Christchurch City Council Response to Government's Water reform proposal

Christchurch City Council

September 2021

Christchurch City Council

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1 Feedback on the process

Responding to the three waters proposal has been challenging, even for a council with the resources Christchurch City Council has.

There are some key issues that need to be addressed before councils can respond with confidence.

1. Government have presented a strong case for increased investment in the delivery of drinking water and wastewater services across New Zealand that is not disputed by Christchurch City Council. However, there has been little visibility of and no ability to feed back on the short-list options for service delivery to achieve such a change; central government has only progressed its preferred option. There are alternative options that should be given the same level of consideration and an opportunity provided for local authorities to evaluate these alongside the Government's preferred approach.
2. Councils need confidence in the modelling. The Water Industry Commission for Scotland (WICS) modelling has been peer reviewed by Beca, Farrierswier and Deloitte but all were clear that their review had limitations, particularly with respect to the accuracy of the WICS findings. This is not unusual when working with models – none are correct. However, there have been opportunities to improve the quality of data inputs that have not been acted on. Councils should have had the opportunity to review and, if necessary correct, the data as presented by Government. It is simply not acceptable that this hasn't been done.
3. Councils need confidence that Government have a sound understanding of stormwater service provision and the place of urban waterways. There is almost no information or analysis regarding stormwater, waterways and floodplain management in the proposals. The focus has been on drinking water with some reference to wastewater; and we agree these two waters should be the priority. The Water Industry Commission for Scotland (WICS) has no experience with stormwater service provision, nor do the UK and Australian water entities used as comparators with New Zealand water services provision. With no expertise or understanding of stormwater service provision it appears to be an unacceptable risk to continue to include stormwater in the reform programme. Christchurch's position is integrated similar to unitary authorities for this provision. The Stormwater Technical Working Group report highlights the complexities and risks associated with the transfer of services and assets to Water Service Entities. Their report assumes that transfer will occur but doesn't, however, consider the option of a more considered approach to any transfer of assets and responsibilities from the outset. Nor does it consider the option of stormwater services staying with Council.
4. Councils need to have confidence their experience in three waters service provision is valued and will have an appropriate place in the governance framework. The proposed short-circuiting of local government involvement is simply unacceptable and alternative governance models will need to be investigated to find a more balanced approach.
5. Councils need confidence that the Government will follow through with support for the three waters sector that is necessary regardless of the model used including the workforce strategy, funding, charging mechanisms, economic regulation and consumer protection.

Overall, we lack confidence in the Government's process to date. Insufficient and superficial engagement with councils has exposed a lack of understanding within the Government of the complexity of local water services delivery that we believe has resulted in the reform process being fraught at best and a likelihood of failure to progress beyond this current phase. There needs to be commitment from all parties to work together to achieve successful transformation, rather than the 'take it or we will impose it' approach to date.

We look forward to a reset after which DIA and the Government engage properly with councils and communities and partner in exploring genuine options rather than simply presenting a solution prepared earlier.

2 Response to Government's proposal

The following draft recommendations are provided to Council for consideration.

1. Notes that this report fulfils the Council's obligations to engage with Government on the reform of Three Waters service delivery as set out in the Memorandum of Understanding with Government in August 2020.
2. Notes that the case has been made for increased investment in three waters infrastructure particularly in smaller councils.
3. Notes that the Water Services Bill has not yet been passed into law, and that considerable investment has been made in our drinking water infrastructure in order to meet the exemption requirements for mandatory residual disinfection (chlorination), however there is no mechanism for us to require such an exemption to be sought or maintained under the proposed model.
4. Notes that consultation is yet to occur on the development of an economic regulator and any consumer protections.
5. Note that local government is best placed to engage with its community both through existing policies and procedures, and the requirements of the Local Government Act 2002.
6. Note that the Christchurch and Banks Peninsula community have endorsed the high level outcomes sought through increased investment but strongly support keeping the management and operations of three waters local.
7. Notes that any decision to opt-in or opt-out of three waters reform would be made by Council after public consultation in line with our Significance and Engagement Policy.
8. Notes that the Chief Executive will report back to Council once any additional information or guidance has been received from the Minister, Department of Internal Affairs, Local Government New Zealand or Taituarā on what the next steps will be.
9. Approves staff to send the Council report and attachments as our feedback to both the Department of Internal Affairs, Local Government New Zealand and Taituarā.
10. Informs the Government that Christchurch City Council has significant concerns regarding the three waters reform proposal and the reform process as it has unfolded to date. The Government has not provided an opportunity to analyse alternative options for service delivery that might better meet the needs of communities.
11. Calls on the Government to pause the three waters reform programme to enable all parties to better understand the implications of the future for local government review and how this might be better integrated with three waters, resource management and climate adaptation reforms.
12. Informs the Government that Council does not agree that a case for change with respect to stormwater services has been made and that the Government reframes any ongoing reform to only include drinking water and wastewater. The option for other councils to have any future water services entity deliver stormwater services on its behalf should be made on a case by case basis with individual councils.
13. Requires further clarity from the Government on how a managed approach will be taken to charging for water services to ensure an inequitable burden is not created on residents and ratepayers; and how any transition will be managed to ensure acceptable increases over time.
14. Requires a detailed review of alternative two waters service delivery models within the Ngāi Tahu Takiwā, including Council Controlled Organisations and Shared Services with neighbouring councils. This needs to be undertaken collaboratively with appropriate council involvement throughout. This to include consultation on legislative changes that may be required to give effect to such a model.

Financial

15. In order for Council to be able to consider the proposed water reform further, or if the proposal to establish Entity D were to proceed regardless of our position, we would require the following issues to be resolved to our satisfaction:

a. Requires that if any proposal goes ahead, applies a consistent allocation of costs across all entities (enabling a consistent charging basis to be adopted).

b. Requests further discussion regarding additional recognition (representationally, financially and through performance improvements) of Christchurch's significance to the proposed Takiwā entity. This recognition needs to reflect the asset value, scale of funding and the strength Christchurch will add to the balance sheet of Entity D.

c. Requires clarity is provided as soon as possible on the agreed value of assets and debt that would be transferred to a new entity. The magnitude of balances means it is important for this to be provided prior to an 'opt in' decision being required from Council.

d. Requires clarity as soon as possible on how, if reform was entered into, Council's debt liability is to be transferred to the new entity on a no cost basis to Council. Again it is imperative that this clarity is provided prior to an 'opt in' decision being required.

e. Requires that negotiations are entered into to identify how Christchurch's 'stranded overheads' are to be identified and compensated for on an equitable and transparent basis.

f. Request the Government revisit its cost projections to ensure the projected financial implications of reform communicated to the public are more accurate and clearly articulate the assumptions and sensitivities applied to the calculations.

Governance

16. Agrees that should Government proceed then Council insists that any proposed future governance structures reflect the specific feedback of the Council as follows:

a. That the Regional Representative Group (RRG) model reflects the proportional investment and service requirements of councils represented. This should, at the least, include:

i. That the largest metropolitan council in each entity is guaranteed membership of the RRG.

ii. That a proportional voting system is used at RRG meetings to reflect the significant difference between providing and maintaining water services to metropolitan, provincial, and rural areas.

iii. That there is a clear process for the rotation of representatives included in the proposal

b. That the requirement for an Independent Selection Panel (ISP) is removed and instead Regional Representative Groups have the right to vote on the appointment of entity board members.

i. Alternatively, that the RRG is given the opportunity to approve any appointments and remuneration policy, and if the ISP remains, to appoint to the ISP a member with local government knowledge and experience.

c. That an open and transparent process is adopted by the Government in developing and adopting any Government Policy Statement related to water services standards and provisions, including meaningful engagement with local authorities.

d. More detail is required before the Council can provide meaningful feedback on the effectiveness of the Statement of Strategic and Performance Expectations.

i. The Statement of Intent is intended to be the primary accountability document for an entity's board. Therefore the legislation should include a requirement that the board must comply with a direction from the RRG to amend any provision that is included in the board's SOI.

e. That the legislation includes a requirement that local authorities are involved in the decision-making, planning, and delivery of water services in their districts, in particular for major investment or projects; that is the development of the Asset Management Plan and Funding and Pricing Plan.

   i. That this involvement is directly between individual local authorities and the entity, rather than through the RRG.

f. That the legislation recognises that local government must have a role in the community engagement and consultation processes to ensure that the consumer and community voice is heard.

3 Analysis to inform the response

3.1 Introduction

Analysis to understand what the Water Reform proposal means for Christchurch, undertaken by staff, has focused on the following key input areas included in Government's model report template:

1. The accuracy and assumptions from the Water Industry Commission for Scotland (WICS) specific to Christchurch in opt-in and opt-out scenarios

2. The factors driving reform – impacts on Christchurch residents, the Council and Water Services in the opt-in and opt-out scenarios

3. Gaps in information required to make a decision

4. Recommended changes to the recommended model

Council and Ngāi Tahu have developed the following shared priorities that have informed our analysis.

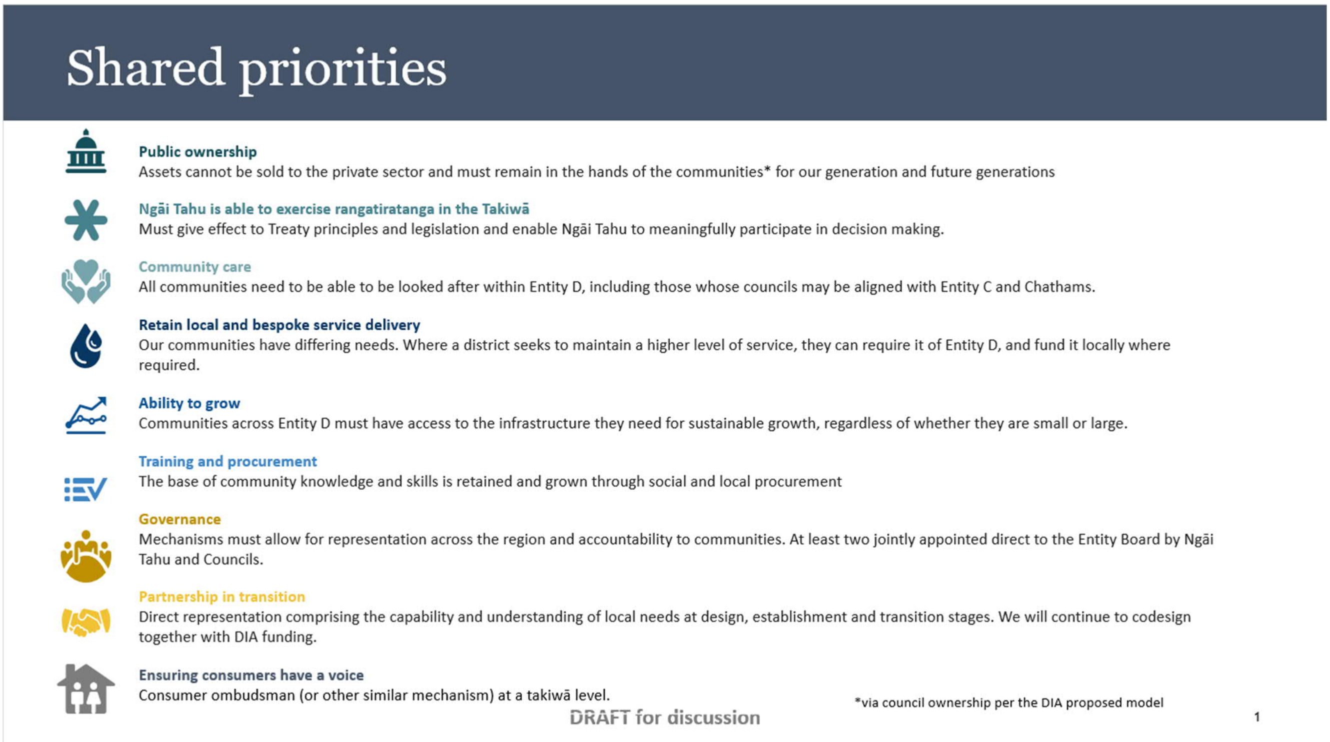


Figure 3.1: Summary of shared priorities

3.2 Accuracy of WICS Data and assumptions

Our analysis of the 'Average Household Cost' figures released by the DIA for the 'opt in' and 'opt out' scenarios raise concerns around a number of assumptions. These include:

The assumptions by WICS around household numbers and required revenues - WICS' modelling has assumed the proportion of three waters revenue that is received from households is 70%. For Christchurch City Council the actual figure is closer to 65%.
The number of household connections assumed by WICS' modelling is also erroneous in a Christchurch context – Christchurch City Council's figures support there being approximately 150,000 water connections vs. the 142,574 used by WICS.

Together, these assumptions mean that in the 'opt out' scenario the revenue projected by WICS to be required from households is higher than it should be.

The approach used by WICS to estimate future revenue requirements - In their 'opt out' modelling WICS have determined future revenue requirements by calculating the amount of debt required to fund Christchurch City Council's full investment programme and determining the amount of revenue needed to maintain a three waters debt to revenue ratio of no more than 250%. However, as Council's debt capacity is not measured at an activity level (given the lower borrowing requirements of other activities) the application of 250% is not appropriate. Our internal modelling supports a ratio of 350% as being more realistic.

The level of efficiencies that have been assumed in an opt in scenario - WICS have assumed that Entity D would achieve operating and capital efficiencies totalling 53.3% and 50%, respectively, over a 20 year period. Whilst we agree it is realistic that a new entity could realise significant efficiencies, we are concerned that the levels assumed are potentially optimistic, creating a risk that the benefits of Entity D are overstated. For example, we note that Entity D is projected to have around 900,000 customers on formation. This is comparable in population served (but much less densely populated) to Bristol Water and South Staffordshire Water, who are cited in WICS' reports as achieving efficiencies of 25% and 20% respectively. This concern is exacerbated by the fact a 0.4% Total Factor Productivity (a measure of productivity efficiency) annual improvement has been recognised in the opt-in scenario, but not in the opt-out scenario (on a compounding basis, effectively adding a further 12.7% of efficiencies to an 'opt in' scenario by 2051). Further, we note that it has been assumed that the operating costs of any new capital investment will be absorbed without impact by Entity D (compared to 3% of the investment being added to operational costs in WICS 'opt out' calculations).

WICS' analysis needs to acknowledge the sensitivities in their efficiencies analysis and provide visibility on the potential cost impact to households if only, say 50% of the efficiencies are realised.

Based on our calculations, aggregating the impact of the corrections/sensitivities outlined above creates a realistic outcome where the projected 'Average Household Cost' of 'opting out' would in fact be cheaper for Christchurch than 'opting in'.

To ensure any decision on opting in or opting out is made on a more informed basis, and that the projected financial implications communicated to the public are more accurate, the DIA needs to revisit its cost projections for Christchurch City Council (and other councils throughout New Zealand). At present, a key justification for reform has been the assertion that <u>all</u> communities will be financially better off under the reform proposals, but the concerns outlined above call this into question. The revisiting of projections needs to be a collaborative process between the DIA and relevant Councils to provide as much visibility as possible on how assumed efficiency levels have been calculated and to ensure greater consistency in thinking and application.

A summary of a review of level of investment assumptions by WICS compared with our Long-term plan is included in Appendix A. WICS modelling – level of investment.

3.3 Scenario analysis

We accept there is no status quo option available. All scenarios assume a future with a more regulated environment with Taumata Arowai and an Economic regulator charged with overseeing a step-change in standards. Overlying these scenarios is changes to the way the three waters services are funded.

Where the term stormwater is used as the 'third' water, it refers to stormwater, waterways and floodplain management.

Scenario 1: Opt-in	Scenario 2: Opt-out	Alternative models to consider
Opt-in to Water Reform. The Council opts in to the Government's proposal for a three waters entity for the Ngāi Tahu takiwā.	Opt-out of Water reform. Government puts water reform on-hold OR Christchurch opts out and continues with in-house service delivery.	Two water entities with stormwater services delivered by Council. 1. Asset owning Council Controlled Organisation (CCO) for the Ngāi Tahu takiwā OR 2. Shared services model for Christchurch and neighbouring councils

3.3.1 Scenario 1 – Opt-in

This assesses the impacts to Christchurch residents, Council and water services if we join Government's proposed Entity D.

Focus areas	Impact
Financial	From a financial perspective, the impact of an 'Opt in' decision remains unclear. Government has stated that there will be a significant benefit to Christchurch from opting in versus opting out. However, whilst the DIA has provided some visibility of the basis of their calculations and assertions we have concerns that some of the assumptions used to inform 'opt-in' projections are potentially optimistic, especially around efficiencies. If the new entity adopts a volumetric charging mechanism for water and wastewater, further considerations will be required regarding charging for stormwater services, for which volumetric charging is not suitable.
Direct water services focused primarily on drinking and wastewater standards and compliance, including for private supplies	The Water Industry Commission for Scotland (WICS) analysis, including that for Christchurch, indicates that the recommended aggregated entities would be able to achieve significant operating efficiency and network performance improvements. Whilst the way in which the model works does not enable a reconciliation with Christchurch data, it is accepted that the general direction of travel with the WICS analysis is correct. However, the network architecture of the urban Christchurch water supply with multiple water sources (dozens of wells), pump stations, pressure zones etc. is unique. Our Integrated Water Strategy sets out the strategic focuses and expectations for our water services based on our unique set up. There is a risk that the strategic direction for an aggregated entity with the proposed governance framework may not be as effective as the approach that our community has approved. Christchurch has signalled its intent to seek exemption from permanent residual disinfection; with approximately 170 public supplies potentially in Entity D, other

	priorities may exist for the new Entity, particularly in light of costs and resources likely required to apply for an exemption (and maintain this status ongoing). Christchurch has invested significantly in upgrading water infrastructure and the current long-term plan includes provision to address the renewals curve required for the next ten years. Whilst it is clear that there should be a significant uplift nationally in renewals and enhancements, these are modelled over a 30 year period. For Christchurch, this approach would introduce service continuity efficiency risks we believe are better managed under the Council's current renewals programme. Christchurch is continuing to invest in more sustainable approaches to wastewater disposal and removing wastewater effluent discharges from our harbours and waterways; an abhorrent practice from the Ngāi Tahu perspective. The current version of the Water Services Bill places responsibilities on territorial authorities to address poorly performing private water supplies within their districts. Council strongly believes this responsibility should be transitioned to the water services entity unless the private supplies in question are located in a local authority district that has taken an opt-out approach.
Stormwater	The report from the Stormwater Technical Working Group highlights the complexities of transferring stormwater assets and service delivery responsibilities to a water services entity. Stormwater management in Christchurch is very different from most of the Takiwā area, due to the topography and the integration of floodplain management, drainage and storm water treatment. For over 20 years Christchurch has operated a multi-value approach to stormwater management, focusing not just on drainage, but also on integrating cultural, ecological, landscape, recreational and heritage values into the design of stormwater infrastructure, and has significant investment in this area. As such, stormwater management is completely integrated with roads, parks and recreation amenities making the transfer of stormwater assets and management problematic. If these assets are transferred, there will be the expectation of the Christchurch community that these will continue to be maintained as accessible open spaces with multiple values. It is not clear that the Entity would retain a commitment to a community-oriented management of stormwater, particularly as the non-drainage values are difficult to price. Christchurch's new stormwater consent requires a whole of council response to reducing discharges of contaminants into our waterways. This recognises that land use is the primary determinant of the contaminant loads in stormwater. The Entity would need to collaborate with multiple Council units to reduce contaminants at source, from building site runoff to roof material approval to industrial site audits, amongst many others. This will introduce inefficiencies and gaps in the response. For flooding in the main urban areas, the Council effectively operates as a unitary authority, managing the floodplain, and taking an integrated planning and infrastructure response to reducing the risk of flooding. The new Entity would need to manage the risk of flooding within Christchurch, or alternatively provide funding to Council to utilise integrated assets not transferred. Splitting the floodplain

	management function between a Entity and the Council would need careful management to retain flood risk management capacity within Council for planning, consenting and emergency response. As flood management funding is often driven by community needs and not economic benefit, there will need to be clear shared prioritisation mechanisms to drive continued investment in flood management. This builds in significant future risk for our communities when considering the additional challenge of climate change impacts. The Council strongly believes a more considered approach to future stormwater asset ownership and service delivery is needed than has been provided to date. The complexity of stormwater networks and the risks that come with that complexity mean the current proposed approach is not tenable.
Work force	There would be a diseconomy of scale within the Council from separating out three waters operations, with a potential for stranded human capital within the Council. However, the establishment of a water services entity could offer positive career opportunities for staff across all areas of Council, including shared services, given the significant additional overall investment expected. There is likely to be a significant workforce capability and capacity constraint for the first few years, particularly if all new water services entities simultaneously pursue a "spend to save" strategy to achieving operational efficiencies. There is already a skills shortage in the sector (and in general) and increased investment by all four new entities will exacerbate this. The closed border and immigration backlog could limit immigration as a source of skills in the short to medium term and local training and upskilling is likely to take some years to result in the desired pipeline of appropriately skilled New Zealand workers entering the sector. The likely result of a constrained workforce and an increased capital investment programme will be increased labour costs and the rationing of overall sector capacity and capability by price. It is therefore essential that a workforce strategy is developed and implemented at pace, regardless of the future water service delivery model. We need to ensure we invest in New Zealanders first and foremost to ensure career opportunities created can be accessed by our residents. There will be challenges for the new entities to attract the skill sets required for the governance and management of the new entities leading to competition between the four entities. This could present risks in terms of any transition to a new entity capable of achieving the levels of service delivery and efficiencies needed to underpin the changes proposed. It will also impact the wider local Government sector.

Council services including Resource consents, In-house design and build, Land planning, Transport, Building consents and Parks	Council delivers a number of services with differing levels of integration with three waters functions. There are a number of anticipated challenges if water services are transitioned to an entity that is not Council controlled, including possible diseconomies of scale (for the Council and the Entity) and the loss of specialist technical knowledge, especially with respect to stormwater interfaces, for wider Council roles especially in Transport and Parks. This will impact timeframes, costs and complexity in the design and delivery of work, again for both the Council and the Entity. Business plans for integrated work may be more complex to develop on different timeframe and strategic priorities. It will be harder to align and coordinate work programmes. A single source of asset and record data will be required for shared water, transport and parks assets. There is a risk that the integrity of Council assets could be compromised if asset management practices differ in the new entity. There will be increased complexity and potentially mixed drivers for long term land use planning and delivering the infrastructure to support new green field development, allowing for intensification through brown field development and the protection of key corridors where significant infrastructure is located. A review of Long Term Plans and Development Contribution policies will be required. Each council will also need to review multiple bylaws, strategies and policies that impact of three waters activity.
Water Support Services including asset Management information and planning, IT systems, Supply chain and procurement	There is a potential negative impact to the Council with diseconomies of scale. For water services however, there is significant opportunity for standardisation across asset data and management and IT systems across New Zealand. However if the four entities take different approaches this will be sub-optimal. Council's strategic procurement approach is not likely to be progressed by an entity focused on operating efficiencies ahead of broader community wellbeing outcomes. This includes the Council's Strategic Procurement Policy provisions and its Living Wage aspirations and requirements.
Social, community and well-being	The opportunities for local authorities to influence decision-making, planning and delivery of water services to their communities will be restricted to the extremely limited opportunities proposed through the regional representative group process. With councils no longer having direct control over strategic decisions, it is intended instead that the Entities will have direct and ongoing engagement with communities (consumer and community voice). This would include a legislative requirement that each entity establishes a consumer forum, mandated to help provide for the views and interests of consumers and community members on key business documents, such as future service levels, investment priorities, and how much consumers should pay for water services. There is no recognition of the role local government already has in seeking and considering community views and preferences, both through existing policies and procedures and the obligations required by the Local Government Act 2002. Given local

	government has strong established relationships with local communities and significant experience and expertise in community engagement in the local context the proposal needs to be amended to reflect this and to provide local government with more meaningful roles within any change proposal. Further information on the proposed decision making structures is provided in Appendix D. Proposed decision making structures. The feedback from a Council survey of residents highlights that, while Christchurch residents agree that all areas of New Zealand should have access to safe drinking water and are sympathetic to areas that currently do not have access to safe drinking water, they strongly support a solution that keeps management and operation of the three waters local. This is evident in the proportion of respondents who agreed that: • We should have a strong democratic say in the way three waters are provided in our area (88%) • Three waters should be managed and operated locally by people who understand our area (77%) • The three waters infrastructure assets should remain in local ownership (73%) • Water rates should only be spent and invested locally (72%) Whilst the new entity may deliver operational efficiencies, there is a risk of increased costs, time and complexity where Council currently leverages efficiencies for works involving multiple council services. This includes subdivision consents, resource consents for commercial and residential projects where there are water infrastructure changes involved, engaging with our community on long-term issues including climate change and major infrastructure projects requiring asset integration (do it once and do it right). Council's approach to charging for water services is different to most local authorities (levied on property value rather than a fixed rate or volumetric charging) which, depending on the charging mechanism used by the entity, could lead to a bigger change in the cost of service for some Christchurch residents than is the case in other districts. It is unknown the degree to which the public will have input into the entity's decision-making on fees and charges. A charging system is required that drives good behaviour in terms of consumption patterns (good for the environment, better for network security, and cheaper for the whole community) and is both equitable and affordable. Based on experience elsewhere in New Zealand and globally, where volumetric charging is used, there are benefits in terms of more efficient water use and reduced peak demand. The shift to volumetric charging would increase costs for some households that needs to be better understood and addressed. Council's wellbeing focus enables regimes to redress inequity of access and affordability. The new entity may lack tools for differential charging to allow support systems to address ability to pay. This could lead to higher costs year on year without consultation compared to the current process where additional rates increases are consulted on.

Transitional impacts including our financial position, use of facilities, land transfer, asset data aggregation and maintaining business as usual	There are a number of sunk overheads that need to be considered including support staff, office rentals and our fleet. There are also opportunities, for example in the potential use of bio gas as an energy source for Council and waste water heat recovery that would need to be factored in. Whilst the broad impact of water reform on Council's financial position is positive rather than negative (in light of improved debt headroom, debt servicing % etc.) there are specific aspects of reform where further assurance regarding what qualifies for 'not worse off' compensation is required. This includes: - Clarity on the level of debt to be transferred - Clarity on how Council will be fully compensated for any debt maturing after July 2024 that is unable to be transferred to the new entity. - Clarity that ongoing sunk overheads would be fully compensated by the new entity - Clarity that additional costs to maintain business as usual including updates required to existing strategies and policies will be funded by the new entity. There are also significant considerations required for land use and asset protection. Council land used for the three waters often has multiple uses that are not necessarily easy to separate or determine precedence. A comprehensive two way access agreement would be required (Entity on Council land and vice versa) and agreement on who would own excess land. Further information is provided in Appendix B. Property/Land issues. Not all assets have adequate protection when they are located on Council or others land. Some land interests are not in a form that can be transferred to a new entity, and getting everything in place will be time consuming and expensive for the entity. An upfront mechanism will be required. The transition of procurement activities that are underway and contracts in place will be costly and time consuming, potentially with a number of risks and issues that will need to be determined up front with agreement on the roles and responsibilities between the new entity and suppliers. There is a risk that some suppliers may not want to accept the novation. Again, these costs would need to clearly sit with the entity. There are risks around the public perception and understanding about water reform including the impacts around asset ownership. These need to be managed by Government ahead of formal consultation with the public.
Economic	The wider economic impacts described in the Deloitte report are not significant on an annualised basis and when divided among the four proposed entities and are highly vulnerable to sensitivities. The expected operating efficiencies are highly dependent on the rationalisation of the water services sector with larger firms getting bigger and longer contracts. This could result in smaller firms being shut out of the sector, potentially including civil contracting firms owned by councils. This introduces commercial risk for councils and communities that needs to be further thought through in terms of impacts and mitigation.

	Water reform is likely to attract foreign investment in the civil engineering and ancillary sectors. This may increase productivity and innovation with lasting positive economic impact, but would likely come at a cost for some local businesses. The Deloitte report simply looked at overall economic efficiency and ignored the potential collateral economic damage at the community level. Councils are necessarily sensitive to localised impacts and this needs to be considered in more detail by the Government.

The following additional considerations are considered below for the opt-in scenario:

- Charging mechanisms
- Recognising Christchurch's size relative to the Takiwā
- Ensuring Christchurch City Council is not left 'worse off'

3.3.2 Charging mechanisms

Explanation of local concern – Christchurch City Council is relatively unique in that it currently charges for water through the application of three targeted rates that are levied against the capital value of serviced property in the district. This approach means that properties with a higher capital value contribute proportionally more water revenue than properties with low capital value.

While no clear guidance has been given about the charging mechanism to be adopted by a new water services entity (should reform proceed), we understand it may have a fixed charge component in the short term (as some districts within the proposed Entity D do not have the necessary infrastructure in place to support a volumetric approach) and a mixed of fixed and volumetric charging components in the medium term (to drive efficient water usage through linking it to the amount of charges). We note these mechanisms are likely for Drinking Water and Waste Water, but not practicable for Storm Water.

This shift in charging mechanism has the potential to have a significant impact on the amount households pay for water going forward, with ratepayers with higher capital value properties potentially benefiting significantly and those with lower capital values potentially incurring significant additional costs (unless mitigating steps are taken during the transition).
There is also the likelihood that there will be a shifting of costs of water services from landlords to tenants in the rental housing sector. The Government will need to consider options to mitigate this change, particularly for vulnerable households.

Suggestions for how the proposal would be strengthened - Christchurch City Council acknowledges that, should reform proceed, it is logical that a volumetric basis is used by a new Water Services Entity as the primary charging basis in the long term (as it will assist in driving down demand and costs over the long term for the Drinking Water supply). Further analysis needs to be done by DIA to assess the appropriateness of charging methodologies to ensure that the range of outcomes desired are not unduly impacted by the charging regime.

In light of the potential that some Christchurch City Council ratepayers with lower capital value properties may be significantly negatively impacted, we require further clarity from the DIA on how a managed approach will be taken to ensure an unequitable burden is not created on many of our residents.

The proposal could be significantly strengthened by revisiting the planned approach to the collection of revenues. We note one of your key stated objectives from the programme is to '*ensure all New Zealanders have access to affordable three waters services'.* At present, your projected average costs per household vary significantly across the four proposed entities (Entity A having a projected average household cost of $800, compared to Entity D having an average cost of $1,642). The outcome of this is that the affordability of water would vary considerably across New Zealand. Whilst we are not advocating for the further consolidation of proposed entities, we suggest that a consistent allocation of costs across all entities would create a fairer outcome for New Zealand as a whole.

A suggestion for consideration from Christchurch City Council for funding is a combination of Capital Value property rate, volumetric charging and taxpayer funding (perhaps targeted to vulnerable households).

3.3.3 Recognising Christchurch's size relative to the Takiwā

Explanation of local concern – Analysis of the financial projections provided for Entity D indicate that Christchurch's participation in Water Reform is integral to ensuring significant efficiencies can be realised. Entity D with Christchurch's participation is projected to have an average cost per household of $1,642 compared to an average cost per household of $2,039 if Christchurch is excluded (i.e. the projected cost to Households is c. 24% higher without Christchurch in Entity D).

Suggestions for how the proposal would be strengthened – Additional recognition (representationally, financially and through performance improvements) of Christchurch's significance to the proposed Takiwā entity. The contribution of asset value, scale of funding and the strength Christchurch will add to the balance sheet of Entity D requires further discussion and investigation.

3.3.4 Ensuring Christchurch City Council is not left 'worse off'

Explanation of local concern – Whilst Christchurch City Council acknowledges the broad impact of water reform on Council's financial position is positive rather than negative (in light of improved debt headroom, debt servicing % etc.) there are specific aspects of reform where further assurance regarding what qualifies for 'not worse off' compensation is required . This will enable our Council to make a more fully informed decision on reform with improved clarity on its financial implications:

Level of debt to be transferred – We note that, based on the parameters of the Request for Information, our apportionment calculations provided for approximately $1.1bn of debt being transferred to a new entity in July 2024 should reform proceed. This includes c. $255m incurred by our CCOs to enable "capital release" payments to be made by them to Council to fund Three Water asset replacement in response to the earthquakes. We believe our calculations are reasonable.

We have additional debt associated to water infrastructure (beyond the parameters of the Request for Information) that we believe should be considered as part of negotiating an appropriate final settlement. For example, reserves and roads that have flood protection roles.

Suggestions for how the proposal would be strengthened – Rather than wait until a due diligence phase after a 'opt in' or 'opt out' decision is made, we require the DIA to enter into discussions to determine the appropriate amounts to be attributed to the debt calculation that would be transferred to Entity D. The potential magnitude of any disagreement means it is important for this to be confirmed as soon as possible.

Ongoing servicing of debt – We understand that, instead of transferring/novating debt and derivatives it is proposed that cash payments will be made to Councils for Three Waters debt/derivatives. We understand, in principle, the DIA's officials have confirmed where councils cannot pay down debt and suffer an interest differential steps will be taken to ensure Councils will not be left in a worse off position. However, we note in Christchurch's circumstances, due to the size of the debt such a differential has the potential to be significant (potentially up to c. $100m - significantly higher than the $50m set aside for Christchurch, Wellington and Auckland to ensure these Councils are not left worse off with stranded costs more than just debt servicing).

Suggestions for how the proposal would be strengthened – Similar to the need to agree the level of debt prior to any opt in or opt out decision, Council requires that clarity is provided by the Government on plans to ensure Christchurch City Council will be compensated appropriately, and that this potential cost to Council is not netted off against other perceived better off benefits like more debt headroom.

Assurance is also required that, even if the 'not worse off' compensation exceeds the funds Government had previously allocated, then Christchurch City Council would still be compensated appropriately.

'Stranded overheads' within the organisation post-reform – Should reform proceed Council will be left with some significant 'stranded overheads' (costs driven by Three Waters that would remain with Council post-reform). Examples of these include accommodation and our technology platform.

Christchurch City Council entered into a long-term lease arrangement for its civic premises based on an organisation including Three Waters. Whilst a tenant will be sought for the space vacated by Three Waters, the revenue generated will be significantly less than the ongoing cost of the space.

Christchurch City Council also has a technology platform that has been established to support an organisation inclusive of Three Waters. Consequently, costs exist such as licencing agreements and enterprise applications that are attributable to Three Waters. A significant amount of these costs will be difficult to exist out of or reduce and will be ongoing post-reform.

Suggestions for how the proposal would be strengthened – Assurances are requested that 'stranded overheads' of the nature outlined above are within the parameters of what is required for 'not worse off' compensation. We also request confirmation that appropriate compensation would be agreed for any stranded overheads with an impact extending beyond 2 years (in light of LGNZ Heads of Agreement suggesting that a two year timeframe limit would be applied).

3.3.5 Scenario 2 – Opt-out

This assesses the impacts to Christchurch's residents, Council and water services if the timeline for water reform is extended or Christchurch does not join Entity D.

Focus areas	Impact
Financial	If the WICS modelling is correct, there will be significant long term increase in costs for residents, vis-à-vis the impacts under the opt-in scenario. From a Financial perspective, the impact of an 'Opt out' decision is also unclear. Whilst Council has visibility on the historic costs it has incurred in its Three Waters activities, the lack of clarity on requirements of

	regulations/standards to be introduced in future means that accurate financial projections are very difficult to make with confidence. Some of the assumptions used by WICS in modelling an ‘opt out’ scenario are questionable – this includes efficiencies (which appear extremely conservative compared to ‘opt in’ modelling), debt-to-revenue assumptions (the WICS modelling using a conservative debt-to-revenue ratio which inflates the revenue required from households) and household calculations (WIC’s modelling assuming more rates funding comes from households as a percentage than our figures support). Based on our calculations, aggregating the impact of the corrections/sensitivities creates a realistic outcome where the projected ‘Average Household Cost’ of ‘opting out’ would in fact be cheaper for Christchurch than ‘opting in’.
Direct water services, focused primarily on drinking and wastewater standards and compliance, including for private supplies	Council’s strategic focuses and the outcomes and actions of the Integrated Water Strategy will continue to be fulfilled. Christchurch would continue to seek exemption from residual disinfection. An integrated approach for capital and operational work with other Council services would continue. If the Water Services Bill enables the transfer of responsibility for private water supplies to the Council (with or without Council agreement), the indicative liability to the Council for the water and wastewater supplies is $155 million (total) in capex and $8 million per annum in opex. The Council considers this an unacceptable risk and burden and has made a submission to have this provision removed from the Bill.
Stormwater	Stormwater and floodplain management would continue to be driven by community drivers to integrate multi-value place-making with best practice management techniques. The current funding in the LTP would continue to progressively improve water quality and manage flood risk. Stormwater management would continue to benefit from a whole of Council approach, beginning with setting the direction of land use which is essential for improving water quality and quantity outcomes. The Comprehensive Stormwater Consent will continue to drive investment to improve water quality outcomes.
Work force	If new entities are set up, opportunities for qualified staff would be more appealing in new entities than the Council. However, with increased regulation and the level of investment required for Christchurch, there is and will continue to be increasing career opportunities in water services delivery. The water services sector workforce strategy outlined in the review proposal needs to be developed and implemented regardless of the future water

	services delivery model. If councils remain the three waters service provider they should be co-designing strategy development with relevant government and training organisations.
Water Support Services including asset Management information and planning, IT systems, Supply chain and procurement	The sector level opportunities for standardisation are less likely to be achieved by Councils outside of water reform. Our strategic procurement approach would continue to be used to further broader community wellbeing goals. There are standardisation and shared service opportunities that could and should be explored and implemented by councils.
Social, community and well-being	This approach would align with Christchurch residents' views as we currently understand them. Feedback from a Council survey of residents highlights that, while Christchurch residents agree that all areas of New Zealand should have access to safe drinking water and are sympathetic to areas that currently do not have access to safe drinking water, they strongly support a solution that keeps management and operation of the three waters local. As the LG(R)A 2002 limits councils to recovering the reasonable costs of providing their services, the process for the Council setting its fees and charges through the Long Term Plan and Annual Plan consultation processes would continue for the water services. There is no short term expected change to the mechanism used by the Council to recover costs to fund its water services. The Council may, at some point in the future, resolve to change the manner in which costs for the Three Waters services are recovered, but this is subject to open and transparent public engagement and consultation. Water conservation and efficiency approaches other than volumetric charging are already used in practice by the Council, including leak detection and control; water pressure management, etc. It is possible to achieve some degree of water demand management through the tools already available, without moving to volumetric charging. The roles of Arowai Taumata and the proposed economic regulator need to ensure councils remain on a path of improvement that will enable new standards to be delivered.

3.3.6 Alternative options

Government has not asked Councils to consider other potential models, nor provided sufficient analysis outputs to review them to same level as the opt-in and opt-out.

There are other alternative models that can be considered that could achieve the Government's underlying requirement of safe water for all.

Below we have outlined some key alternatives, including pros and cons of each model:

- SouthCo – One CCO that includes the same Local Authorities as Entity D ie Ngāi Tahu's Takiwā

- Canterbury Regional CCO – where CCC and other local regional Councils create a joint CCO to provide services to the Local Authorities for their water assets.
- Sub regional shared services model – larger population in a smaller geographical area to achieve efficiencies

Key Areas	SouthCo (same regional as Entity D)	Entity D	CanterCo Regional CCO	Sub Regional Shared Services Model
	Company – Council Controlled Entity	Bespoke Water service entity	Company – Council Controlled Entity	Shared Service Agreement Joint Governance Committee
Corporate Structure	• Shares held by individual Local Authorities based on their initial equity injection (net assets) • Shareholder agreement to cover pre-emptive rights/ no dividends • Well known successful model very clear ownership structure • Existing accounting treatment for the transfer.	• Public owned water service entity (bespoke model) • Not a traditional corporate model as no shareholding or financial interest. Local Authorities will play a key role in the appointments process and strategic direction. Local Authorities will be listed in legislation as 'owners'; of the relevant entity on behalf of their communities. • Local Authorities retain advocacy role on behalf of communities as owners	• Shares held by individual Local Authorities based on their initial equity injection (net assets) • Shareholder agreement to cover pre-emptive rights/ no dividends • Well known successful model very clear ownership structure • Existing accounting treatment for the transfer.	• Assets remain with Local Authorities, but with an underlying services agreement.

		• Mana whenua at the Representative Group provides another protection against future privatisation • No detail as to how the transfer of assets will be treated in the Local Authorities books.		
Governance	• Board represented by shareholder Directors – representing Local Authorities depending on shareholding ie anything >5% gets a seat, and then rest voted on by shareholders. • Independent Directors – representing Mana Whenua and non-political representation • 50/50 Co Governance with Iwi • Well known successful model –especially in South Island – CCHL, Transwaste, LGFA	• Independent, competency-based boards to govern - Co Governance with Iwi. Boards of 10-12 envisaged, 50% iwi, 50% representing the Regional TA's. • Each entity will have a regional Representative Group that provides for proportionate representation of local government and mana whenua • Representative Group will issue a Statement of Strategic and Performance	• Board represented by shareholder Directors – representing Local Authorities depending on shareholding ie under this scenario CCC would have approx. 80% of shares • Independent Directors – representing Mana Whenua and non-political representation • 50/50 Co Governance with Iwi	• Joint committee with Mana Whenua Representation

		Expectations to inform the entity's planning • Entities will produce a Statement of Intent in response to the Statement of Expectations • The entities will also be subject to: • consultation requirements on their strategic direction, investment plans, and prices/charges,water metering • mechanisms that enable communities and consumers to participate in entities' decision-making processes – including a consumer forum • economic regulation, to protect consumer interests and drive efficiencies • charging and pricing frameworks to protect consumers • MBIE are developing advice on the new economic regulation regime and consumer		

		protection mechanisms and will consult local government and the public on this.		
Balance Sheet recognition	• Under the SouthCo model Christchurch would have up to 35-40% ownership rights. • This would allow for balance sheet separation as long as not deemed control of entity. Structure/Governance would be set up to ensure this doesn't happen.	• Separate legal entity – no consolidation on Local Authority – will depend on level of Government underwrite given as to whether they can avoid consolidation.	• Under the CanterCo Model, Christchurch would have over 50% of the ownership so would require to consolidate. So does not give the balance sheet separation for credit rating purposes.	• As asset and debt will remain with each Local Authority, it will be status quo for balance sheet recognition.
Borrowing	• As owned by Local Authorities – will be able to borrow direct from LGFA • Won't impact on Local Authorities borrowing covenants as long as not too highly geared, and not consolidated. • Initial debt could be retained at LA level and on-lent.	• Currently can't borrow from LGFA without shareholder approval and would require changes to the Indemnity deed. • If LGFA does not lend to the new entity, this may impact issuance spreads of LGFA to widen, due to increased issuer market, increasing	• As owned by Local Authorities – will be able to borrow direct from LGFA	• Assets retained by Local Authorities therefore debt/funding will remain with Local Authorities.

		councils cost of borrowing. • Borrowing externally this entity is likely to have other financial covenants included like interest cover, which is more problematic than debt to revenue. • No ability to novate the debt to the new entity		
S&P Credit Rating	• S&P Credit ratings are based on the Parent and Group position. So whilst LGFA covenants do not include on-lending to CCO's, S&P do for those entities that Local Authorities have control. • The S&P report did indicate that under this scenario credit rating would be lower than Entity D - if Government underwrite is given, otherwise could be the same as Entity D.	• Based on the initial S&P scenario analysis prepared for the Crown, S&P have indicated that the structure would not result in a change in the Crown, LGFA, credit rating, assuming no other significant rating factor changed. • Based on assessment that there will be a 'high' likelihood of extraordinary support from the Crown during	• S&P Credit ratings are based on the Parent and Group position. So whilst LGFA covenants do not include on-lending to CCO's, S&P do for those entities that Local Authorities have control. • Likely the credit rating will be the same as Christchurch City Council.	• Status Quo – management of core ratios required to maintain existing credit ratings.

		a distress scenario and liquidity support being provided in the form of a standby facility, the shadow credit rating is AA+. It should be noted that this shadow credit rating was provided prior to the Crown advising that the 'better off package' would be partly funded by debt on the new entity		
Scale	• Same as Entity D – if same South Island regional.	• Same as CCO model – if same South Island regional.	• Smaller scale than Entity D and SouthCo. Some efficiencies gained.	• Shared services model will achieve greater efficiencies than status quo.
Risks	• 20 Council shareholders difficult to manage • Doesn't necessarily work for all Entity regions due to level of control ie ACC 90% • Prioritisation of local areas still an issue • Christchurch residents will still be subsidising other areas	• Accounting treatment for transfer not yet determined • Local Authorities may own assets (under legislation) but no real control or influence • Government underwrite will be necessary – so will still be contingent liability	• Doesn't solve Governments issue around smaller councils not ensuing water assets be maintained to higher quality • Will scale be enough to ensure efficiencies gained • Does this help other Canterbury councils	• Doesn't solve Governments issue around smaller councils not ensuing water assets be maintained to higher quality • Will scale be enough to ensure efficiencies gained • Doesn't solve debt borrowing requirements, still

		on Government credit rating • Prioritisation of local areas still an issue • Future Governments can change legislation to remove 'Local Authority ownership'	with their prioritisation • Potentially doesn't solve balance sheet separation for Christchurch • Doesn't solve debt borrowing requirements, still restricted by Local Authorities balance sheets	restricted by Local Authorities balance sheets
Benefits	• Achieves Government requirements of supporting smaller Councils to provide safe water • Supports Co Governance with Iwi • Achieves Scale for efficiencies • Maintains Local ownership of assets – in the true sense of the word. • Recognises investment made by individual Local Authorities in their water assets	• Achieves Government requirements of supporting smaller Councils to provide safe water • Supports Co Governance with iwi • Achieves scale for efficiencies	• Supports Co Governance with Iwi • Achieves some scale for efficiencies • Maintains Local ownership of assets – in the true sense of the word. • Recognises investment made by individual Local Authorities in their water assets • Makes it more difficult for privatisation in future	• Supports Co Governance with Iwi • Regional geography and population density allows for greater efficiencies • Maintains Local ownership of assets – in the true sense of the word. • Retains water assets on Local Authorities balance sheets. • Makes it more difficult for privatisation in future

	• Makes it more difficult for privatisation in future		• This model can be achieved under existing LGA17a- does not require legislation change	• This model can be achieved under existing LGA17a- does not require legislation change

3.4 Our community conversation (questionnaire)

The Council sought community views on priorities, concerns and issues with the delivery of three waters services to help identify what is important to our communities.

A survey was sent to Life in Christchurch residents' panel members and to around 240 stakeholders and community groups, inviting them to share the link with their networks. A link to the survey was also posted on the Council website homepage and the water reform webpage.

The survey was open from 24 August to 12 September with 5125 responses received.

Questions

Respondents were asked whether they were aware of the Government's proposed water reforms. They were then asked to indicate whether they agreed or disagreed with each of 10 statements. The statements were 'values-focused' and balanced, in order to tap into what people feel is important about how three waters services are managed and delivered.

Respondents were then invited to rank the statements in order of priority. Finally, two optional text boxes were provided so people could tell us anything else about their priorities, and any other comments they had about the changes the government is proposing. We did not ask an 'opt in' / 'opt out' question because we believe there is not sufficient information available from Government for people to make an informed decision.

Findings

The majority (87%) of respondents said they are aware the Government is proposing changes to the way that the three waters are provided across the country.

Respondents were presented with statements and asked if they agreed or disagreed with each. All but two statements were supported by the majority of respondents, with the highest level of support for the following:

- 96% agreed that all areas of New Zealand should have access to safe drinking water.
- 93% agreed our water infrastructure should be improved or maintained to at least the same standard as it is now.
- 89% agreed that the three waters service should be operated as efficiently as possible.
- 87% agreed we should have a strong (representative) democratic say in the way three waters services are provided in our area.
- 81% of respondents agreed that we should have safe, chlorine free drinking water. Note that those who neither agreed nor disagreed (14%) and those who disagreed (4%) tended to agree that everyone should have safe drinking water but pointed out that in some instances (particularly in remote areas of the Peninsula) chlorine would be required to ensure that drinking water was safe.

Less than half of respondents (44%) agreed that households should pay for their water based on how much they actually use, and 48% agreed we should all have the same standard of three waters service, even if we have to share costs across the South Island.

The feedback from the survey highlights that, while Christchurch residents agree that all areas of New Zealand should have access to safe drinking water and are sympathetic to areas that currently do not have access to safe drinking water, they strongly support a solution that keeps management and operation of the three waters local. This is evident in the proportion of respondents who agreed that:

- We should have a strong democratic say in the way three waters are provided in our area (88%)
- Three waters should be managed and operated locally by people who understand our area (77%)
- The three waters infrastructure assets should remain in local ownership (73%)
- Water rates should only be spent and invested locally (72%)

Respondents were then asked to rank the statements in order of importance. The results suggest that, alongside the importance of local management an operation, the following should be areas of focus in the Council's discussion about three waters reform:

- Residents strongly agree that all areas of New Zealand should have access to safe drinking water, and that safe, chlorine-free drinking water is a priority in Christchurch.
- The continued investment in and maintenance of water infrastructure in Christchurch is a priority, but there is limited appetite for cost-sharing with other territorial authorities.

The report with full survey findings and analysis is available on the Council website www.ccc.govt.nz

3.5 Outstanding information

Whilst Government has provided a significant number of reports to support their case for change, analysis and recommendations, there are a number of areas where either further information / clarification is required in order to make an informed opt-in / opt-out decision. There are outlined in the table below.

Table 3.1: Summary of questions and outstanding information

Focus area	What is required	Additional information
Scope clarify for Entity D regarding stormwater, floodplain management and urban waterways – includes roles and responsibilities of Christchurch City Council and Environment Canterbury.	Output from the National Stormwater reference group and final recommendations regarding stormwater, waterways and flood plain management in the proposed structure. The output was received from Government during week 7 of this 8 week period, after the majority of analysis had been completed.	The Council proposes that stormwater, waterways and floodplain management are not included in the proposed opt-in scenario. This is outlined in the scenario analysis and also in Appendix C. Stormwater considerations.
Changes to the Local Government Act and approach to community consultation on an opt-in / opt-out decision	Confirmation from the Crown on the expected Act changes, timeline and Central Government support around public consultation.	Christchurch City Council has committed to consult with residents on Water Reform ahead of a final opt-in / out decision. Assuming the timeline for a final decision does not change, there is insufficient time for Councils to receive a response from Government and effectively consult with the public by December 2021.
Expectations of an Economic Regulator and provisions for consumer protection	An update from the Ministry of Business, Industry and Employment (MBIE) is expected in October 2021.	The expected costs and impacts in an opt-in scenario for this and the Water Services regulator are projected to be absorbed by the new entity. They are not in an opt-out scenario however there is insufficient information regarding economic regulation to effectively determine the cost or service impacts in an opt-out scenario.

Focus area	What is required	Additional information
Charging mechanisms. Whilst it is understood that the new entities will determine the mechanisms, feedback is required on the principles underpinning charging and requirements for an equitable transition as changes in approach are made.	Volumetric charges are becoming the norm as they are the only effective demand management tool and effective demand management is a good thing for everyone – reduced overall infrastructure investment positively impacts everyone. Charges based solely on property values, as in Christchurch, are unusual. Most other Councils/suppliers use a mix of uniform annual charges plus an excess water use charge i.e. a connection fee plus volumetric charge. This means that the transition impact for Christchurch residents may be more significant than for most other districts and will require care during transition to ensure acceptable and affordable changes over time.	Request clarity is provided by the DIA on how a managed approach will be taken to ensure an unequitable burden is not created on many of our residents, and how any transition will be managed to ensure acceptable increases over time.
Final legislation that impacts on Water Reform (Water Services Bill and the Water Entity Bill) – particularly drinking water regulations	Specifically in relation to exemptions from residual disinfectant and the roles and responsibilities for private supplies.	Christchurch has signalled intent to seek exemption from permanent residual disinfection; with approximately 170 public supplies potentially in Entity D, other priorities may exist for the new Entity, particularly in light of costs and resources likely required to apply for an exemption (and maintain this status ongoing).

Focus area	What is required	Additional information
		The Council has no ability to require the entity to ensure an exemption is received / maintained.
What assets would be transferred (including land, and particularly focused on our blue/green infrastructure)	Confirmation from the Crown on exactly what is expected to be transferred.	A summary has been provided by the Properties team as an appendix to the report.
WICS assumptions that cannot be reconciled and that could have a material impact	Recognition of the issues raised by the Council and sensitivities regarding WICS assumptions. Updated base information for use in the public domain.	Two reviews have been completed: Morrison Low and our internal team.
Debt transfer	Government need to agree debt (and other key balances) upfront.	The debt calculation, as proposed in the RfI is lacking and bespoke negotiations are required to take into account the wider asset base that supports Three Waters.
Staff that qualify as 3 waters staff in the new entity	Detail on roles that would be required to be transferred to the new entity, including direct and support staff. What will happen with staff indirectly affected?	Further information on affected roles provided in the stranded costs review.
Roles and responsibilities of Council and iwi in the transition	Provision of further information and certainty on involvement during transition (outside of BAU).	

3.6 Recommended changes to Government's proposal

If Government mandates inclusion for Christchurch in Entity D there are a number of changes that should be made to the entity model in addition to the formal recommendations provided in this document.

3.6.1 Charging

- Clarity must be provided by the DIA on how a managed approach will be taken to ensure an unequitable burden is not created on many of our residents, and how any transition will be managed to ensure acceptable three waters pricing increases over time. This requires Government to commit to providing funding for a fair and equitable transition if this is required.
- Policies and processes must be put in place to ensure that any and all charges and fees imposed on Entity customers are fair and reasonable.
- Entities should be required to have policies and processes in place to ensure public engagement and participation, and to have regard to the public input they receive.
- Entities should be required to have a robust and equitable a process in place to address ability to pay, in advance of any new charging scheme being introduced.
- Any change to the current charging mechanism used in Christchurch must be signalled well in advance of the change, with a requirement for Entities to include fair and equitable transitional charging mechanisms.

3.6.2 Property

In general terms, to avoid the complications, scale and difficulties associated with creating and transferring property interests to the new Three Waters entity, it is recommended that Parliament enact statutory provisions in respect of Three Waters assets similar to those that currently exist for electricity, telecommunications and gas infrastructure situated in legal roads. This is a model that currently works for the providers of similar utility services and is well understood. In addition:

- Where there is excess land the minimum should be transferred.
- Recommend that Entity continues to occupy Ngāi Tahu / CCC owned facility.

3.6.3 Procurement and contracts

- Contract novation will be required for all work that is led by the Three Waters, i.e. legally passing over contracts to a new entity
- For any tenders in progress (offer from one legal entity and acceptance from another), a handover will be required including legal support with recognition that it could be complex
- Clarity will be required regarding procurement rules and market expectations on how procurement will work for the new entity. The market will need to know if they have to follow the Government Procurement rules and any changes in process and expectations during the transition
- The entity will be required to lead communications with suppliers regarding being novated over
- Contract management plans will be require handover to the new entity, which will need to include supplier relationship status and confirmation of issues, risks with mitigation plans in place.

3.6.4 Workforce

- Government commitment to prioritise water services skills in migrant applications and the development of a workforce strategy.
- Transfer of affected staff is clearly understood and implemented fairly with no redundancy costs to Council.

3.6.5 Water support services

- Commitment from government that Entities will be required to support council strategic procurement approaches where these exist.

3.6.6 Water supply

- Water Services Entity Act must amend responsibility for taking over any private supply to water services entity where/when the territorial authority no longer manages public water supply.
- Public preferences within individual districts will need to be taken into account, for example level of service expectations regarding residual disinfectant.

3.6.7 Economic impact

- Government to present data in a more considered way rather than presenting 30 year aggregated data only.
- Government to acknowledge there is likely to be economic casualties as a result of sector rationalisation

3.6.8 Legislative changes

- Build into the new three waters entity's establishing legislation the responsibility to align their priorities and programmes of work with other organisations in infrastructure planning, such as the council from which the assets have come
- This establishing legislation should also provide for climate change responses, to link Council work programmes with coastal retreat policies
- Build into the resource management reform legislation the requirement for all relevant entities to work together to align priorities and policies regarding the provision of infrastructure that is, or will be in the future, exposed to coastal hazards
- Review and Update of the Utilities Act
- The new 3-waters entity will take the role of 'network utility operator' (NUO) under the Building Act and to meet performances in the building code

3.6.9 Coordination and Collaboration

- MOU and/or cost share agreements in place to ensure that both Entity and TA have available budgets to ensure some flexibility of programmes. This will also allow the ability to resolve betterment discussions. A memorandum of understanding (or something similar) between the Council and 3 Water entity should cover development contributions
- Mandate and implement cost share agreements to ensure betterment allocation of works completed is addressed.
- Appoint teams within local councils to work with the new entities during their establishment phase, to support integration issues – there are numerous examples of this having taken place previously
- Complete review of IDS and CSS to ensure there are agreed standards of installation and reinstatement of work sites. It will be necessary that the 3 Waters entity develops design and construction standards.
- Coordination and clash analysis of future capital and renewal programmes needs to be mandated in any legislation that is developed. The time frames for this need to be aligned and allow the TA's to meet their obligations under the LGA.
- Review and update of CAR process to ensure that there is clear understanding of process and requirements before creating disruption in the Transport Corridor.
- As it is part of a Resource Management Act process, decisions on the breaches need to be reasonable in a resource management context. This may mean there are examples where the decision is different to the Entity advice.

3.6.10 Development Contributions

- The Entity must take responsibility.

3.6.11 Assets transfer and management

- Consultation will be required with the new 3 Waters entity where assets are to be vested.
- Ownership and protection of the assets easements will need to considered (e.g. where there is a pipe in a road, who owns the pipe or how is it protected).

It will be necessary to resolve requirements and processes for requiring easements and transfer of ownership.

4 Background - Water reform and Christchurch

4.1 Three waters and their importance

Three Waters services are critical to the health and well-being of our communities. Households, community services and the commercial sector all rely on these services. Our natural environment also depends on these services being delivered in a sustainable manner.

Christchurch’s freshwater resources include springs, streams, rivers, lakes, wetlands, lagoon, estuaries and high-quality groundwater. These water resources are an important part of the unique culture and the natural values of the area, shaping the landscape and Christchurch’s heritage. Water is fundamentally important to Ngāi Tahu, highly valued by the community for recreation, and crucial to the health of the environment in which the community lives.

Christchurch’s water infrastructure includes:

- groundwater and surface water sources for community drinking water supply and the infrastructure that conveys water from source to end-user, including treatment where necessary
- wastewater collection, treatment and discharge network
- stormwater collection, detention, treatment and conveyance and disposal network

The actual and potential adverse effects of discharges of stormwater (and sometimes wastewater) to the streams, rivers, estuaries, harbours and into land in Christchurch need to be avoided and preferably eliminated, as do any effects of flooding. The Council’s 25-year Comprehensive Stormwater Network Discharge Consent for Christchurch and Banks Peninsula was finalised in January 2020. This consent means that all stormwater discharges will now be managed under a single consent and there are clear standards across the network for the management of stormwater, intended to result in better environmental outcomes.

The Christchurch water supply is quite unique in its arrangement of many individual well sources, feeding directly to the network, and distinctive in its size as a supply with (previously) no treatment. The ‘localness’ of the supply perhaps helps feed into the strong position water holds within the Christchurch community’s identity. The Christchurch supply is also unique and challenging at times to operate with distinctive zones and subzones served by primary pump stations, supplemented by boosters stations and, for example, variations in operation between summer and winter demand. Outside of Christchurch, nationally, the uniqueness and difficulties in running a supply without complex treatment steps is not well appreciated and may be lost within a larger entity, along with the corresponding resourcing that operating the supply competently requires.

Christchurch residents also attach high cultural value to their very high quality groundwater and are vocal in their desire for the groundwater-sourced public water supply to return to its untreated status and without residual treatment (e.g. chlorination).

4.2 Why Water Reform?

Effective three waters services are essential for our communities

- **Our health and safety:** depends on safe drinking water, safe disposal of wastewater and effective stormwater drainage.
- **Our prosperity:** depends on adequate supply of cost effective three waters services for housing, businesses and community services.
- **Our environment:** depends on well managed extraction of drinking water, and careful disposal of wastewater and stormwater.

At a national level, there have been concerns about the management of New Zealand’s water services and water resources for a number of years. A 2001 Parliamentary Commissioner for the Environment report highlighted issues with urban water systems and complex legislative and institutional arrangements. There have also been several reports by the Auditor General over the last 20 years, most recently, the 2020 report noted the need for a more strategic and integrated approach.

Central government has responded to these reports through:

- Action for Healthy Waterways 2019
- National Policy Statement for Freshwater Management 2014 (amended 2017) replaced by National Policy Statement for Freshwater Management 2020 - changes include giving effect to Te Mana o Te Wai and an expanded national objectives framework
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020 – concept of national standards for wastewater discharges and overflows, standards to protect sources of drinking water, and exclusion of stock from waterways
- Establishment of a drinking water regulator, Taumata Arowai, to provide greater government oversight of the provision of safe drinking water
- Essential freshwater and three waters reform running in parallel to better manage rural and urban water issues.

4.3 The national case for change

Government launched the Three Waters Reform Programme in July 2020 focused on reforming three waters service delivery arrangements by effectively removing local government responsibility for public water services on the basis this will result in improving health and wellbeing outcomes to benefit all communities in New Zealand. The Government's objectives from this programme are to:

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

Three Waters is a significant business with around $55 billion in assets and almost 5000 staff across Councils with responsibilities to provide safe drinking water, collection and disposal of sewerage and effective stormwater management.

The 67 local authorities currently own and operate the vast majority of drinking water, wastewater and stormwater networks. Yet about 1/5th of the population is on private supply not delivered by LAs and this proposal does resolve this issue.

There are significant challenges with the current system for councils:

- Compliance with drinking water safety standards and environmental expectations: increased requirement for Water Safety Plans for community Drinking Water supplies – Ministry of Health have raised the bar on risk management to ensure the protection of public health

- Consent requirements for wastewater and stormwater becoming stricter to reflect new freshwater policy statement and ensure better environmental outcomes

- Funding infrastructure deficits: many Councils have a backlog of infrastructure renewals. Extensive urban development in the1950s has renewals ‘due’ and there is a struggle to fund the required investment in renewals
- Building resilience to natural hazards and climate change into three waters networks: impact of natural hazards and exacerbation by climate change presenting additional challenges and higher costs to ensure resilience in our source waters and networks
- Supporting growth: some Councils not providing sufficient infrastructure for growth and new housing development
- Some smaller councils lack the financial resources and specialist skills required to build, operate and maintain high quality networks. A summary of some of the issues for the three waters are outlined below.

Drinking Water

The majority of community drinking water supplies are owned and operated by councils; 87 per cent of New Zealand’s homes and businesses have their drinking water provided by councils or council owned entities.

As a result of the Havelock North drinking water contamination incident and subsequent reports, water reform became a serious programme of action. The focus of drinking water reform is to ensure that all New Zealanders have access to safe drinking water. Currently this is not the case:

- one in five New Zealanders are supplied with drinking water that is not guaranteed to be safe from bacterial contamination
- 22 permanent and 18 temporary boil water notices from 2018-19 affecting roughly 40,000 people.

Wastewater

Discharge from wastewater treatment plants and pipe networks, both treated effluent and overflows, are causing environmental impacts and direct discharges to water are culturally offensive. Many of our wastewater networks and treatment plants are not fit for purpose and do not meet the expectations of our communities.

While Christchurch’s Bromley wastewater treatment plant is fully compliant and the main discharge consent expires in May 2041, 25 per cent of New Zealand’s wastewater plants operate on expired consents. Many valid discharge consents have relatively relaxed conditions that will be considerably stricter when they are renewed. Almost 35 per cent (110 plants) require a new resource consent in the next 10 years.

Stormwater, waterways and flood plain management

Stormwater is distinctly different to drinking water and wastewater; the latter are closed systems and the water is entirely contained with the pipe networks. Stormwater networks are open systems with a mix of pipes, drains, and overland flow paths; they are integrated with the road network and with natural waterways. Stormwater is the main contributor to poor natural water quality in urban areas. Overall there is a lack of consistent information on the condition of stormwater infrastructure and the impacts of climate change and other natural hazards, to which stormwater systems are particularly susceptible.

Christchurch is already operating with a focus on using natural processes as much as possible in its management of stormwater waterways and flood plain management through the Council’s six values approach (drainage, ecology, recreation, landscape, culture, and heritage). Therefore much of the infrastructure is embedded in parks and freshwater recreational areas. Our updated comprehensive stormwater consent has far greater requirements to improve stormwater quality than previous discharge consents.

4.3.1 Infrastructure deficit

The 2019 report by the Office of the Auditor General (OAG) '*Insights into local government*' commented that local authorities are not investing enough in Three Waters assets and many local authorities had incomplete and uncertain information about the condition of their assets.

Lack of investment in asset renewals results in deteriorating assets and where there is also a poor understanding of asset condition, the risk to levels of service can be difficult to assess with confidence. The infrastructure deficit is a national issue (see Figure 4.1), however, the burden is not evenly spread across the country.

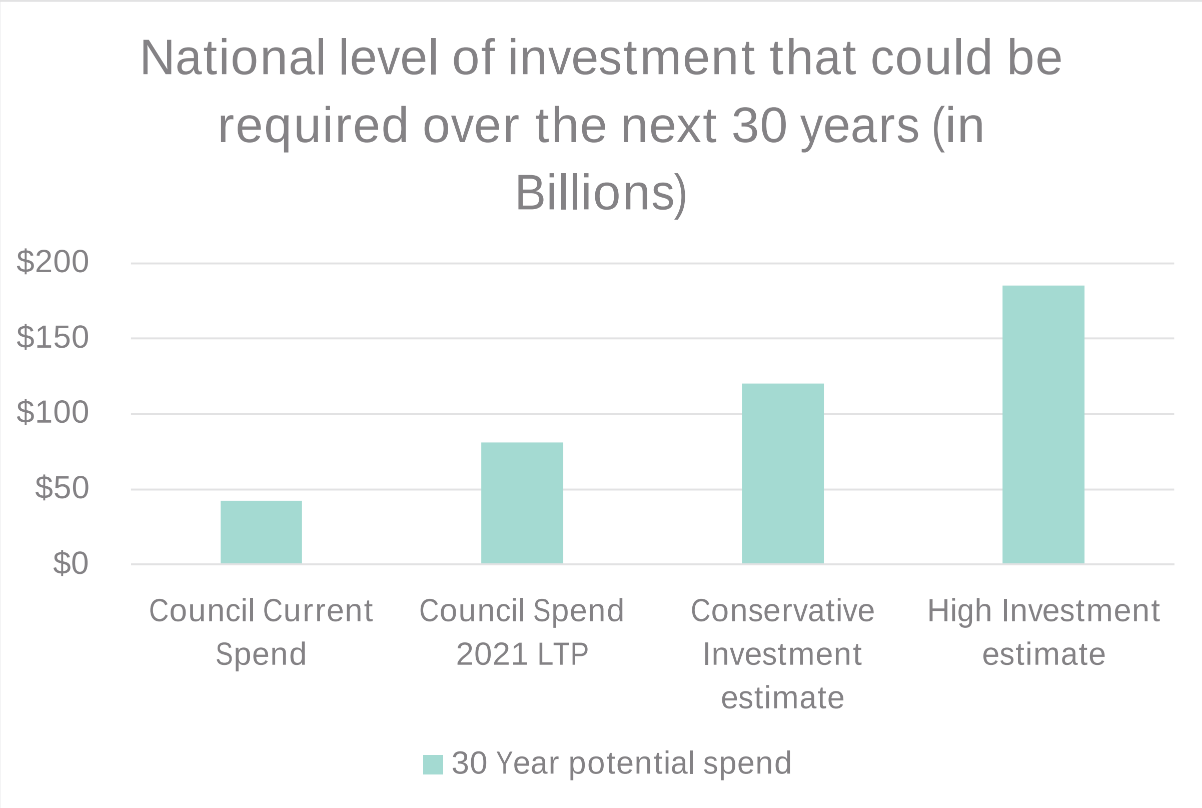


Figure 4.1: National infrastructure deficit.

The Water Industry Commission for Scotland (WICS) report prepared for the Government estimates that New Zealand needs to invest $120 to $185 billion in water services over the next 30 years. In comparison, the national historical spend has been $42 billion over a 30 year period and the proposed spend, in the current long-term plans, is $80 billion.

WICS's findings on investment increased the overall expected investment requirement nationwide to $120 - $185 billion over 30 years (Figure 4.1). These findings were based on four different models including asset value, regional investment levels observed in Scotland and our council's unconstrained three waters asset investment programme set out in relevant asset management plans.

For Christchurch, the historic investment levels for Three Waters in the Long Term Plans has been around $1.4 billion per annum. The forecast in the current Long Term Plan is around $2.7 billion per annum. The WICS assessment suggests investment between $4 and $6 billion per annum will be required to have the networks reach optimal performance and efficiency.

The WICS assessment found the quantum of infrastructure deficit differs across New Zealand, as shown in Figure 4.2. The assessment forecasts that most significant affordability challenges are with smaller, rural councils as charges per household could increase up to 13 times by 2050.

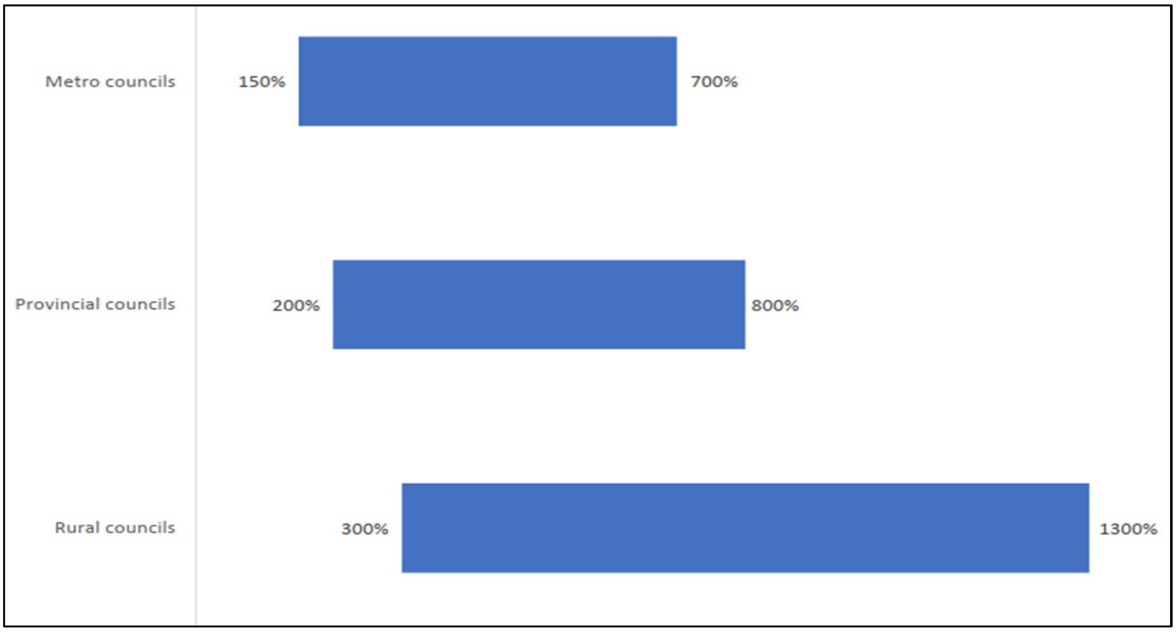


Figure 4.2: The increasing affordability challenge for rural councils.

4.3.2 Christchurch's infrastructure deficit

The level of investment required for Christchurch is broadly in line with Government's projections:

- WICS modelled 30 year CAPEX: $9.1 billion
- Christchurch City Council's un-constrained CAPEX: $8.6 billion

Christchurch's water services network requires significant renewals. This is due to historical building booms, deferred renewals and shortened asset lives from the Canterbury Earthquake sequence. The approach taken by Council is to focus until 2037 once the renewal curve subsides is on ensuring our network does not deteriorate, after which the focus is expected to increase towards network condition.

This means that whilst the levels of investment are broadly similar, the rate is different as outlined by the diagram below.

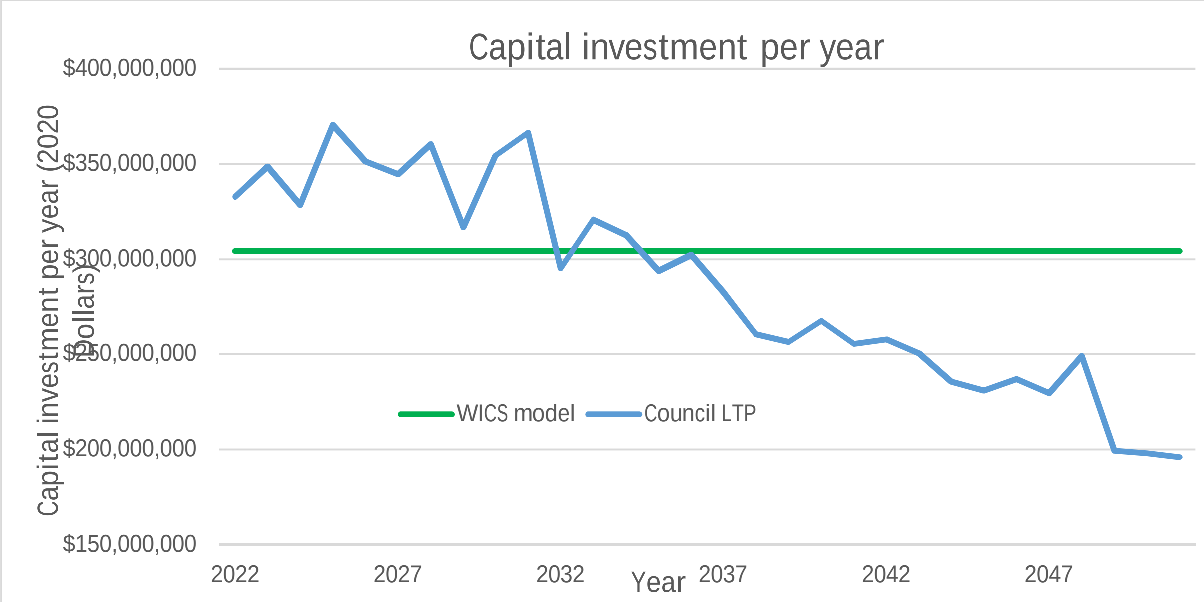


Figure 4.3: Capital investment per year – WICS modelling and Council's LTP.

4.4 The Government's proposal

The Government proposed to pursue an integrated and extensive package of reform to the current system for delivering three waters services and infrastructure. The package comprises the following core components:

- establish four statutory, publicly-owned water services entities to provide safe, reliable and efficient water services
- enable the Water Services Entities to own and operate Three Waters infrastructure on behalf of local authorities, including transferring ownership of three waters assets and access to cost-effective borrowing from capital markets to make the required investments
- establish independent, competency-based boards to govern each water services entity
- set a clear national policy direction for the three waters sector, including expectations relating to the contribution by water services entities to any new spatial / resource management planning processes
- establish an economic regulation regime, to ensure efficient service delivery and to drive the achievement of efficiency gains, and consumer protection mechanisms
- develop an industry transformation strategy to support and enable the wider three waters industry to gear up for the new water services delivery system.

The Government has said it will continue to work closely with its local government and treaty partners on some of the details to give the reforms the best chance of success, to ensure the new water service entities can efficiently and effectively commence operations by no later than 1 July 2024.

4.5 The Three Pou of Water Reform

There are three pou (pillars) of the Government's Three Waters Reform Programme:

1. Pou tuatahi: Taumata Arowai. A dedicated water services regulator to administer the new regulatory regime.
2. Pou tuarua: Regulatory reform. The Water Services Bill

3. Pou tuatoru: Service delivery reform. Seeking equitable access to more affordable and reliable water services.

These reforms are intended to address issues and opportunities that were highlighted by the Government Inquiry into the Havelock North Drinking Water, and in the Government's Three Waters Review.

4.5.1 Taumata Arowai

Taumata Arowai has been established as an independent Crown entity by the Taumata Arowai – Water Services Regulator Act passed in July 2020. Taumata Arowai is committed to ensuring all communities have safe drinking water and has an oversight role in protecting the environment from impact of wastewater and stormwater. It will take over from Ministry of Health as the water services regulator in late 2021.

The objectives, functions, operating principles, and governance arrangements, including the appointment of an independent Board and a Māori Advisory Group for Taumata Arowai are all provided in the Water Services Regulator Act.

4.5.2 Regulatory Reform

The Water Services Bill is currently waiting to have its second reading in Parliament. The Water Services Bill will repeal Part 2A, Drinking Water, of the Health Act 1956 and replace it with a stand-alone act of Parliament. Taumata Arowai's primary role is as the drinking water regulator with an oversight role for wastewater and stormwater (see Figure 4.3). Regional councils maintain their role for resource management, consenting and compliance for water takes and discharges to water.

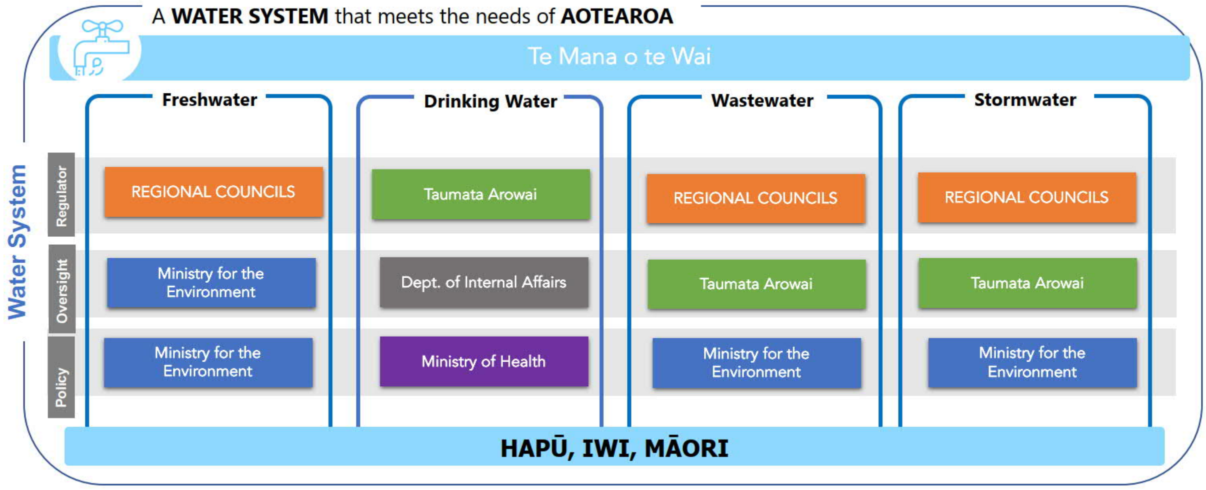


Figure 4.3: Roles and responsibilities in the new water regulatory environment.

The Water Services Bill allows for an exemption to mandatory chlorination to be applied for. Christchurch is the largest supply by far that has indicated that they will apply for this exemption. Other supplies in the neighbouring councils of Selwyn and Waimakariri are also interested (eg Lincoln, Prebbleton, Rolleston) and Napier commissioned an in depth report on chlorine free options (Chlorine-Free Drinking Water Review – Napier City Council 30 March 2021, PDP). Within Entity D such an exemption may not be seen as a priority and there may not be strong support for the costs and resources required to apply for an exemption (and maintain this status ongoing). Other priorities may exist for the new Entity; dominated by supplies that currently don't have bacterial or protozoal compliance.

In addition there is a lack of clear advice regarding whether a supply is required to be chlorinating prior to making an application for an exemption.

The Water Services Bill also requires amendments to the Local Government Act 2002 (LGA 2002) that would require territorial authorities to:

- Assess all drinking water supplies other than domestic self-supplies within their districts
- Work with a drinking water supplier, consumers of the supply and Taumata Arowai to find a solution if a drinking water service fails or appears to be failing.
- Take over the management and operations of a failing drinking water service, or provide water via alternative arrangements.

These provisions of the Bill go well beyond territorial authorities' current responsibilities under Local Government Act 2002; particularly the requirement to take over water supplies that fail to meet their statutory obligations or pose a risk to public health. The Council submission on the Water Services Bill recommended the Bill be amended so the requirements of section 198 (which amends LGA 2002) apply to a water services entity rather than the territorial authority, for those services it provides, if one has been formed as a result of the Government's Three Waters Reform. We also submitted that Taumata Arowai funds territorial authorities and water services entities to enable them to bring private supplies up to the standard required to achieve statutory compliance. The Health Select Committee report makes no comment on the proposed changes to the LGA 2002, nor any change to the applicable clauses in the Bill.

Safe drinking water without permanent residual disinfection

The Water Services Bill would introduce mandatory residual disinfection of community drinking water supplies. That means the temporary and targeted chlorine treatment would roll out across the whole city and become permanent. The Bill does provide a mechanism for an exemption and this Council has been clear it would apply for an exemption for the Christchurch city supply. If Christchurch is required to comply with residual disinfection of community drinking water supplies, to actually meet the specifications for disinfecting in the new draft compliance rules, Council would need to demonstrate contact time (the easiest way to do this is by using a reservoir) and have on line monitoring of free available chorine (FAC), pH and turbidity. This will be expensive and take time. While Council is currently adding chlorine, the approach used does not meet compliance requirements for residual disinfection.

In addition to the Water Services Bill, the government is also undertaking a Future for Local Government review and reforming the resource management regulatory framework including replacing the Resource Management Act 1991.

4.5.3 Service delivery reform for Three Waters

The Government's three waters reform programme proposes an aggregation of service delivery across New Zealand. Government have indicated the objectives they are seeking through the service delivery reform are better outcomes for New Zealand's communities, not just in terms of safety, but also in terms of equitable access to more affordable and reliable water services. Instead of councils being responsible for public three waters delivery, the proposal is for four publicly-owned water services entities to be established (see Figure 4.4)). The new entities will provide services and infrastructure relating to drinking water, wastewater and stormwater.

Government's rationale for the creation of four publicly-owned water services entities is the benefit of scale:

- strategic and coordinated asset planning across regions
- catchment outcomes
- provide funding and investment pipeline certainty for supply chains

- capacity and capability associated with larger-scale entities
- career pathways and opportunities for the workforce to specialise.

However, while the design of the current system provides limited opportunities to benefit from scale, there are still limitations to the proposed entities, especially regarding cost equity. The indicative average cost per household (as at FY51 excluding inflation) with the reforms vary considerably per entity:

- Entity A: $800
- Entity B: $1,220
- Entity C: $1,260
- Entity D: $1,640

Christchurch will be included in the South Island entity that comprises the Ngāi Tahu takiwā (total population 864,350). The Government has indicated that 800,000 is the minimum population to achieve scale benefit.

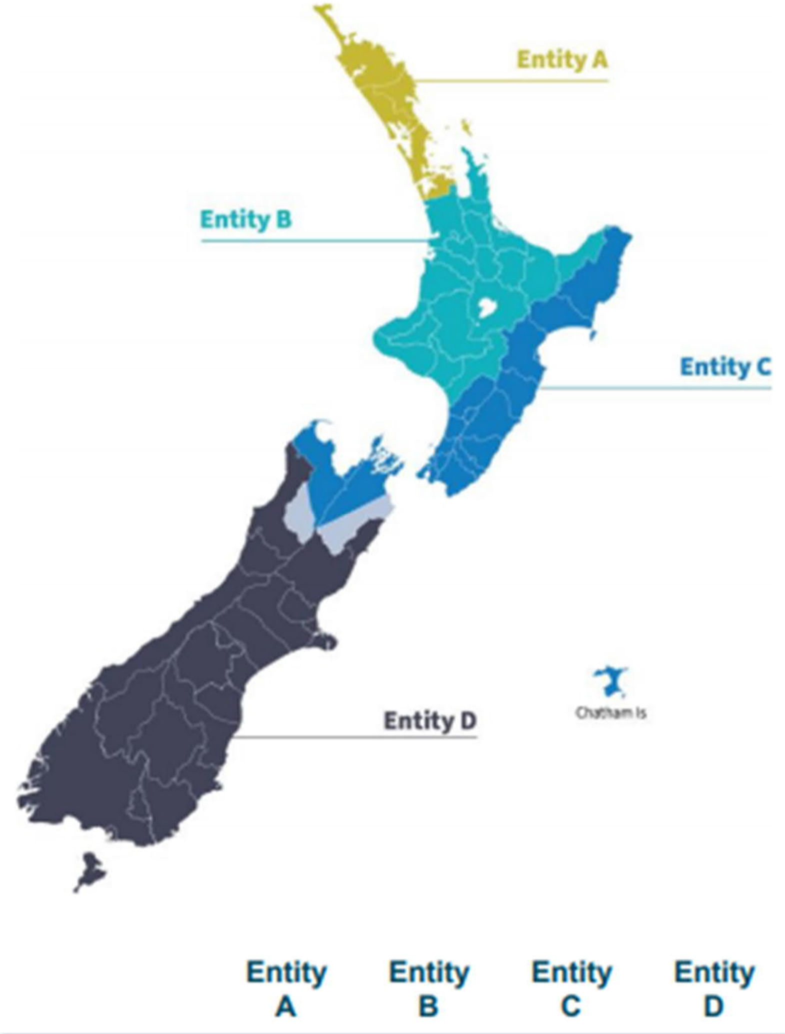


Figure 4.4: Boundaries of the proposed four entities.

The proposed water services entity governance model is complex (see Figure 4.5). Local authorities will own the entity on behalf of their communities It is anticipated that the water services legislation will include protection against future privatisation. Commentary to date has indicated this will include a 75 per cent majority referendum, no provision for financial recognition of ownership (including no shareholdings and dividends) and statutory restrictions on sale / transfers of assets.

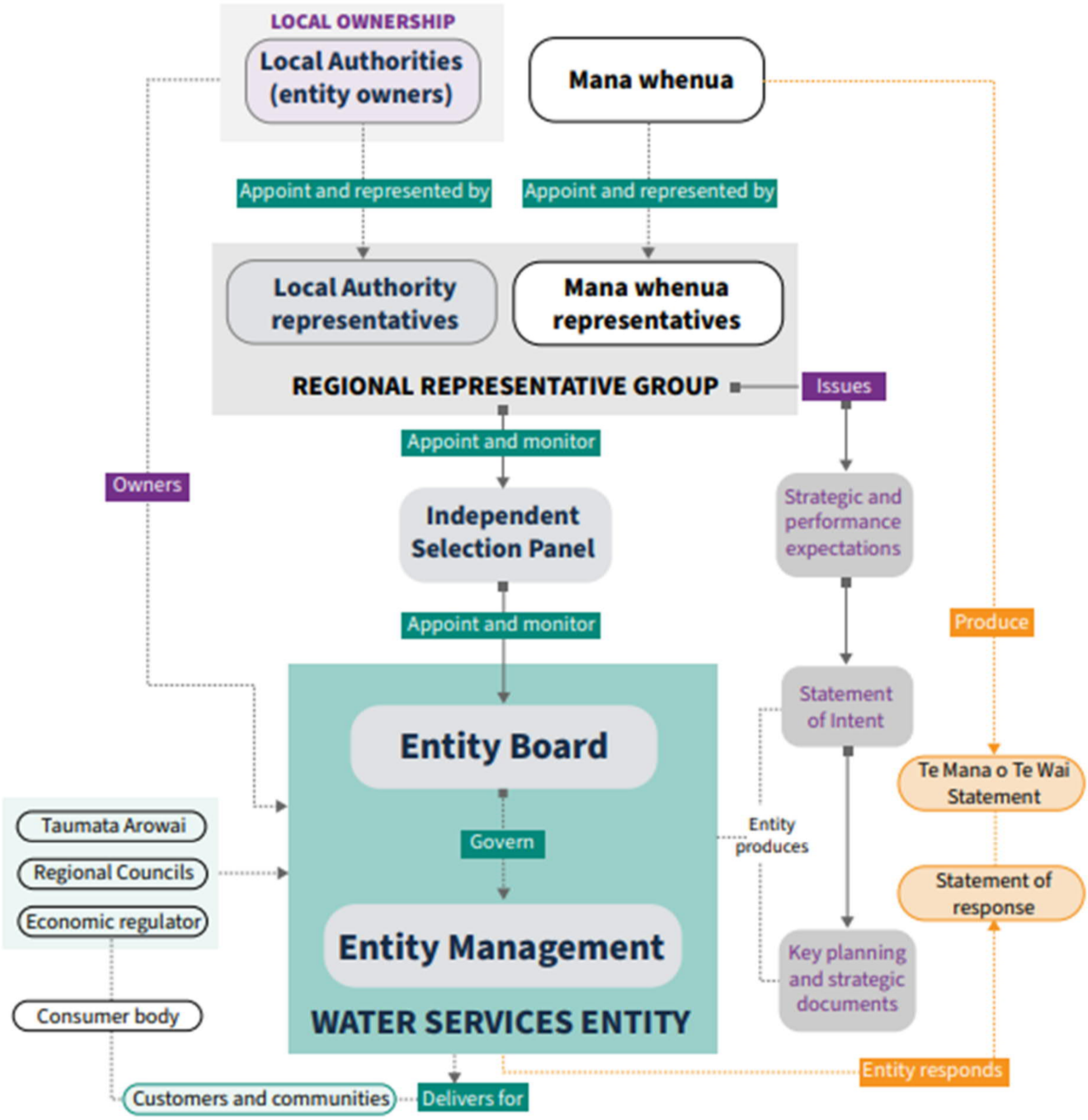


Figure 4.5: Entity Governance

4.6 Iwi rights and Interests

Council acknowledge Iwi rights and interests afforded to Ngāi Tahu as a treaty partner with the Crown, and recognises Ngāi Tahu as the mana whenua of its Takiwā. Council note and recognise the rangatiratanga of Ngā Tahu as outlined in the Ngāi Tahu Claims Settlement Act 1998, and acknowledges that Ngāi Tahu assert mana whakahaere in the Takiwā. Council is actively engaging with Ngāi Tahu on Water Reform, particularly with respect to the construct of 'Entity D' and will continue to do so throughout this process and beyond.

4.7 Economic regulation and consumer protection

Economic regulation and consumer protection is used in New Zealand for industries with strong natural monopolies (including airports, electricity, gas and communications). Its purpose is to help drive good long term outcomes for consumers including:

- Efficient pricing, procurement and asset management
- Incentives to invest and innovate
- Levels of service that reflect consumer demand.

Economic regulation tools used include price/quality regulation, negotiation, information disclosure and access regulation. The Ministry of Business, Innovation and Employment (MBIE) anticipates issuing a public consultation document in early 2022 on the design of the economic regulation regime.

4.8 Our involvement in the reform programme

4.8.1 Memorandum of understanding

In August 2020 the Crown signed a Memorandum of Understanding (MoU) with all eligible Local Authorities to support the improvement in three waters service delivery for communities with the aim of realising significant public health, environmental, economic, and other benefits over the medium to long term. This was a requirement to receive stimulus funding from the Government to support economic recovery post COVID-19 and address persistent systemic issues in the three waters sector. The MoU included a commitment to "openly sharing information and analysis undertaken to date on the state of the system for delivering three waters services and the quality of the asset base". It was effective until 30 June 2021.

4.8.2 Representation on the National Steering Committee

Our Chief Executive was invited to be part of the National Steering Group in mid 2020. The group comprises Mayors, Chief Executives, Regional Council and Te Maruata representation as well as the Society of Local Government Managers, Local Government New Zealand, the Department of Internal Affairs, and the Treasury.

The Committee provides oversight and guidance and works to ensure that a broad range of interests and perspectives are considered through the reform process.

4.8.3 Request for Information

The Request for Information process, led by the Department of Internal Affairs, was undertaken between from October 2020 until 1 February 2021. This was a significant request for each individual Local Authority and was used to inform advice and commercial and financial analysis undertaken by Water Industry Commission for Scotland.

4.8.4 Stimulus funds

The Government has provided for funding packages throughout the reform process to encourage local government to participate in and agree to the reform proposals. These funding packages have included:

- $700 million in 2020, stimulus funds for local authorities, $40 million provided to Christchurch
- $296 million for establishment of the new entities

- $500 million "no worse off" including $50 million shared by Auckland, Wellington and Christchurch
- $2,000 million "better off" from 2024, $122 million for Christchurch.

4.8.5 Feedback on Government's entity proposal

On the 30th July 2021, Local Government New Zealand (LGNZ) and the Department of Internal Affairs (DIA) issued a document entitled "Three Waters Guidance for councils over the next eight weeks". LGNZ has requested responses from 1st October 2021.

The purpose of this document is to provide feedback on the impact of the reforms (including the financial support package) on them and their communities.

Appendix A. WICS modelling – level of investment

This section looks at the DIA-provided WICS financial modelling for CCC and Entity D. This is the modelling that was done to estimate the cost per household into the future (2022, 2031 and 2051).

In this review we have looked at the following questions:

1. What level of investment was modelled?
2. How was CCC modelled differently to Entity D?

The findings are presented in the sections below.

What level of investment was modelled?

We compared the investment figures in the WICS model for Christchurch with the unconstrained LTP input prepared by Council's 3W Asset Management Team. References to LTP investment in the rest of this portion of the report relate to the unconstrained LTP inputs.

The total investment projected from each of these sources is broadly the same over the 30-year period at $9B.

WICS modelled 30-year CAPEX:	$ 9.1bn
CCC LTP 30-year CAPEX:	$ 8.6bn

There are however some differences in the WICS model compared to the LTP figures, such as:

- the level of investment as categories by either Renewal, Growth and Enhancement
- how the investment is spread over the 30-year period
- what is included and excluded from the projected investment

Different Investment Categories

There are some important differences in how investment is categorised in Council's LTP compared to the WICS model. The different cost centres that make up the LTP figures are defined by Renewal & Replacement/New/Improvement categories and these are not directly equivalent to the categories used by WICS. The differences are shown in the table below.

Council LTP	WICS model	Differences	What this means
Renewal and Replacement (R&R) - Replacement of assets that are reaching their end of life.	Renewals - Replacement of assets that are reaching their end of life.	These are basically analogous, except that if an existing asset is upsized for capacity when it is renewed, the WICS model attempts to split this cost between Growth and Renewals investment. The LTP approach would treat the whole cost as R&R.	These can be treated as the same.
New - Construction of new assets that do not currently exist.	Growth – Construction of new or development of	The LTP approach includes significant investment as New that isn't related to Growth. For example, putting in a new	New should not be compared directly with Growth. Council's New investment has a

	existing assets to provide greater capacity meeting the needs of growth.	wastewater reticulation system into the existing Little River community.	relatively small amount of Growth within it, with the remainder being equivalent to Enhancement
Improvement - Development of existing assets to provide greater capacity or better level of service.	Enhancement – Construction of new or development of existing assets to provide a better level of service.	WICS's Enhancement is a broader category and includes Council's Improvement, as well as a proportion of the New investment that isn't growth-related.	WICS's Enhancement = Improvement + % of New

The following table shows the LTP figures split according to the category definitions used by WICS:

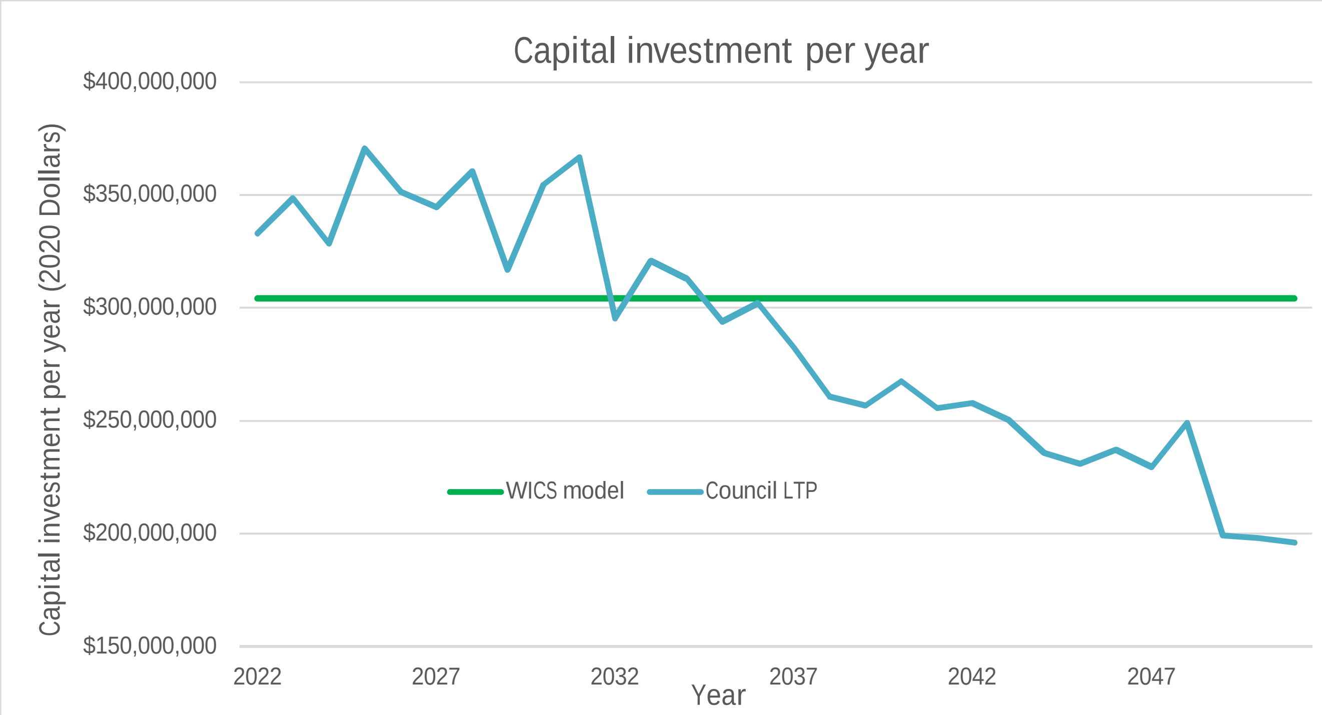
Investment category	CCC LTP	WICS model
Renewal	$ 5.0bn	$ 3.8bn
Growth	$ 0.5bn	$ 2.3bn
Enhancement	$ 3.2bn	$ 3.1bn
Total 30-year CAPEX	$ 8.6bn	$ 9.1bn

The largest investment in the LTP is Renewal at $5.0bn; greater than what has been projected by WICS. The LTP Renewal figures include projects where assets are renewed and upgraded for capacity at the same time, which is a reason for Renewal vs Growth split being different to WICS.

Different Investment Timing

There are differences in how investment is spread over the 30-year period between Council's LTP and the WICS model. The WICS model spreads the required investment evenly over the 30-year period. Council's LTP is made up of specific projects and programmes each with their own timing and therefor has periods of higher and lower investment.

The graph below shows the differences in investment spread.



Notably the LTP investment is front-loaded over the 30-year period. The intensive Renewal investment in Christchurch is needed for reasons below (detailed further in the Asset Management Plans).

- Significant asset cohorts reaching the end of their life at the same time. These predominantly relate to historic construction booms in Christchurch (early expansion of earthenware sewers in 1900s, and post-war building boom of AC water supply pipes).
- Post-earthquake shortened asset lives. A portion of assets require earlier end-of-life renewal due to earthquake-related damage that was under the repair threshold for SCIRT or treated with temporary solutions.
- Catch-up of deferred renewals. A catch-up in renewal spending is needed where previous renewals investment has not kept up with the rate of depreciating and ageing infrastructure.

A reason for Enhancement investment being higher the first 10 years of the LTP is planning horizons and uncertainty. The first 10 years includes projects with a higher degree of certainty of around cost, timing and priority. Beyond 10 years, the projected investment becomes less certain and subject to a greater number of unknown factors.

Different Investment Inclusions

While the total 30-year investment within the two projections is broadly the same, there are differences in what has been included.

- The LTP investment includes flood protection and control works which are not considered in the WICS model. Approximately 1/3 of the LTP 30-year investment ($3.1bn) is for flood protection and control works - relating to assets such as natural channels, stop banks, ponds and wetlands. Within this investment there is $1bn that relates to earthquake-affected land drainage. Flood protection and control investment isn't included in the WICS model and it is uncertain whether management of these types of assets will transfer to the proposed entities.
- The LTP investment includes some regulation-driven investment but this largely relates to addressing current known risks such as backflow prevention and reservoir condition. Full investment to meet yet unknown regulation requirements is not included in the LTP. The WICS

model broadly includes this investment by benchmarking the regulation-driven investment from Great Britain and Scotland.

- The LTP includes investment relating to climate change but this largely relates to current renewal, growth or enhancement projects that have a minor climate change adaption or mitigation component. Neither the LTP investment nor WICS projections include significant investment for specifically “climate-change-driven” projects or responses to climate change policy around strengthen/retreat/adapt.
- The LTP includes investment relating to te mana o te wai but this largely relates to stormwater and land drainage where Council’s six values of water has been an existing mindset. Neither the LTP investment nor WICS projections include significant investment for specifically “te-mana-o-te-wai-driven” projects or responses to emerging policy or regulation that gives effect to te mana o te wai.

The LTP includes additional investment for flood protection and control compared to the WICS model but this is potentially offset by the WICS model including greater investment in response to new regulation.

Both models exclude large-scale investment relating to emerging climate change and te mana o te wai policy, and therefore may underestimate the total 30-year investment required.

Alongside our findings, the DIA-commissioned Beca 2021 report The *DIA Three Waters Reform – WICS Modelling Phase 2* states three areas where WICS modelled investment may be underestimated:

- Upgrading the performance of three waters systems under new legislation
- Pressures of managing and delivering improvement and asset renewals backlogs simultaneously
- Higher Iwi/Maori expectations for water, particularly in the area of environmental performance

Impact of modelled investment on the Entity D vs Council standalone scenario

The WICS modelled investment for Christchurch has been used for both the Entity D economic model and the Council standalone model. Comparing Council’s LTP with the WICS model has given insight into the appropriateness of the total size and timing of investment. The relative cost per household between the modelled Entity D and Council standalone scenario is independent of the LTP comparison, since the same WICS model investment is used for each scenario.

How was CCC modelled differently to Entity D?

We have reviewed the key assumptions in the financial models that differ between Entity D vs Council standalone scenario. The key assumptions that differ between the two scenarios and that have a material effect on the projected average costs per household are:

- capital and operational efficiency
- total factor productivity
- debt to revenue ratio limits
- whether new operating costs are absorbed or not

The first three of these points are mentioned below but have also been covered separately in Council’s financial review of reform proposals and with inputs from Morrison Low.

Capital and operational efficiency

An efficiency factor of -6% has been used in the Council standalone scenario compared to approximately -50% for Entity D.

Changing these efficiency assumptions has a large impact on costs per household after 30 years. For example, changing the assumed Entity D efficiency from -50% to -25% increases the 2051 average cost per household by 35%.

Total factor productivity

An annual total factor productivity of -0% has been used in the Council standalone scenario compared to approximately -0.4% for Entity D.

Changing these efficiency assumptions has a large impact on costs per household after 30 years.

Debt to revenue ratio limits

A debt to revenue ratio limit of 250% has been used in the Council standalone scenario compared to approximately -500 to 600% for Entity D.

Changing these ratio limits impact the costs per household after 30 years where carrying higher debt results in a lower cost.

New operating costs absorbed or not

In the Council standalone scenario there are new operating costs that have been added each year for operating under new regulation. These have been factored in as 3% of the current year’s enhancement and growth capital investment. In the Entity D scenario these new operating costs are not added and are assumed to be absorbed.

Changing these efficiency assumptions has a moderate impact on costs per household after 30 years. For example, changing the assumed Entity D new operating from 0% to 3% (of the current year’s enhancement and growth capital investment) increases the 2051 average cost per household by 12%.

Appendix B. Property/Land issues

This is a high level discussion to point out a number of property/land issues that will exist and need to be thought about and dealt with should the council's water land assets transfer to another entity. This discussion does not explore the options for dealing with the issues as that will be too open ended without a more defined scope.

4.9 Land use

- Land use is not necessarily aligned to property rights and titling
- Not all three water assets are supported by property rights
- Creating and transferring land/property rights for the entirety of the Three Waters portfolio is not considered feasible; for practical reasons, a statutory solution to the transfer of Council Three Waters assets to the new entity is likely to be the favoured solution
- The valuation of Three Waters will be understated as a large number of land assets will not be identified/established.

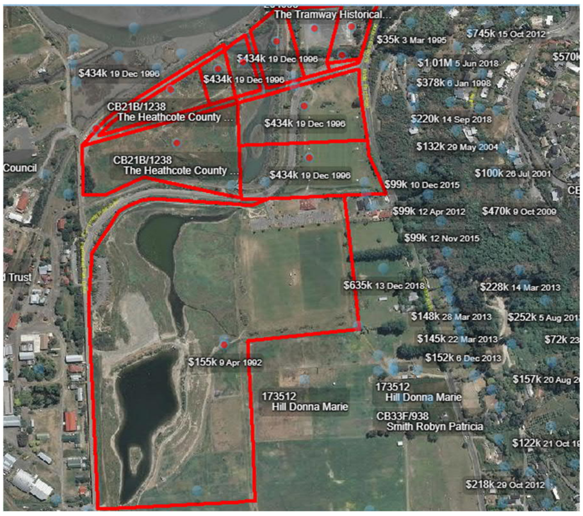
4.10 Titular Property Ownership

There are numerous Council owned Three Waters assets situated on Council owned land that contains mixed uses. A few examples of that are as follows:

Wainoni Park

While this land asset is held in multiple titles and land parcels the bulk of the property is in one parcel and title, which has mixed uses on it e.g. community, sport and recreation, open space, playing fields, library and a storm water management facility. The land asset value is recorded in Council records against Sports Parks.

Ferrymead Park



This property has multiple and mixed uses, one of which is storm water management. The titular ownership of the properties is held as follows and the land asset value is recorded against those profit centres in the Council's records.

- 81 Ferrymead Park Road is Ferrymead Recreation & Wetland against Regional Parks PC 56138
- 121 Ferrymead Park Drive is Ferrymead Park against Regional Parks PC 56110

Crosby Park

Held by Parks and recorded against that profit centre, but clearly mixed use and has a large storm water land drainage channel through it.

Ōtākaro Avon River Corridor (OARC)

The OARC and other Residential Red Zone assets e.g. Southshore and Brooklands transferred (or to be transferred) from the Crown to the council are/will be held and recoded against the Parks unit but large areas will be used for land drainage and storm water management.

4.11 Legal Roads

There are a number of more modern subdivisions e.g. Aidanfield, Prestons, Northwood throughout the city that have storm water and land drainage facilities in the legal road, as shown below:

There are numerous examples like those above across the city. This presents a number of issues:

- The survey and titling work on the property does not always align to the use of the property.
- Not all of the council's land related to water assets are separately identified in council's real estate or finance/asset valuation data bases.
- Historically natural water ways was part of Parks which is now considered part of the storm water network.
- There is no surveyed parcel, title or otherwise defined area to attach the asset and its ownership to.

4.12 Property Rights

If Three Waters land assets were to transfer to another entity using typical property law mechanisms they would need to be recorded in the Land Information New Zealand Land Register in the form of either a title or a partial interest registered on a title in form of an easement.

There will be numerous existing Three Waters infrastructure assets that currently do not have the protection of easements or where easements exist, they will be inadequate.

A good example of that is the western interceptor and southern relief trunk sewer mains which run through South Hagley Park, both are protected by way of easement, however the easement in respect of the western interceptor is inadequate in terms of width.

The southern relief trunk sewer that runs through the transmission corridor which is at the rear of the properties on the southern side of Blenheim Road, has no property rights protection and relies on statutory and bylaw protection, which is inadequate in terms of width. However, these statutory or by law protections do not create a land interest that could be transferred.

Creating separate property rights that align with use would be an extremely time consuming and costly exercise, as each asset would need to be identified and dealt with on an individual basis. This would involve the application of very significant staff, survey and legal resource and would likely take many years to complete.

4.12.1 Property Value

Below are the asset book values for the three waters land and building assets as shown in Councils Financial/Asset Accounting and Real Estate records.

We do not know how many assets that we might have on land that has mixed Land Drainage and Parks use. There may well also be the converse situation where Parks, recreation, transport activities etc. sit on land drainage assets. We can provide numerous examples so the extent of this issue is likely to be reasonably significant.

Establishing the scope and scale of this would be a reasonable sized project in its own right.

What is clear is that the land value attached to Three Waters assets sitting on other asset classes will not be incorporated (i.e. the asset value for Three Waters may be understated).

Three Waters Land and Building Book Values as at 30 June 2021

Wastewater	
Treatment Plants	245,527,247
Pump Stations	99,917,450
Other Buildings	6,147,000
Land	18,007,200
	369,598,897
Water Supply	
Treatment Plants	12,053,719
Pump Stations	159,994,911
Other Buildings	0
Land	20,788,400
	192,837,030
Stormwater	
Pump Stations	10,745,365
Other Buildings	995,000
Land	64,919,768
	76,660,133

4.12.2 Legal Roads

Legal roads do not have titles and therefore are not recorded in the Land Information New Zealand Land Register.

Roads are either held and vested in the council under the Local Government Act or, in the case of state highways, held and vested in the Crown under the Government Roading Powers Act 1989.

The services in the roads, whether they be council or utility providers, are protected through a number of bylaws and statutes e.g. the Electricity Act 1992, Gas Act 1992, Telecommunications Act 2001 and the Local Government Act 1974.

Services in roads do not have property rights.

Transferring roads would therefore be extremely problematic. To provide some understanding of the challenge and scale of it, the options would likely need to be:

- A raft of legislative changes to a number of statutes and bylaws.
- Stopping and surveying all roads and creating easement interests for all the services in all roads. This would create transferrable rights in the normal property sense.

Transferring legal roads to a new Three Waters entity would also be inconsistent with the primary purpose of roads, which is to provide public access to properties. For convenience, roads are used by service providers to provide their services to properties, but the principle purpose of the road corridor is to provide road access to properties. In addition, it would be inappropriate to give one service provider ownership of the road, when there are multiple service providers who make use of roads.

4.13 Statutory and Bylaw Protections

There will be numerous Three Waters assets throughout the city that do not have a property right protection and are reliant on statutory or by law protectione.g. Christchurch District Drainage Act 1951. Dealing with or extending those protections and powers to a new entity will need to be considered.

4.13.1 Historic Example / Case Study

In approximately 1992 Christchurch City Council divested itself of owning and running the “MED” to a separate company – Southpower (now Orion). The property interests associated with that were at the time considered too large a portfolio to deal with using traditional property transfer methods. A Deed of Establishment was therefore entered into, to record those property interests (some 1500 odd) that would remain held in the council ownership but deemed to be considered owned by Southpower.

To this day we still field enquiries related to these and every year action transfers to get the ownership legal changed on the title into Orion. This generally occurs when titling action is required e.g. transfers, registration or surrender of instruments. In addition, the establishment and transition took place over a period of time where developments were occurring, and therefore not captured in the Deed of Establishment, which need to be defined at a single point in time - this has resulted in electricity assets held in the ownership of developers/subdividers, some of whom no longer exist.

The scale of the land assets for a Three Waters transfer would be vastly larger.

4.14 Preferred Solution

In general terms, to avoid the complications, scale and difficulties associated with creating and transferring property interests to the new Three Waters entity, it is recommended that Parliament enact statutory provisions in respect of Three Waters assets similar to those that currently exist for electricity, telecommunications and gas infrastructure situated in legal roads. This is a model that currently works for the providers of similar utility services and is well understood.

Appendix C. Stormwater considerations

4.15 Summary

There are three areas of needs where improvements are sought in the water reform for stormwater, waterways and flood plain management:

- Meet basic asset management standards (e.g. conveyance)
- Flood management
- Water quality improvement

These are real issues which need to be addressed whether stormwater is inside or outside of the new entity.

Issue:

For example for flooding, is this a regional or local responsibility? Floodwaters are happy to cross in and out of those boundaries, and so it becomes quite messy. Most people think that regional authorities manage all flooding, but that is not the case in urban areas, as much of the flooding occurs outside of the areas for which a regional authority is responsible.

Recommendation:

Look at how to split responsibilities (if at all) based on different outcomes to be achieved, as well. Funding and financing challenges remain with both models – not easy to use volumetric charging, difficult to justify uniform annual charge, generally done by local rating district (for specific area of flood risk) or general rate (for stormwater management).

4.16 Land use planning

Stormwater, more than water and wastewater, is a product of land use both in terms of quantity and quality. While there are cross-boundary (physical and responsibility) issues currently, TAs have much more ability to integrate land use planning with stormwater management considerations in urbanised environments. These considerations include:

- Identifying and planning for space for stormwater management facilities
- Restricting development where the downstream infrastructure is inadequate or uneconomic to upgrade
    - Who will have the right of veto? Will it be similar to NZTA which restricts development which impacts on network function/safety, or will it be that the Entity has to manage whatever land use changes happen?
- Water quality can be improved both through source control (e.g. restricting certain building materials and other land use interventions) and through infrastructure. The ideal mixture is to use both, as it is unrealistic to think that either alone will solve issues. Currently TAs have an ability to manage these two together. An example is the Council's Sediment Discharge Management Plan (SDMP). This document involves co-ordination between the following parts of Council, of which only the stormwater bylaw might be migrated to the Entity.
    - Building consents
    - Compliance

    - Resource Consent conditions
    - stormwater bylaw

- Climate change adaptation - How will the Entity be able to manage this when the land use planning sits with the local authority?

4.17 Roading and parks

- Considerable drainage infrastructure in the road corridor – kerb and channel and some blue-green infrastructure such as tree pits, rain gardens and swales
- Roads and some reserve areas used as secondary flow paths
- Large areas managed for both stormwater / floodplain management / ecology / urban greenspace (ecology, recreation, mahinga kai, landscape, amenity, heritage)

4.18 Expertise

- Stormwater management involves ecologists, landscape architects, land use planners, park managers etc.
- Whether a new entity will have all this expertise is unknown

4.19 Six values approach

- For over 20 years Christchurch has operated a multi-value approach to stormwater management, focusing not just on drainage, but also on integrating cultural, ecological, landscape, recreational and heritage values into the design of stormwater infrastructure, and has significant investment in this area.
- Values other than drainage do not pay – ecology, heritage, recreation, landscape, culture
- There need to be non-economic incentives for these, typically community driven through LTP process and political will
- With the focus on water and wastewater, will the funding be available for this?
- Results in a much wider skillset required for operations and maintenance

4.20 Floodplain management

- Territorial Authorities have an ability to implement a balanced mix of policy (planning) and infrastructure interventions to manage flooding.
- In Christchurch City the use of flood management areas (overlays in the district plan) restricts development and requires new builds to have higher floor levels, to mitigate impact of flooding and reduce the cost of future intervention.
- District Plans can introduce more restrictive thresholds for development, which over time can address flooding issues without requiring infrastructure interventions.
- Funding for infrastructure interventions is generally sporadic, so need to be clear on how the business case will be decided for investment in flood management.

4.21 Water quality improvement

- As water quality is primarily a result of the upstream land use, how land use is planned is a key part of improving water quality.

- While there can be mechanisms to facilitate liaison between the Entity and TA on land use planning, this is an area of high uncertainty as to how to effectively do this.
- Will the new entity also look at source control (e.g. industrial site audits and management)?
- Difficult to conduct a cost benefit analysis for water quality improvement

4.22 Charging

- There is currently no clear option for how to charge for stormwater management, with issues around:
    - It could be based on rateable value, but that isn't really a user pays system (this is the current system largely, and probably the only way to do it?)
    - Charging based on rateable value makes sense for smaller catchments, but when spread across the whole area of a Entity this is difficult, particularly as water quality issues will be very different across the Entity area
    - Volumetric charging can't work (unless impervious surface area is used, but that is compliance heavy)
    - If flood management is split between RCs and TAs, there may be double-dipping with charges

4.23 Groundwater/land drainage

- These interact heavily with the stormwater system and will increasingly be an issue with sea level rise
- If stormwater is to go to a new entity, then management of some of these systems should likely transfer as well

4.24 Private drainage issues

- The new entity will need to assist customers with these, or resource left in Councils to do so

4.25 Emergency management

- This is proposed to stay with regional and local Councils but a lot of the flood management expertise and understanding will be in the new entity
- There will need to be very clear definition of responsibilities, and during emergency management it is likely that the new entity staff will need to provide input into preparation and during the response

Appendix D. Proposed decision making structures

4.26 Background

The Government has embarked upon a programme to reform the way water services are delivered in New Zealand. For many years this has been the responsibility of local authorities which, for the most part, own and operate the infrastructure required to deliver drinking water, wastewater and stormwater services to consumers and the community. Auckland Council, and a number of councils in the Wellington region have established Council-Controlled Organisations (CCO) for this purpose.

The first phase of the reform programme was the passing of the Taumata Arowai-the Water Services Regulator Act in August 2020. One of the tasks to be undertaken by Taumata Arowai is the administration of a new drinking water regulatory system, while another is to provide oversight of, and advice on, the regulation, management, and environmental performance of wastewater and stormwater networks.

The next phase of the programme is the introduction of the Water Services Bill, which was referred to the Health Select Committee and reported back to Parliament on 10 August 2021, with the Bill expected to be enacted in late September. The main purpose of the Bill is to provide a drinking water regulatory framework that includes a duty on suppliers to have a drinking water safety plan and comply with increased legislative requirements (such as drinking water standards). This is the regulatory system to be administered by Taumata Arowai.

The third phase is the Government's proposal to transfer the responsibility for delivering water services from local authorities to publicly-owned water services entities, which will be created by statute. Currently four such entities are proposed, with each one having a professional, competency-based board, with the owners being the local authorities whose districts are within the entity's boundary. The transfer will include the ownership of water services assets being transferred from the participating local authorities to the new entities.

The outcome of this is that if the third phase of the reforms is adopted by the Government, the new water services entities will take over the delivery of water services, with financing arrangements that include the leveraging of assets the entities have acquired, at no cost to them, from the local authorities that will collectively own them. The Government intends the entities to be operationally and financially separate from its owners.

4.27 Executive Summary

If the Three Waters reform programme is implemented as proposed, councils will no longer have direct control over the strategic decisions that affect the provision of water services to their communities. Instead, those communities will have direct and ongoing engagement with the new water services entities.

The Council's ability to influence the planning, decision-making, and delivery is limited to the opportunities available through the governance structures outlined in this paper. The position would be mitigated to some degree if the Government were to adopt the suggested changes.

It is recommended that the Council registers its concern at the erosion of local government influence in respect of the delivery of Three Waters services in its district.

4.28 The Role for Councils in the Proposed Decision-Making Structure

The fourth phase of the reforms will include the Water Services Entities Bill, which is to be introduced in time for it to be referred to a select committee before the end of this year. At this stage the Government's proposal is for the Bill to create four new water services entities, each one owned by the local authorities whose districts are included in the area covered by that entity.

Under this arrangement, Christchurch is one of 21 district and city councils that will collectively own Entity D, which would operate in the area described as the Ngāi Tahu takiwā, or district. This will cover most of the South Island.

The local authorities will not own shares in Entity D. Instead the legislation will list them all as owners, with no adjustment of shareholdings to reflect different levels of investment in local authority districts. The Government argues this arrangement would still provide local authorities with (limited) governance rights conferred by the legislation and exercised by them, and mana whenua collectively, as a regional representative group.

4.29 Regional Representative Group (RRG)

Introduction

The legislation will provide processes for establishing this group, its powers and functions, and processes for appointing representatives. The current proposal is that elected members, or a relevant and appropriately qualified senior council officer, will be appointed along with an equivalent number of mana whenua representatives. The number of appointees will be no more than 12, but the Government's preference is for 10 or fewer members, with a mix of metropolitan, provincial, and rural council representatives required.

Analysis

So far there are few details about the proposed appointment process, and how the respective interests of the participating local authorities will be reflected in the RRG. Sensing some difficulties with this, the Minister has proposed the appointment of a group to work with local authorities and mana whenua as a backstop, if needed, to facilitate the appointment of representatives.

As it currently stands, there are no mechanisms proposed for ensuring that large metropolitan councils, such as Christchurch, are guaranteed representation. While the focus is on improving the quality and consistency of water services to all consumers and communities, there should also be recognition in the legislation that the investment needs of a council with a large population base is very different to those of smaller councils. This should not be a 'one size fits all' approach.

Suggested response

- Adopting a collective approach to ownership and governance is unlikely to remove potential tension between large, medium, and small owners.
- There needs to be written into the legislation the requirement that the largest metropolitan council in each entity is guaranteed membership of the RRG.
- A proportional voting system is used at RRG meetings to reflect the significant difference between providing and maintaining water services to metropolitan, provincial, and rural areas.
- There needs to be a clear process for the rotation of representatives

4.30 Independent Selection Panel

Introduction

It is proposed that the RRG will appoint the members and chairperson (a total of 4) to a panel (the ISP) that will, in turn, recruit and appoint the members of an entity's governing body (the board). Legislation will provide for the ISP members to be independent of local authorities, and outline the panel's functions, and requirements with regard to panel members' skills and experience.

The RRG will have the opportunity to comment on, and approve, a charter prepared by the ISP setting out its operations and functions. However, when it comes to the preparation by ISP of a board appointments and remuneration policy, including any skills matrix, the RRG may provide comments, but has no right of approval.

The role proposed for the ISP is for it to ensure that independent, competent, and appropriately qualified people are appointed to the board's key governance positions. It is to provide assurance that the board has the effective composition, skills, and commitment to adequately meet an entity's objectives and discharge its responsibilities and duties (source: DIA advice).

Analysis

Each board will be relying on assets provided by local authorities to deliver water services in their area. Local authorities will also be owners of the entity the board has been appointed to operate. It therefore makes sense for local authorities to have some say in the type of skills and expertise the ISP should take into account, particularly given that engaging with local councils is likely to be a key focus for board members in at least in the short to medium term.

If the ISP is not required by legislation to consider local government knowledge and experience when recruiting and appointing board members, then any influence local authorities may have in the process is greatly reduced. Requiring boards to be operationally and financially separate should not mean they must also be completely isolated from local authorities.

Suggested response

- Remove the requirement for an ISP and give the RRG the ability to vote on the appointment of entity board members.
- Alternatively, the RRG is given the opportunity to approve an appointments and remuneration policy, and to appoint to the ISP a member with local government knowledge and experience.

4.31 Accountability Framework

There are a number of key documents that will direct or guide the strategic direction of a Water Services Entity, including accountability measures. These are:

- Government Policy Statement
- Statement of Strategic and Performance Expectations
- Statement of Intent
- Asset Management Plan
- Funding and Pricing Plan
- Investment Prioritisation Methodology

4.32 Government Policy Statement (GPS)

Introduction

The purpose of this document is to provide high-level strategic direction to the new entities, informing and guiding their decisions and actions. It will also convey any Government expectations in relation to partnering with Maori, and protection for Maori interests.

The intention is to provide certainty about the outcomes the new entities are expected to deliver, and to cover issues not already provided for in regulation or addressed through other mechanisms.

Analysis

One of the cabinet papers suggests the GPS could set out specific outcomes such as public health, the environment, climate change mitigation and adaption, and resilience to natural hazards. Other outcomes might be even more specific, for example, housing, urban development, water security and social well-beings such as equity of access to services and levels of service.

Elected members have indicated a wish to emphasise risk and resilience in their feedback, and the GPS may be one of the ways in which this could be addressed. However this is likely to depend on the process the Government follows for developing and adopting the GPS, and the degree of influence local authorities may have in that process.

Suggested response

- An open and transparent process is adopted by the Government in developing and adopting the GPS, including meaningful engagement with local authorities.

4.33 Statement of Strategic and Performance Expectations (SSPE)

Introduction

This is to enable an RRG to communicate expectations on behalf of its communities directly to the entity board. It may include more local and regionalised priorities and objectives, to guide entities' behaviour and decisions, but the specific requirements of this document may only become clear once the Water Service Bill is introduced.

The board must take the SSPE into account when producing its Statement of Intent and report in the SOI against the performance indicators set out in the SSPE.

Analysis

The issue for the Council is the level of influence it may, or may not, have in respect of the preparation of the SSPE, given the RRG would be required to engage with and account for the range of community interests within its entity's area. As indicated earlier, the RRG will have a mix of representatives from metropolitan, provincial and rural councils, with no guarantee the Council will be represented.

Suggested response

- The Council re-iterates its earlier suggestion that the largest metropolitan council in each entity is guaranteed membership of the RRG.
- More detail is required before the Council can provide meaningful feedback on the effectiveness of the SSPE.

4.34 Statement of Intent (SOI)

Introduction

The legislation will outline a requirement for each entity to produce a SOI, including any content and consultation requirements. The purpose is to publicly state the entity's activities and intentions, and provide a basis for the accountability of the board, measured against the indicators in the SSPE.

Analysis

At this point it is proposed that an RRG will be given the opportunity to comment on a draft SOI, but that an entity need only consider those comments.

Suggested response

- The SOI is intended to be the primary accountability document for an entity's board. Therefore the legislation should include a requirement that the board must comply with a direction from the RRG to amend any provision that is included in the board's SOI.

4.35 Asset Management Plan (AMP) and Funding and Pricing Plan (FFP)

Introduction

The Water Services Entities will be responsible for developing, consulting on, and implementing relevant business plans and strategies, such as an Asset Management Plan, Funding and Financing Plan, and infrastructure programme prioritisation.

The AMP must outline the investment priorities for the entity and how it will operate, maintain, and renew its existing assets and provide new assets over a 10 year period. It must be reviewed annually and, in addition, the economic regulator may commission independent reviews if that is considered necessary to lift the quality of asset management practice.

The FFP is to describe how the entity intends to fund and finance its business activities, including the AMP.

Analysis

The proposal is that the RRG will be consulted in respect of both documents, and have the opportunity to make comments, but these need only to be considered by the entity. There appears to be no opportunity for local authorities to approve, or direct an entity, in respect of any investment or major project, or on pricing and charging decisions in their districts.

Suggested response

- The legislation includes a requirement that local authorities are involved in the decision-making, planning, and delivery of water services in their districts, in particular for major investment or projects.
- This involvement should be directly between individual local authorities and the entity, rather than through the RRG.

4.36 Consumer and Community Voice

Introduction

It is proposed that entities will provide consumers and communities with opportunities to give direct feedback before any decisions are made in respect of an entity's AMP, FFP, and investment prioritisation methodology. The purpose is to allow individuals or community groups to comment on how investment should be prioritised over relevant time periods. The entity will be required to take this feedback into account before finalising these documents and, when they are published, to report on how the entity incorporated the consumer and community feedback.

'Appropriate' mechanisms for consumer and community voice are to be incorporated throughout the entity and system design. These will include a legislative requirement that each entity establish a consumer forum, mandated to help provide for the views and interests of consumers and community members on key business documents, including future service levels, investment priorities, and how much consumers should pay for water services.

It is proposed the forum has an elected chairperson and community representatives with appropriate experience and expertise who would undertake their own research and engagement, in addition to any engagement undertaken directly by the entity. It has been described as a core vehicle for engaging with consumer and community representatives.

Analysis

The Government's intention is that the new entities will have direct and ongoing engagement with communities, given that councils will no longer have direct control over the strategic decisions that affect the provision of water services to their communities.

MBIE has advised that this kind of provision would sit alongside, and complement, a provision in the proposed economic regulation regime that would require the economic regulator to appropriately incentivise high quality consumer engagement.

The outcome is that the opportunities for local authorities to influence decision-making, planning and delivery of water services are restricted to those available through the mechanisms outlined above. The implications of this are likely to be linked to the review of local government currently underway.

Suggested response

- Object strongly to local government not being recognised as having a role to play in the community engagement and consultation processes outlined above.
- Seek a pause in the Three Waters reform programme to enable all parties to better understand the implications of the local government review.
- Alternatively, seek assurance that the suggested changes referred to in this paper will be given favourable consideration by the Government.

Note that local government is best placed to engage with its community both through existing policies and procedures, and the requirements of the Local Government Act 2002.