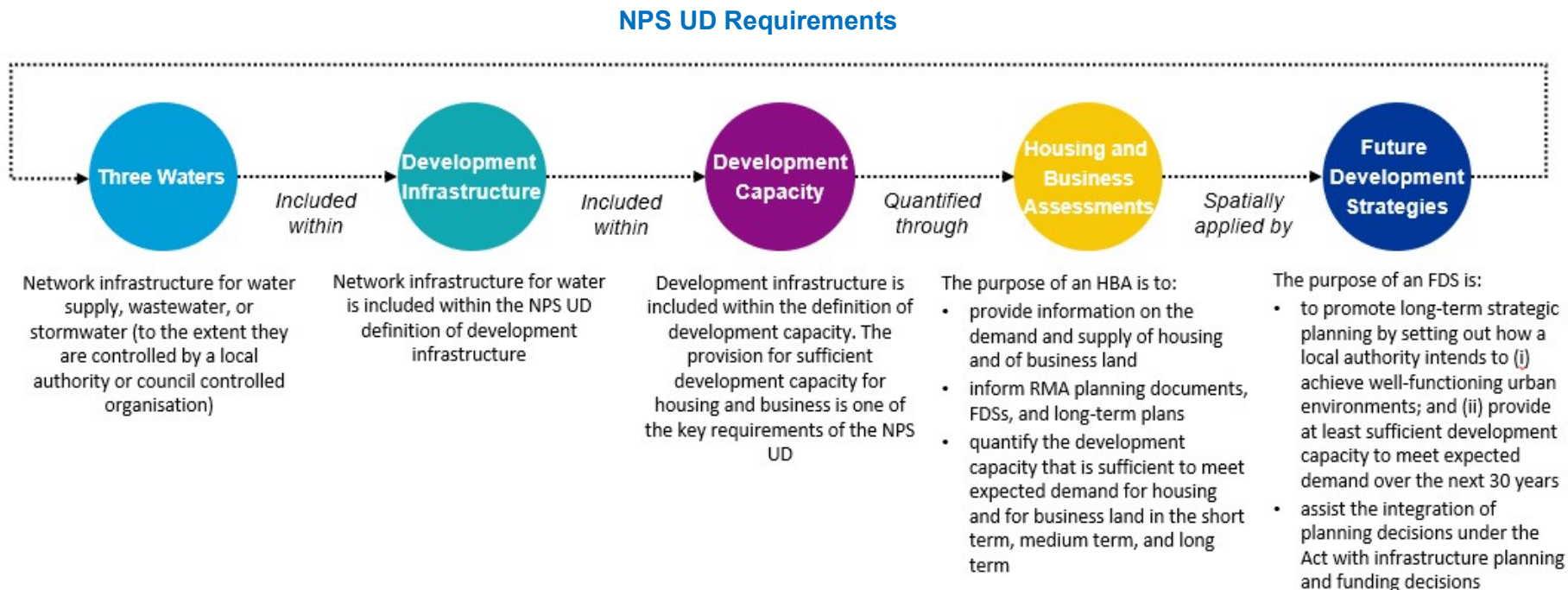


Diagram 1: Summary of interaction between NPS UD and three waters infrastructure

Potential future resource management system

Information released to date, including the exposure draft of the NBA Bill and subsequent Select Committee Report, indicates that the new outcomes-based approach will have:

- a significant focus on the ‘four wellbeing (social, economic, environmental, and cultural) and placemaking; and
- a greater focus on implementation of regional strategies and spatial plans, with government funding directed towards that implementation.

Of the three new legislative acts being proposed, it is envisaged that the NBA and the SPA will impact most directly on how placemaking is delivered and the level of input communities and other partners and stakeholders can have on decision-making in the future.

SPATIAL PLANNING ACT (SPA)

Provides a framework to enable local authorities to engage and plan more effectively for their future prosperity. It means they can agree long-term objectives for urban growth and land use change while responding to climate change, respecting the environment and Māori values, and directing investment where it is most needed.

At the heart of the SPA lies the mandatory requirement for Regional Spatial Strategies.

REGIONAL SPATIAL STRATEGIES (RSS)

- The outcome of strategic spatial planning, an essential element to successfully delivering the four wellbeing (cultural, social, environmental, economic).
- According to the current reform model, representative of central government, local government, and mana whenua will collaborate to develop a series of RSSs for New Zealand.
- RSSs will inform and guide combined plans that are prepared at a regional scale and replace existing local level District Plans.

It is envisaged that at least the existing level of statutory consideration and requirements in the RMA through the proposed National Planning Framework including the current NPS UD, HBA and FDS requirements for three waters infrastructure capacity and engagement with the WSEs will be provided within the SPA, primarily through RSS's.

What will be required of the Water Services Entities Bill

Current planning systems that have critical implications for three waters include clear and intentional statutory requirements to tie strategy and plan making, decision making and outcomes to three waters for, at a minimum, high and medium growth urban environments. In this way three waters capacity, and information and feedback provided by three waters providers, is entrenched in spatial and strategic decisions.

It will be important to provide at least an equivalent statutory requirement to provide for placemaking outcomes and engage with other planning systems in the Water Services Entities Bill.

Requirements on WSEs for both high and medium-growth urban environments and other reticulated environments should be considered to enable placemaking outcomes in all areas to provide certainty for both urban and rural councils.

Other statutory requirements can be leveraged to reinforce placemaking outcomes, such as the NPS UD, which provides a non-exhaustive list of features of well-functioning urban environments for councils to use as an outcome's framework for planning and decision-making. The National Policy Framework under the new resource management system will further reinforce placemaking principles.

It is necessary to ensure that WSE duties are aligned with those of other systems and statutory provision is made for WSEs to engage in placemaking processes. This is particularly important for the proposed new system because:

- The SPA regime will guide the spatial arrangement of growth, which will have significant implications for three waters network capacity, funding, and form.
- The NBA regime will be critical to the success of three waters reform, as the new WSEs will immediately be among the largest 'users' of the NBA nation-wide. The Government's aims for three waters could be hindered, potentially to a significant extent, if the WSEs cannot efficiently obtain consents under the NBA.

3.3 The Local Government Act - funding the system

The Local Government Act establishes how councils will plan for fund and deliver water infrastructure through Long Term Plans and 30-year infrastructure strategies. This structure provides a clear link between funding decisions for infrastructure and community outcomes.

In its first report, the Future for Local Government Review panel emphasised the importance and function of local government in placemaking, noting the following:

“Local authorities create the spaces in which people live their lives. They shape the conditions in which people live, work, relax, play, and do business, and their services determine whether local environments are healthy, safe, easy to navigate, and attractive; and whether they create conditions in which people and communities can thrive. Local authorities also represent their communities and reflect local voices. Because of their place-based focus, they can ‘see across’ issues that affect their communities and locations”⁵.

While not explicit in the Local Government Act 2002, the role of local government in placemaking is well recognised and reflected through its **purpose 10(b)** - *to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.*

This is further emphasised in the core decision-making **principles (14 c)** which stipulate that when deciding, a local authority should take account of:

- (i) the diversity of the community, and the community's interests, within its district or region; and
- (ii) the interests of future as well as current communities; and
- (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:

In addition, consequences on the wellbeings are included in the definition of significance as are financial management obligations which require the overall impact of any funding demands on the community to take into account the future social, economic, environmental and culture wellbeing of the community.

The consequence of this wording is that it provides elected members with a broad mandate to determine in each community whether an activity fits within this purpose. This mandate extends to the provision of any infrastructure which may have an impact on the wellbeing of their communities.

Councils implement these requirements primarily through their Long-Term Plans and 30 Year Infrastructure Strategies where the funding and sequencing of activity is determined.

Because of the strong interdependencies that will remain between the local activities of the WSE and the placemaking activity of the local authority, integration between work programmes (and funding and financing) will be of critical importance in terms of delivering broader outcomes for communities. When the WSEs are planning their work, they need to work with councils (and other stakeholders) to ensure placemaking happens, and funding and project timing aligns.

There is a risk that in changing the system to improve infrastructure management and investments that this accountability link and alignment across interdependent work streams will be lost. Especially if the investment decisions made by the WSEs and planning decisions made by local authorities (and in the long term, regional joint committees) are not properly synchronised.

Depending on the content of the proposed GPS for Water, this risk may be further exacerbated if the GPS is expected to influence investment decisions in the way that the GPS for transport drives transport investment. There are already significant frustrations between Waka Kotahi and local government in the transport investment system due to the lack of alignment in timeframes between central and local government decision making processes under the Land Transport Management Act and the Local Government Act. The GPS for Transport is often published or amended just as councils are finalising consultation on their ten-year Long-Term Plans, and the Regional Land Transport Plans and National Land Transport Plans are adopted in parallel with the process for adopting Long Term Plans due largely to the impact of electoral cycles. Any new planning and investment decision making system should be designed to avoid this scenario for three waters.

4 How does the Water Services Entities Bill provide for placemaking as currently drafted?

The Bill as currently drafted, while not explicit in its objectives or obligations, does provide opportunities for strengthening the WSEs' role in achieving government and community outcomes and contributing to placemaking.

Drawing from the commentary above, there are several themes emerging from our analysis of the Bill which could be strengthened in the legislation. These are:

Representation/ Governance

- Providing a formal structure in the Bill to create equity and representation for smaller, rural communities particularly those with high deprivation.
- Providing for the right mix of skills, expertise and community representation on the various groups comprising the governance and advisory framework.

Accountability, monitoring and reporting

- Improving mechanisms for accountability and reporting to local councils and their communities.
- Providing for implementation arrangements to articulate how entities will contribute to placemaking (this could include shared funding opportunities).
- Requiring entities to *engage in* and *support* or join in council planning and consenting processes (to create efficiencies, not duplication or confusion).

Alignment to wellbeings and community outcomes (central government direction)

- Providing for an outcomes-based approach that directs the Regional Representation Groups and WSEs to place significant focus on the 'four wellbeings' (social, economic, environmental and cultural). This is central to the proposed resource management reforms, aligns with the direction signalled in the New Zealand Infrastructure Strategy and is consistent with the Local Government Act.
- Introducing a "Place Principle" into the Bill to provide certainty and consistency of approach.
- Aligning the Bill's objective "*support housing and urban development*" to the NPS UD (and HBAs and FDSs) by requiring WSEs to support the planning process and act in accordance with its outcomes (e.g. managing the provision of development infrastructure and additional infrastructure). This will likely be relevant for the SPA and RSSs under the proposed resource management system as well.

Alignment with funding and financing cycles

- Aligning the GPS for Water with the LTP cycle, not the government investment cycle (to make sure the investment and placemaking conversations are happening in the right cycle for local government).

Specific provisions and possible submissions to address these themes are provided at **Appendix 2**.

1

Appendix 1: National Policy Statement for Urban Development (NPS UD)
interlinkage with Three Waters Infrastructure

National Policy Statement on Urban Development (NPS UD)

The NPS UD came into force in August 2020 and is one of the key pieces of national direction under the RMA for placemaking. It is about ensuring New Zealand's towns and cities are well-functioning urban environments that meet the changing needs of our diverse communities. It removes overly restrictive barriers to development to allow growth 'up' and 'out' in locations that have good access to existing services, public transport networks and infrastructure.

Diagram 1 provides a summary of interaction between NPS UD and all three of the waters' infrastructures, as detailed in the following paragraphs.

All three waters are considered equally, and the primary infrastructure-related requirements on three waters infrastructure within the NPS UD (as discussed below) are limited to Tier 1 and 2 environments that represent high and medium growth urban areas. Other urban areas (Tier 3) may, but are not required to, satisfy infrastructure sufficiency investigations under the NPS UD. In many instances, however, councils in Tier 3 urban environments are seeking to satisfy this criterion, where possible or practicable, to enable quality outcomes that are deliverable.

Interaction between NPS UD and Three Waters Infrastructure

The NPS UD splits infrastructure between development infrastructure and associated infrastructures. Network infrastructure for water supply, wastewater, or stormwater (to the extent they are controlled by a local authority or council-controlled organisation) is included within the definition of development infrastructure (Section 1.4).

Development infrastructure plays an important role in the NPS UD because of its inclusion within the definition for development capacity and this is the 'hook'. This is because ensuring the provision of sufficient development capacity over the short, medium, and long term is one of the key requirements of the NPS UD on high and medium-growth urban environments (Tier 1 and 2) – with the ability for other urban environments and Councils (Tier 3) to follow the same processes.

Within the NPS UD (Section 1.4) development capacity means the capacity of land to be developed for housing or for business use based on:

- a) the zoning, objectives, policies, rules, and overlays that apply in the relevant proposed and operative RMA planning documents; and
- b) the provision of adequate development infrastructure to support the development of land for housing or business use

The provision of adequate development infrastructure is expanded on further (Sections 3.2 and 3.3) where it is confirmed that in order to be sufficient to meet expected demand, the development capacity must be infrastructure ready.

Development capacity is defined as **infrastructure-ready** (section 3.4) if:

- in relation to the short term, there is adequate existing development infrastructure to support the development of the land
- in relation to the medium term, either paragraph (a) applies, or funding for adequate development infrastructure to support development of the land is identified in a long-term plan
- in relation to the long term, either paragraph (b) applies, or the development infrastructure to support the development capacity is identified in the local authority's infrastructure strategy (as required as part of its long-term plan).

Of note, the NPS UD confirms (section 3.7) that when there is insufficient development capacity (potentially due to insufficient development infrastructure) then one of the requirements is to immediately notify the Minister for the Environment.

Housing and Business Assessments (HBAs)

For high growth councils, the development of HBAs to inform Long Term Plans and funding decisions are required under the NPS UD (Section 3.19). HBAs are about quantifying demand, supply, and capacity. The purpose is threefold to:

- a) Provide information on the demand and supply of housing and of business land
- b) Inform RMA planning documents, FDSs, and long-term plans; and
- c) Quantify the development capacity that is sufficient to meet expected demand for housing and for business land in the short term, medium term, and long term.

Because (c) above includes network infrastructure for water supply, wastewater, or stormwater (see **Diagram 1** above for linkage) there are significant requirements relating to the provision of sufficient three waters infrastructure capacity with HBAs. As a statutory 'hook' to other systems, the NPS UD (Section 3.21) requires that in preparing an HBA, local authorities must seek information and comment from providers of development infrastructure, including three waters infrastructure. This 'hook' is important to ensure that accurate and correct information relating to development capacity is obtained from the parties that hold the relevant information.

Future Development Strategies (FDS)

As for HBAs, high growth councils are required to develop FDS's under the NPS UD (Section 3.13). FDS's are akin to spatial plans and are about identifying where and how growth will be accommodated over time. The placemaking purpose of FDS's is to:

- a) to promote long term strategic planning by setting out how a local authority intends to:
 - (i) achieve well-functioning urban environments in its existing and future urban areas
 - (ii) provide at least sufficient development capacity over the next 30 years to meet expected demand.
- b) and assist the integration of planning decisions under the Act with infrastructure planning and funding decisions.

The NPS US (Sections 3.14 and 3.15) require FDS's to be informed by the most recent applicable HBA, the relevant long-term plan and its infrastructure strategy, and feedback received through the consultation and engagement with:

- other local authorities with whom there are significant connections relating to infrastructure.
- relevant providers of nationally significant infrastructure.
- the development sector (to identify significant future development opportunities and infrastructure requirements).

The above requirements on what an FDS must be informed by are the statutory 'hook' between resource management and other systems, including network infrastructure for water supply, wastewater, or stormwater.

2

Appendix 2: Specific provisions where possible submissions could be made

Provision	Language conducive to adding placemaking considerations (highlighted)	Possible submission theme to strengthen placemaking provisions
11 Objectives	<ul style="list-style-type: none"> • deliver water services and related infrastructure in an efficient and financially sustainable manner: • protect and promote public health and the environment: • support and enable housing and urban development: • operate in accordance with best commercial and business practices: • act in the best interests of present and future consumers and communities: • deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards. 	<p>Add definition of resilient or sustainable Add definition of communities</p> <p>Add outcomes-based objectives Alignment to NPS & FDS “well-functioning urban and <i>rural</i> environments” “Contributes to a sustainable urban/rural form which supports wellbeing”</p>
12 Operating Principles	<ul style="list-style-type: none"> • developing and sharing capability and technical expertise with other water services entities and across the water services sector: • being innovative in the design and delivery of water services and infrastructure: • being open and transparent, including in relation to calculation and setting of prices, determining levels of service delivery to consumers and communities, and reporting on performance: • partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can give effect to Te Mana o te Wai, and understand, support, and enable the exercise of Mātauranga, tikanga, and Kaitiakitanga: • giving effect to Treaty settlement obligations, to the extent that the obligations apply to the duties and functions of an entity: • partnering and engaging early and meaningfully with territorial authorities and their communities: • co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector. 	<p>Add an operating principle to reflect the objectives</p> <p><i>contributing to community well-being</i> through placemaking</p>
32 Method of appointing territorial authority	1) The territorial authority owners of a water services entity must appoint territorial authority representatives to the regional representative group of the	Providing a formal structure in the Bill to create equity and representation for smaller, rural communities, particularly those with high deprivation.

representatives to regional representative group	<p>water services entity in accordance with section 27(2) and (3) and the constitution.</p> <p>(2) The territorial authority owners must appoint only persons who are—</p> <p>(a) elected members or chief executives of a territorial authority owner of the water services entity; or</p> <p>(b) senior managers of a territorial authority owner that, in the collective opinion of the territorial authority owners, have the appropriate knowledge, skills, and experience to assist the regional representative group in performing its role</p>	Providing for the right mix of skills, expertise and community representation on the various entities comprising the governance and advisory framework What does this look like? Should we prescribe a range of skills (e.g. policy, strategic, community development as well as technical).
<p>45 Regional Advisory Panels</p> <p>46 Role of Regional Advisory Panels</p> <p>47 Collective duty of Regional Advisory Panels</p>	<p>1) The constitution of a water services entity may establish 1 or more regional advisory panels.</p> <p>(2) Each regional advisory panel must include an equal number of:</p> <p>(a) territorial authority panel members; and</p> <p>(b) mana whenua panel members.</p> <p>The role of a regional advisory panel is to provide advice to a regional representative group about that group’s performance or exercise of its duties, functions, or powers (see section 28) in respect of, or otherwise affecting, a particular geographic area:</p> <p>(a) in the service area of the water services entity; and</p> <p>(b) for which the panel is responsible under the constitution (see section 91(f)(ii)).</p> <p>A regional advisory panel for a regional representative group of a water services entity must perform or exercise its duties, functions, and powers under legislation:</p> <p>(a) Wholly or mostly for the benefit of all communities in the entity’s service area; and</p> <p>(b) Taking into account the diversity of the communities, and the diversity of the communities’ interests, in that area; and</p> <p>(c) Taking into account the interests of future as well as current communities in that area.</p>	Providing a formal structure in the Bill to create equity and representation for smaller, rural communities, particularly those with high deprivation.

<p>57 Membership of board</p>	<p>(1) The board of a water services entity consists of no fewer than 6, and no more than 10, members.</p> <p>(2) The board appointment committee must appoint board members who, collectively, have knowledge of, and experience and expertise in relation to:</p> <ul style="list-style-type: none"> (a) Performance monitoring and governance; and (b) Network infrastructure industries; and (c) The principles of te Tiriti o Waitangi/ the Treaty of Waitangi; and (d) Perspectives of mana whenua, Mātauranga, tikanga, and Te Ao Māori. <p>(1) A board appointment committee must appoint board members under section 62 in accordance with the criteria for board members and the process for appointment under this Act (including the appointment and remuneration policy (if any) approved by the regional representative group under section 40).</p> <p>(2) The board appointment committee may only appoint a person who, in the committee's opinion, has the appropriate knowledge, skills, and experience to assist the water services entity to achieve its objectives and perform its functions.</p> <p>(3) In making an appointment, the board appointment committee must take into account the desirability of promoting diversity in the membership of the board.</p>	<p>Providing for the right mix of skills, expertise and community representation on the various entities comprising the governance and advisory framework</p> <p>What does this look like? Should we prescribe a range of skills (e.g. policy, strategic, community development as well as technical).</p>
<p>63 Criteria for appointment</p>	<p>(1) A board appointment committee must appoint board members under section 62 in accordance with the criteria for board members and the process for appointment under this Act (including the appointment and remuneration policy (if any) approved by the regional representative group under section 40).</p> <p>(2) The board appointment committee may only appoint a person who, in the committee's opinion, has the appropriate knowledge, skills, and experience to assist the water services entity to achieve its objectives and perform its functions.</p> <p>(3) In making an appointment, the board appointment committee must take into account the desirability of promoting diversity in the membership of the board.</p>	

<p>92 Constitution may contain other matters not inconsistent with Act</p>	<p>(1) The constitution of a water services entity may provide for any other matters that are not inconsistent with this Act or any other legislation.</p> <p>(2) In particular, the constitution may provide for:</p> <p>(a) collective or individual experience, expertise, qualifications, or skills required of a regional representative group, its committees, or its regional representatives (in addition to those required by section 38(2) for members of a board appointment committee):</p> <p>(b) collective or individual experience, expertise, qualifications, or skills required of any regional advisory panel, its committees, or its members:</p> <p>(c) collective experience, qualifications, skills or expertise required of the board (in addition to those required by section 57(2) for board members):</p> <p>(d) additional reporting and monitoring requirements imposed on the board by the regional representative group, over and above requirements in the statement of strategic and performance expectations, statement of intent, annual report, asset management plan, funding and pricing plan, and infrastructure strategy:</p> <p>(e) reviews, done by the regional representative group, of the board's performance, including the intervals between those reviews.</p> <p>(3) Subsection (2) does not limit subsection (1).</p>	<p>Providing for the right mix of skills, expertise and community representation on the various entities comprising the governance and advisory framework What does this look like? Should we prescribe a range of skills (e.g. policy, strategic, community development as well as technical).</p> <p>Requirement for reporting and monitoring on placemaking and wellbeing outcomes</p>
<p>129 -134 GPS</p>	<p><i>Explanatory note: The Bill enables the Minister to make a government policy statement setting out the Government's overall direction and priorities for water services, to inform and guide agencies involved in, and the activities necessary and desirable for, water services. A water services entity must give effect to the statement when performing its functions.</i></p>	<p>Alignment and timing for the GPS for water to be aligned with the LTP cycle not the government investment cycle (to make sure the investment and placemaking conversations are happening in the right cycle for local government).</p>
<p>130 Purpose and content of Government policy statement</p>	<p>(1) The purpose of a government policy statement is to:</p> <p>(a) state the Government's overall direction and priorities for water services; and</p> <p>(b) inform and guide agencies involved in, and the activities necessary or desirable for, water services.</p>	<p>The GPS provides the hook to include placemaking and wellbeing outcomes into WSE objectives, principles, reporting and monitoring requirements</p> <p>Ideally all Crown agencies would be bound to a consistent place principle not one written by different ministries as we currently have.</p>

	<p>(2) A Government policy statement must include the following:</p> <ul style="list-style-type: none"> (a) the Government's overall direction for water services, which must include a multi decade outlook: (b) the Government's priorities for water services: (c) how the Government expects other agencies to support that direction and those priorities: (d) the Government's expectations in relation to Māori interests, partnering with mana whenua, and giving effect to Te Mana o te Wai: (e) how the Government expects water services entities to take into account the wellbeing of communities. <p>(3) A Government policy statement may also include:</p> <ul style="list-style-type: none"> (a) the Government's expectations in relation to the contribution of water services entities to the outcomes sought by the Government in the following areas: <ul style="list-style-type: none"> (i) public health: (ii) the environment: (iii) housing and urban development: (iv) climate change mitigation and adaptation: (v) water security: (vi) resilience to natural hazards: (b) any other matters the Minister considers relevant. 	
<p>135 Statement of strategic and performance expectations</p>	<p>The regional representative group must issue a statement of strategic and performance expectations, covering a 3-year period. The purpose of a statement of strategic and performance expectations is to:</p> <ul style="list-style-type: none"> • State the regional representative group's objectives and priorities for the entity: • Inform and guide the decisions of the board. <p>The regional representative group must annually review its statement of strategic and performance expectations and, following a review, issue a new statement if it chooses.</p>	

	The board of a water services entity must give effect to the statement of strategic and performance expectations.	
136 Purpose and content of statement of strategic and performance expectations	<p>(1) The purpose of a statement of strategic and performance expectations for a water services entity is to:</p> <p>(a) state the regional representative group's objectives and priorities for water services in the entity's service area; and</p> <p>(b) inform and guide the decisions and actions of the board of the entity.</p> <p>(2) A statement of strategic and performance expectations for a water services entity must:</p> <p>(a) include the following matters:</p> <p>(i) the regional representative group's expectations and strategic priorities for the entity;</p> <p>(ii) the outcomes the group expects to be achieved through the delivery of water services by the entity;</p> <p>(iii) how the group expects the water services entity to meet its objectives, perform or exercise its duties, functions and powers, and comply with its operating principles;</p> <p>(iv) how the group expects the water services entity to give effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to the entity's duties, functions, and powers; and</p> <p>(b) Require the entity to give effect to the objective under section 11(a) of delivering water services and related infrastructure in an efficient and financially sustainable manner.</p> <p>(3) A matter under subsection (2)(a) must not be inconsistent with the direction and priorities for water services in the Government policy statement (if any) issued under section 129.</p>	<p>Pull through wellbeing and placemaking objectives</p> <p>Providing for implementation arrangements to articulate how entities will contribute to placemaking (this could include shared funding opportunities).</p> <p>Provisions that require entities to engage in and support council planning and consenting processes (create efficiencies, not duplication or confusion).</p>
203 Consumer forum	<p>(1) The chief executive of a water services entity must establish a consumer forum.</p> <p>(2) The purpose of a consumer forum is to:</p> <p>(a) Assist with effective and meaningful consumer and community engagement; and</p> <p>(b) Gather and compile consumer views; and</p>	<p>Add definition of consumer and community</p> <p>Is this enough to ensure smaller, rural councils, high deprivation will be represented, and voices heard?</p>

	<p>(c) Assist the water services entity to understand consumer needs, expectations, and service requirements; and</p> <p>(d) Reflect and represent the interests and diversity of consumers across the entity's region.</p> <p>(3) A consumer forum may be established under this section:</p> <ul style="list-style-type: none"> (a) for the whole or part of a service area; and (b) in relation to all, or a particular class of, consumers. <p>(4) The chief executive of the entity must provide a guidance document to each consumer forum established under this section that provides for the composition and procedures of the forum, including:</p> <ul style="list-style-type: none"> (a) the intervals between meetings; and (b) the number of members that may be on the forum; and (c) the method of selecting forum members; and (d) any additional purposes to those set out in subsection (2); and (e) the roles and responsibilities of forum members; and (f) the term of membership of the forum; and (g) any other matters not inconsistent with the purpose of a consumer forum under this section. <p>(5) The chief executive must ensure that each consumer forum established has a guidance document.</p>	
<p>204 Consumer engagement stocktake</p>	<p>(1) The chief executive of a water services entity must prepare a consumer engagement stocktake annually.</p> <p>(2) The purpose of a consumer engagement stocktake is to:</p> <ul style="list-style-type: none"> (a) capture consumer and community feedback on, and satisfaction with, how the entity is performing; and (b) set out how the water services entity will respond to consumer and community needs and address consumer and community concerns. <p>(3) The chief executive must make the consumer engagement stocktake publicly available as soon as practicable after it is issued by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible.</p>	<p>Are these adequate reporting and accountability mechanisms?</p>

205 Principles of engagement	<p>In performing its functions under sections 147 to 155 and 204, a water services entity must be guided and informed by the following principles:</p> <ul style="list-style-type: none"> (a) the entity's communication to consumers should be clear and appropriate and recognise the different communication needs of consumers: (b) the entity should be openly available for consumer feedback and seek a diversity of consumer voices: (c) the entity should clearly identify and explain the role of consumers in the engagement process: (d) the entity should consider the changing needs of consumers over time, and ensure that engagement will be effective in the future: (e) the entity should prioritise the importance of consumer issues to ensure that the entity is engaging with issues that are important to its consumers 	
Accountability Frameworks	<p>Currently the Bill has no specific provisions that establish reporting models with consequences for the water entities should they fail to achieve them.</p>	<p>Consider establishing via the economic regulator or via contractual and funding arrangements between the local authorities and the water entities some way to hold each other to account to ensure that placemaking activities agreed with communities are delivered to an agreed standard at an agreed cost and timeframe.</p>

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Appendix 3: International Case Studies

Introduction

A brief review of three international case studies was undertaken to observe how integration between the concept of 'placemaking' and water asset management practice occurs (or doesn't) in planning frameworks / structures that resemble New Zealand. The key observations have been included in a table contained in section 2.0 of the report. The following sections provide a more detailed summary of each case study.

Australia

Typically, utility providers have an operating licence with the State Government. This licence can specify Community Service Obligations (CSOs), which are obligations that go beyond the provision of core services such as maintaining recreation facilities. While we are not aware that this extends to obligations to support local government, it does include an obligation to demonstrate that their pricing submission (and the various components, e.g., capital projects) have strong stakeholder, customer, and community support. Moreover, the economic regulator is increasingly focused on ensuring that there is community, customer and stakeholder support of projects and initiatives particularly as utilities move more into liveability dimensions.

As an example, the Melbourne Water Board (MWB) approved their energy contracts to be 100% renewable. At that time ESC (the Victorian economic regulator) declined to include the additional cost of this in prices to customers since MWB had failed to demonstrate that they had customer support and had properly engaged. Essentially meaning reduced dividends to the shareholder (Victoria Government).

The economic regulation reforms in New South Wales (IPART) are also of note. Where utilities can demonstrate a high degree of stakeholder and customer engagement the regulatory effort will be adjusted. Many of the utilities are factoring in liveability benefits and other externalities into business cases and this inherently means working more closely with local government and other agencies. Ultimately, the economic regulation imperatives drive utilities to ensure programs and projects are strongly aligned with regional planning, community, and customer benefit. This includes working with local and state government agencies. The focus on more sustainable cities / circular economy also means that water utilities and councils are increasing working together on matters like waste management (e.g. Yarra Valley Food waste to energy, Yarra Valley Water, yvw.com.au).

Scotland, United Kingdom

The Scottish Government and Convention of Scottish local authorities agreed to adopt the 'Place Principle' to help overcome organisational and sectoral boundaries, to encourage better collaboration and community involvement and improve the impact of combined energy, resources, and investment. It is anticipated this will form a principal policy in the fourth National Planning Framework (currently underway) further embedding 'placemaking' as a statutory requirement in the Scottish planning system.

Turning to the role of three waters in placemaking, Scottish Water is a public sector body that is responsible for providing water and wastewater services to household customers and wholesale Licensed Providers. Under the current planning legislation, Scottish Water has a statutory duty to engage in the development plan process at various stages, such as:

- Contributing to the writing of the Main Issues Report (the forerunner document to the Local Development Plan. It identifies key development land use issues which the Local Development Plan will seek to address and states what the planning authority considers the preferred options are for tackling these issues).

- Contributing to the writing of the proposed Local Development Plan (assisting the planning authority in areas of concern / significant to the agency).
- Contributing to the preparation of the Action Programme (which supports the delivery of the Local Development Plan. It outlines the list of actions required to deliver the policies, proposals, and land allocations of the Local Development Plan, identifies who is responsible for each action, and indicates the broad timescale for implementation).

In addition to the statutory duties listed above, Scottish Water is required to comment on all outline or full planning applications which are referred by a local authority (noting the granting of planning permission by a local authority does not secure the provision of water and wastewater services, nor guarantee that there is sufficient network capacity available for new connections). This collaborative approach, reinforced in statutory frameworks, between an infrastructure provider and local authority is an example of ensuring a more proactive and cohesive response to development, with regard to principle of placemaking.

Ireland, United Kingdom

Ireland is another country similarly confronted with water challenges with its two largest cities (Dublin and Cork) relying on 19th century infrastructure including combined sewer networks that regularly overflow during periods of heavy rainfall. In some areas of Ireland, drinking water quality does not meet European and Irish standards and there is up to 50% of water lost through leakage in aging and inadequate infrastructure. Similar to New Zealand, Ireland points the finger to lack of planned asset management and historic underinvestment in water services.

In July 2013, the Irish Government incorporated 'Irish Water' as a company under the Water Services Act 2013 to be responsible for the operation of all public and wastewater services including management, maintenance, investment and planning, capital projects and customer care and billing services previously managed by 31 different local authorities. The intent is to safeguard Ireland's water, improve water conservation, and ensure long-term sustainable water services. Initially a subsidiary company of Ervia⁴, the recently enacted Water Services Bill 2021 provides for amendments to the Water Services Act 2013 so as to facilitate the separation of Irish Water from the Ervia Group, noting the ultimate shareholder of Irish Water is the Irish Government and, on that basis, Irish Water is considered a state-owned entity regardless of Ervia Group shareholdings.

As a state-owned entity, Irish Water is expected to comply with the outcomes of the Irish National Planning Framework which, similar to Scotland, include strong linkages to placemaking and community outcomes. However, unlike the Scottish Planning system, a 'place principle' equivalent is absent from the Irish planning system.

⁴ A commercial semi-state company delivering water and gas infrastructure and services for Ireland, providing modern utility services to support economic development.

Appendix 3: Government policy bottom lines and reform objectives

Part 1 – Government’s Policy Bottom Lines

- 1.1 **Treaty partnership** – that the governance framework for each WSE is set up to give effect to the Crown’s Treaty obligations by giving effect to the principle of partnership with iwi/Māori across the rohe/takiwā served by that WSE, including by:
 - (a) ensuring that mana whenua from within the geographic area covered by a WSE have joint oversight of the WSE together with the relevant local authorities,
 - (b) integration within a wider system of iwi/Māori rights and interests in water,
 - (c) reflecting a Te Ao Māori perspective,
 - (d) supporting clear accountability of the WSE to iwi/Māori,
 - (e) improving outcomes for iwi/Māori at a local level (e.g. by addressing inequities in access to quality three waters service delivery); and
 - (f) enabling iwi/Māori to have rights and mechanisms of influence over the WSE that correspond to those provided to the local authorities served by the WSE.
- 1.2 **Good governance** – that the board directly governing a WSE:
 - (a) has a clear role and responsibilities;
 - (b) is comprised of appropriately qualified and experienced members who are free of conflict of interest and selected through a process that is meritocratic and competency based;
 - (c) has board members that individually and collectively have appropriate duties and obligations to act in the best interests of the WSE and the communities served by that WSE, consistent with the statutory purpose and objectives given to the WSE; and
 - (d) has board members that collectively have competence relating to the Treaty of Waitangi, mātauranga Māori, tikanga Māori, and Te Ao Māori.
- 1.3 **Public ownership** – that each WSE remains in public ownership, including local authority and/or community ownership, and with strong protections in place that prevent privatisation (of the WSE itself and the essential three waters service delivery assets they own).
- 1.4 **Balance sheet separation** – that the WSE governance framework, when taken together with the broader measures to implement the three waters reform programme, will provide the WSE with the financial capacity (including through the ability to borrow) to meet the future three waters service delivery investment needs (including any existing infrastructure deficit) of the region it serves without:
 - (a) resulting in the debt of the WSE consolidating on the balance sheets of the relevant local authorities; or
 - (b) requiring additional financial support from the Crown (beyond what the Crown has already agreed to provide; that being a liquidity facility on similar terms to

those available to the Local Government Funding Agency, and the 60/40 risk-sharing arrangement in the event of a natural disaster) or local authorities.

Part 2 – Reform Objectives shared by Central and Local Government

The principal shared objectives are:

- (a) that there are safeguards (including legislative protection) against privatisation and mechanisms that provide for continued public ownership;
- (b) significantly improving the safety and quality of drinking water services, and the environmental performance of drinking water, wastewater and stormwater systems (which are crucial to good public health and wellbeing, and achieving good environmental outcomes);
- (c) ensuring all New Zealanders have equitable access to affordable three waters services and that the WSEs will listen, and take account of, local community and consumer voices;
- (d) improving the coordination of resources and planning, and unlocking strategic opportunities to consider New Zealand’s infrastructure and environmental needs at a larger scale;
- (e) ensuring the overall integration and coherence of the wider regulatory and institutional settings (including the economic regulation of water services and resource management and planning reforms) in which the local government sector and their communities must operate;
- (f) increasing the resilience of three waters service provision to both short-and long-term risks and events, particularly climate change and natural hazards;
- (g) moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and local authorities;
- (h) improving transparency about, and accountability for, the planning, delivery and costs of three waters services, including the ability to benchmark the performance of the new WSEs;
- (i) undertaking the reform in a manner that enables local government to continue delivering (in a sustainable manner) on its place-making role and broader ‘wellbeing mandates’ as set out in the Local Government Act 2002;
- (j) ensuring that the new WSEs are set up for future success, including preserving their ability to borrow to accelerate investment and meet future investment demands.