

Notice of Meeting:

I hereby give notice that an ordinary meeting of the Dunedin City Council will be held on:

Date: Wednesday 26 February 2025
Time: 10:00 a.m.
Venue: Council Chamber, Dunedin Public Art Gallery, The Octagon,
Dunedin

Sandy Graham
Chief Executive Officer

Council
SUPPLEMENTARY AGENDA

MEMBERSHIP

Mayor
Deputy Mayor

Mayor Jules Radich
Cr Cherry Lucas

Members

Cr Bill Acklin	Cr Sophie Barker
Cr David Benson-Pope	Cr Christine Garey
Cr Kevin Gilbert	Cr Carmen Houlahan
Cr Marie Laufiso	Cr Mandy Mayhem
Cr Jim O'Malley	Cr Lee Vandervis
Cr Steve Walker	Cr Brent Weatherall
Cr Andrew Whiley	

Senior Officer

Sandy Graham, Chief Executive Officer

Governance Support Officer

Lynne Adamson

Lynne Adamson
Governance Support Officer

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***Note:** Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.*

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- c) **Authorises** the Chief Executive to make any minor editorial changes if needed.

BACKGROUND

- 5 Local Water Done Well (LWDW) is the Coalition Government’s plan for water services delivery improvement in New Zealand. LWDW is being implemented in three stages, each with its own piece of legislation. This Bill is stage three.
- 6 The first bill, the Water Services Acts Repeal Act 2024 repealed the previous Government’s water services reform legislation. The second bill, the Water Services (Preliminary Arrangements) Act 2024 (Preliminary Act), established the LWDW framework and the preliminary arrangements for the new water services system.
- 7 The Bill provides for:
- a) arrangements for the new water services delivery system, including both the structural arrangements and the enduring settings;
 - b) a new economic regulation and consumer protection regime for water services; and
 - c) changes to the water quality regulatory framework and the water services regulator.
- 8 The arrangements for new water services delivery systems include:
- a) structural arrangements for water services provision such as establishment, ownership, and governance of water organisations;
 - b) operational matters such as arrangements for charging, bylaws, and management of stormwater networks; and
 - c) planning, reporting and financial management.
- 9 The new economic regulation and consumer protection regime in the Bill is based on existing economic regulation in the Commerce Act 1986, which already applies to other industries across New Zealand, e.g., electricity lines services. The Commerce Commission will also enforce a new “ring-fencing” rule which requires regulated suppliers to spend the revenue they receive from providing water services on providing those services.
- 10 Changes to the water quality regulatory framework and the water services regulator, include:
- a) change the Taumata Arowai-the Water Services Regulator Act 2020 to amend the regulator’s name to ‘Water Services Authority – Taumata Arowai’;
 - b) changes to the Water Services Act 2021 (WSA 2021) designed to reduce the regulatory burden of the drinking water quality regime and improve proportionality in the application of regulatory powers;
 - c) a change in the approach to Te Mana o te Wai; and
 - d) enabling the introduction of environmental performance standards for wastewater and stormwater networks.

- 11 The Bill is available on the New Zealand Legislation website: <https://www.legislation.govt.nz>. A summary of the Bill can be found at Attachment B.
- 12 It is expected the Bill will be enacted in mid-2025.

DISCUSSION

- 13 The Bill enables greater flexibility in terms of delivery models and more provision for local ownership and influence when compared with previous water reform legislation. As such, DCC's draft submission is generally supportive of the Bill and its enabling approach, specifically around ownership and local influence.
- 14 The draft submission states, however, that Council is concerned that the level of regulation and widening ministerial influence contained in the Bill could have the effect of diluting Council control, regardless of which water services delivery model is adopted.
- 15 Similarly, the draft submission also states the Bill's structural arrangements are more weighted towards some water service delivery models over others, with what appears to be council controlled organisations being given more benefits (e.g., higher debt level thresholds) than in-house delivery models.
- 16 The draft submission urges the Government to ensure that restrictions against privatisation are enduring, and that local influence is preserved.

Structural Arrangements

- 17 The draft submission questions aspects of the structural arrangements outlined in the Bill including comprehensive and staged economic regulation and different debt leverage percentages for different water service models. Of most immediate concern, however, is the conflicting consultation provisions between the Preliminary Act and the Bill, and the draft submission requests clarification to ensure a "Change Proposal" only relates to changes outside the Water Services Delivery Plan process so that Council is not subject to unnecessary consultative processes.
- 18 Further, the draft submission states the definition of Joint Water Service Provider Arrangement (JWSPA) is too wide and requests there is a narrowing or flexibility given to the definition of a JWSPA to ensure simpler shared service arrangements can be efficiently entered. Further that there is an explicit exemption for contractual shared service arrangements from the new Change Proposal provisions.
- 19 The Bill provides limited mandated direction on mana whenua participation in water service delivery. The Bill states that water service providers must act in a manner that is consistent with Treaty settlement obligations, and shareholding councils *may* set expectations for how water organisations conduct its relations with Māori in the Statement of Expectations. The draft submission urges the Select Committee to consider amending the Bill to mandate engagement with Māori in line with other legislation e.g., Local Government Act 2002, as well as a requirement to include Māori representation on the board of a water organisation.

Provision of Water Services – Operational Matters

- 20 The Bill provides tools designed to improve operational efficiencies and manage risks, including management plans and bylaws relating to drinking water catchments, trade waste and

stormwater networks (including private watercourses). The draft submission states that, given the complexities of stormwater, further consideration is needed in relation to the integration of its management with asset owners, property owners and regulators, the management transport corridors, infrastructure maintenance, and how charging for stormwater may work.

- 21 The Bill requires water service providers to produce a drinking water catchment plan, a trade waste plan, and stormwater network risk management plan in the first two years after the Bill's enactment. Within the same timeframe, all water services bylaws must also be identified and reviewed. A plan must also be developed for each where they are either amended, revoked, or revoked and replaced.
- 22 Given the high volume of work for water service providers within the first two years post enactment of the Bill, relating to reviewing and/or preparing new bylaws and producing management plans, the draft submission requests some leniencies on timeframe given resource limitations.
- 23 The Bill specifies who can be charged for water services as the customer. These provisions are consistent with the provisions in the Local Government (Rating) Act 2002 that set out who is liable to pay rates. The draft submission supports this approach.
- 24 The Bill allows for the Crown to be exempt from paying development contributions. The draft submission opposes Crown exemption and states that any entity putting a burden on the system should be liable for development contributions.

Planning, Reporting and Financial Management

- 25 The Bill sets out new planning, reporting and financial management requirements for all water service providers. The requirements include a statement of expectations (for shareholders to provide to water organisations), a water services strategy, water services annual budget, and a water services annual report.
- 26 The draft submission states that Council acknowledges the principle of separate planning, reporting and financial management to ensure that money collected for the delivery of water services is spent on water. However, Council questions whether the new planning and accountability framework is another example of prescriptions within the Bill that are more weighted towards some models over others.

Economic Regulation and Consumer Protection

- 27 The Bill provides for the establishment of an economic and consumer protection system to be overseen by the Commerce Commission. Water service providers would be subject to core regulatory requirements, including information disclosure requirements, and may be subject to further regulation as determined by the Commerce Commission.
- 28 The draft submission states Council is generally supportive of the new economic regulation framework for water services, but that it considers the scope and scale of the Commerce Commission's economic regulation activities should be tailored to the water service provider's delivery model.
- 29 Further, the draft submission states that the level of oversight that is proposed for the Commerce Commission may be higher than is necessary in cases where territorial authorities adopt a delivery model that retains a high degree of control (e.g., in-house delivery). Council notes that the existing 'in-house' delivery model for water services already has several checks

Environmental Performance Standards and Infrastructure Design Solutions for Wastewater and Stormwater Systems

- 35 The Bill proposes a suite of changes designed to reduce the costs and increase the efficiency of consenting and operating wastewater and stormwater systems. These include:
- a) amendments to Taumata Arowai’s existing powers to make environmental performance standards for wastewater and stormwater networks – these would be single (not maximum or minimum) standards that would be implemented through resource consents; and
 - b) providing Taumata Arowai with powers to introduce infrastructure design solutions, which would set out design and operating requirements for wastewater treatment plants (or components of wastewater treatment plants) that – if implemented – would meet applicable wastewater environmental performance standards.
- 36 The draft submission states that these changes are pragmatic, however, additional opportunities should be provided for interested parties to participate in the process of making environmental performance standards and infrastructure design solutions for wastewater and stormwater systems.
- 37 Further, the draft submission states that following a robust process to develop the content of these tools will reduce the risk that their implementation unintentionally leads to adverse effects on environmental or cultural values.

OPTIONS

Option One – Submit on the Local Government (Water Services) Bill (Recommended Option)

- 38 Approve, with any suggested amendments, the draft submission to the Finance and Expenditure Select Committee on the Local Government (Water Services) Bill (Attachment A).
- 39 There is no impact on debt, rates, and city-wide and DCC emissions.

Advantages

- Opportunity to provide feedback on implementation of the Government’s ‘Local Water Done Well’ plan.
- Opportunity to recommend changes to Parliament’s Finance and Expenditure Committee on particular provisions of the Bill.

Disadvantages

- There are no identified disadvantages for this option.

Option Two – Do not submit on the Local Government (Water Services) Bill

- 40 Do not approve the draft submission (Attachment A).
- 41 There is no impact on debt, rates, and city-wide and DCC emissions.

Advantages

- There are no identified advantages for this option.

Disadvantages

- Missed opportunity to provide feedback on implementation of the Government’s ‘Local Water Done Well’ plan.
- Missed opportunity to recommend changes to Parliament’s Finance and Expenditure Committee regarding the provisions of the Bill.

NEXT STEPS

42 If approved, the draft submission will be finalised and sent to Parliament’s Finance and Expenditure Committee by 2 March 2025.

Signatories

Author:	Katherine Quill - Policy Analyst Scott Campbell - Regulation and Policy Team Leader Nadia McKenzie - In-House Legal Counsel
Authoriser:	David Ward - General Manager, 3 Waters and Transition Karilyn Canton - Chief In-House Legal Counsel

Attachments

	Title	Page
↴A	Draft DCC submission - Local Government (Water Services) Bill	13
↴B	Summary of the Local Government (Water Services) Bill	26

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This decision enables democratic local decision making and action by, and on behalf of communities, and promotes the social, economic, environmental and cultural well-being of communities in the present and for the future.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Economic Development Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Environment Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
3 Waters Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Future Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Other strategic projects/policies/plans	✓	<input type="checkbox"/>	<input type="checkbox"/>

This report has been prepared with reference to the Dunedin strategic framework.

Māori Impact Statement

The draft submission urges Parliament to further mandate engagement by water service providers with Māori in line with other existing legislation. The draft submission also states it does not support the proposed amendment to the Water Services Act 2021 that would remove the requirements for Taumata Arowai and water service providers to give effect to Te Mana o te Wai hierarchy of obligations.

Sustainability

Financial sustainability of local government water services is a key objective of the Government’s “Local Water Done Well” plan. The suite of legislation is designed to implement this programme and ensure delivery of water services is financially sustainable.

The draft submission states it does not support the proposed amendment to the Water Services Act 2021 that would remove the requirements for Taumata Arowai and water service providers to not give effect to Te Mana o te Wai hierarchy of obligations, as this may have an adverse effect on environmental values.

The draft submission also states that a robust process needs to be followed when developing the content of the Environmental Performance Standards and Infrastructure Design Solutions for Wastewater and Stormwater Systems to ensure there are no adverse effects on the environment.

Zero carbon

There is no impact on city-wide or DCC emissions directly associated with this report and the decision to approve the draft submission to Parliament’s Finance and Expenditure Committee.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

This report and the decision to approve the submission to Parliament’s Finance and Expenditure Committee have no direct implications for these plans and strategies.

SUMMARY OF CONSIDERATIONS

Financial considerations

There are no financial implications directly associated with this report and the decision to approve the draft submission to Parliament’s Finance and Expenditure Committee.

Significance

The decision to approve the draft DCC submission is considered low in terms of the Council’s Significance and Engagement Policy.

Engagement – external

A workshop was held with Councillors on Friday 14 February 2025 to inform the development of the draft submission. The workshop was open to the public.

Engagement - internal

Staff from the Legal Team, 3 Waters Group, and Executive Leadership Team have contributed to the development of the draft DCC submission.

Risks: Legal / Health and Safety etc.

There are no identified risks directly related to the DCC submission on the Local Government (Water Services) Bill.

Conflict of Interest

There is no known conflict of interest.

Community Boards

Community Boards are likely to be interested in the proposed water services delivery changes and staff will consider how to update the Community Boards.



Office of the Mayor

[] February 2025

The Chair
Finance and Expenditure Committee
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Tēnā koe Mr Chair

DUNEDIN CITY COUNCIL SUBMISSION: LOCAL GOVERNMENT (WATER SERVICES) BILL

INTRODUCTION

- 1 The Dunedin City Council (“Council”) thanks the Finance and Expenditure Committee for the opportunity to provide a submission on the Local Government (Water Services) Bill (the “Bill”). Council notes the Bill is the third bill in a three-part legislative package implementing the Government’s Local Water Done Well (LWDW) plan.
- 2 Council would like to acknowledge and thank the Government for listening to Council’s earlier submissions relating to the now repealed Affordable Water Reform plan. Council is generally supportive of the enabling approach under LWDW, specifically around ownership and local influence.
- 3 While supportive of the Bill’s enabling approach, Council is concerned that the level of regulation and widening ministerial influence somewhat dilute Council control regardless of the water services delivery model adopted. Likewise, the Bill’s enduring settings are still more weighted towards some models over others. Council is perhaps tentative that this reform may represent just one further step towards potential privatisation in the future despite the current provisions in the Bill.
- 4 Council notes that the timing of the parliamentary process is challenging given Council is in the process of making decisions on the Water Services Delivery Plan (WSDP). It is difficult to be making such decisions and consulting with communities when it is unclear what amendments will be made to the Bill before enactment. This is particularly relevant to (i) different consultation provisions between this Bill and the Local Government (Water Services Preliminary Arrangements) Act 2024 (Preliminary Act); and (ii) the likely scope of terms such as a “joint water service provider arrangement” (JWSPA).
- 5 Council is also concerned about the short time frame to submit on a Bill that has such an enduring impact on critical infrastructure. This is accentuated given Council’s current resource and focus on developing the legislated WSDP requirements. Council encourages the Select Committee to genuinely consider submissions from the local government sector to further refine the operation of the Bill.

- 6 Council sets out its key submission points below primarily in the order of the section headings in the Bill.

STRUCTURAL ARRANGEMENTS

- 7 Council appreciates the further clarity at clause 9 of the Bill by clearly listing various options on how to deliver water services. The direct inclusion of in-house delivery is also encouraging. However, the introduction of a comprehensive and staged economic regulation framework and other accountability requirements could be said to skew the decision between one model over another. Council submits that for those territorial authorities that decide to continue delivering water services in-house that a ring-fenced business unit operating within the comprehensive and established local government framework should be sufficient.
- 8 Different leverage percentages seem to also favour certain delivery options over others by incentivising those choosing a particular model or potentially those in a high growth area. Higher debt level headroom only available for those territorial authorities choosing to establish council-controlled organisations (CCOs) or in high growth areas seems unfair and again could infer the indirect mandating of a model despite providing a wider list of options at clause 9 of the Bill.
- 9 Council asks why a water services delivery model operating in-house must operate under a lower debt ceiling than a CCO? When considering a water bill and a rates bill, a household receives both. The concept of balance sheet separation is favoured by rating agencies however, the total debt exposure to a household is the same whether it is in two piles or one pile. Council submit that in-house delivery models should be allowed the same level of debt funding as any other model.
- 10 Of most immediate concern to Council is the conflicting consultation provisions between the Preliminary Act and the Bill. Currently, Council is in the process of making decisions on their proposed and anticipated model under the WSDP and having to consider the strict interpretation implications of clauses 25 to 28 of the Bill should be unnecessary. While staff at Council have received email correspondence from the Department of Internal Affairs that clauses 25 to 28 of the Bill are intended to capture changes outside options consulted on through the consultation process for the WSDP, reliance on an email communication is not an ideal decision-making base. Council submits for amendment to these clauses to ensure a "Change Proposal" is limited to changes after the WSDP (and outside the WSDP process) i.e., a Change Proposal is not triggered on implementing an aspect of the WSDP such as simply on establishment of an actual CCO or entering the actual contract relating to a JWSPA.
- 11 Likewise, Council is concerned regarding the wide definition of a JWSPA given the implication that entering a JWSPA triggers the Change Proposal process under clause 25 of the Bill. For example, some shared service arrangements may begin small and of a nature that does not necessarily warrant full community consultation under clauses 26 to 28 of the Bill. Council recommends that there is some further narrowing (or flexibility provided) relating to the definition of JWSPA under clause 24 and that shared services at a contractual level be excluded from the possible scope of a Change Proposal. It could be that shared

service arrangements are a first step towards more formal aggregation with other territorial authorities. Therefore, the strict interpretation of the legislation should not be a deterrent to taking this initial step.

- 12 Council notes the intended repeal of section 130 of the Local Government Act 2002 (LGA 2002) but are encouraged by the corresponding inclusion of clause 18 in the Bill providing a general duty on water service providers to retain ownership of infrastructure. Council is strongly of the view that there should be no future deviation from this requirement.
- 13 Council takes seriously its role, both as a water service provider and more broadly, in giving effect to the Treaty partnership. Of concern to Council is the potential weakening of Māori interests under the Bill. Water organisations appear to be legally required to consider Māori interests in limited areas of the Bill in comparison to those continuing to deliver water services in-house who will still be subject to the LGA 2002. Council submits that further consideration should be made to increase mandatory engagement with Māori within the Bill in line with other legislation such as the LGA 2002.
- 14 Council notes the directorship requirements for members of the water organisation board at clause 40 of the Bill. It is essential that boards possess a mix of skills including governance experience, technical expertise, strategic insight and community representation. Council submit that exemptions should be possible for representatives of the territorial authority to enable their inclusion as directors. In addition, there should be a requirement to include Māori representation on the board. Additional directorship requirements under the Companies Act 1993 and the LGA 2002 should also be explicitly covered within clause 40.
- 15 The Preliminary Act requires a WSDP to support the territorial authority’s housing growth and urban development, as specified in the territorial authority’s long-term plan. Likewise, the support of the territorial authority’s housing growth and urban development should also be listed as an objective of water service providers at clause 15 of the Bill.
- 16 Additionally, Council considers that provision of water services that do not have adverse effects on the environment is an unrealistic objective for water service providers. Complete avoidance of adverse environmental effects is unlikely for activities such as large-scale water takes and discharges involved in providing safe and reliable water services to consumers in New Zealand’s urban areas. A more realistic objective for water service providers would be to manage water services activities in a manner that minimises the adverse environmental effects of those activities to the extent practicable.

17 ***Council Recommendations:***

Bill Clause	Commentary	Recommendation
Clause 15 Objectives of water service providers	Include an additional objective for water service providers to support a territorial authority’s housing growth and urban development policy.	Council recommends that clause 15 includes this additional objective.

Bill Clause	Commentary	Recommendation
Clause 15 Objectives of water service providers	Provision of water services that do not have any adverse effects on the environment is unrealistic.	Council recommends that clause 15(1)(a)(ii) is amended so that the objective is for water service providers to provide water services in a manner that ‘minimises’ the adverse environmental effects of water services activities to the extent practicable.
Clause 23 Significant contract requirements	Council notes the onerous monitoring and performance indicators relating to significant contracts in ongoing reporting documentation which will have a resourcing impact. Council raises the general question as to whether monitoring and reporting on matters like this will have any impact on efficiencies?	Council recommends that further consideration is made as to the benefits of the monitoring and reporting on significant contracts at clause 23. Council also recommends that the word “significant” is added before “contract” in clause 23(4) in the first line.
Clauses 25-28 Change Proposals	Ensure any “Change Proposal” is limited to changes after the WSDP and outside the WSDP process.	Council recommends that clauses 25 to 28 are amended to make it very clear that a Change Proposal is not triggered within the WSDP process, and that this only relates to changes not consulted on through the WSDP consultation process.
Clause 24 JWSPA and implications of Clauses 25-28	The Change Proposal requirements are disproportionate for some JWSPAs such as a shared service arrangement with another territorial authority for simpler operational matters. The definition of a JWSPA should be limited to more complex arrangements. Shared service arrangements at a contractual level should be outside the scope of a Change Proposal.	Council recommends that further consideration is given to narrowing the definition of a JWSPA under clause 24 or providing further flexibility to not necessarily trigger the Change Proposal process e.g., entering simpler operational shared service arrangements. Further, contractual shared service arrangements should be explicitly excluded from the scope of a Change Proposal.
Clause 40 Board Directors	Exemptions should be possible for representatives of the territorial authority to enable their inclusion as directors. Additionally, require the inclusion of Māori representation on the board as well as make other requirements in other legislation explicit.	Council recommends that clause 40 is amended to provide for Māori representation and an exemption process for territorial representatives on the board. Also to show explicit requirements under other legislation.

PROVISION OF WATER SERVICES – OPERATIONAL MATTERS

- 18 Council is grateful for the provision of several tools to improve operational efficiencies, including bylaws and the stormwater network risk management plan (SWNRMP) to support management of watercourses. Council would note, however, that management of private watercourses can be complex and expensive. In some cases, the work required to ensure private watercourses do not impair the functioning of the wider stormwater system may be beyond the abilities of some private property owners.

- 19 In addition, Council submits that the legislation has not fully addressed the full complexities of stormwater delivery. This is particularly apparent regarding the lack of direction relating to overlapping responsibilities, maintenance, transport corridors, and how stormwater charging may work. For example, a threshold for distance from a ‘stormwater network’ is not a clear way to determine chargeability for stormwater services.
- 20 While Council is fully supportive of the expected benefits of documenting various plans (drinking water catchment, trade waste, stormwater network risk management) and other bylaws required under the Bill, Council notes the potential duplication and high volume of work that providers must produce within the first two years from enactment of the Bill. Some leniencies in achieving the timeframes with the current resource would be appreciated while Council navigates the wider LWDW requirements. Consideration must also be given to the challenges of resourcing both territorial authorities and separate water organisations given the necessary integration between the different entities particularly in planning matters. Ultimately, the Council is concerned that the up-front costs of resourcing these additional requirements will need to be passed on to consumers by the territorial authority and/or the water organisation.
- 21 Prior to the introduction of this Bill, Council was concerned that separating the water invoice from local authority rates invoices could create an opportunity, particularly for residential landlords, to pass on the separate water invoice to residential tenants as is common practice with commercial tenancies. It is encouraging to see that clause 67 of the Bill (setting out who is liable to pay water services charges) largely mimics content in the Local Government (Rating) Act 2002 which sets out who is liable to pay rates. In most cases liability remains with the owner of a property with some exceptions for certain registered leaseholders, noting other clauses of the Bill also cover liability for water services charges for Māori land.
- 22 In the instance of volumetric charging as a component of a water invoice, Council questions how this water invoice will not ultimately be delivered to the occupant in the same way as an electricity invoice?
- 23 Council notes the replication of some existing territorial authority powers to water organisations including the ability to require development contributions. Council submits that the Crown should not be exempt from making development contributions. In Council’s view, any entity putting a burden on the system should be liable for development contributions including the Crown generally (not just Kāinga Ora-Homes and Communities).
- 24 The table below also includes some other technical recommendations on the wording of the Bill to further support efficiencies e.g., carrying out works, stormwater charging.

25 *Council Recommendations*

Bill Clause	Commentary	Recommendation
Clause 4 Interpretation - “watercourse” definition	There are two definitions for watercourse – the first on page 25 (which appears to be out of alphabetical order) and relates to stormwater, and the second on page 27 that	Council recommends that clause 4 is amended so that it contains a single, comprehensive definition of a “watercourse”.

Bill Clause	Commentary	Recommendation
	relates to a continuous or intermittent water flow.	
Clauses 60-61 Charges for stormwater services	<p>Clause 60(6)(b) precludes a water organisation from setting charges for stormwater services based on property valuations. However, Council considers property valuations may be an appropriate factor to use in determining stormwater charges. Due to the complexity of stormwater systems and stormwater management, determining charges for stormwater services based on connections or serviceability (as determined by distance from physical infrastructure) may not be appropriate.</p> <p>Clause 61(2)(a) does not take into account properties that are further than 100m from a stormwater network. Many residential properties in Dunedin are not connected to a 'stormwater network' (as defined in the Bill) or may not be within 100m of a 'stormwater network'. Rather stormwater from these properties runs to the roading network, eventually flowing into the stormwater network or the environment. Under this clause, a water organisation could not charge these types of properties for stormwater services, even though they are still likely to receive a benefit from the stormwater system more broadly. Administratively and practically, this is a difficult and inequitable way for water organisations to determine who will be charged for stormwater services and who will not.</p>	Council recommends clauses 60 and 61 are reviewed and amended to provide for a range of methods for determining charges for stormwater services to account for the complexities of stormwater management.
Clause 117 Notice required before carrying out work on, over, or under land	Clause 117(2)(b) - the notice period of at least 30 working days before proposed work is to start is too long. Currently section 181(5) of the LGA 2002 requires the local authority to give "reasonable notice". Therefore, six weeks seems excessive and has the potential to cause unnecessary delays.	Council recommends that the timeframe in clause 117(2)(b) is amended to be no longer than 20 working days.
Part 3, Subpart 4 - Accessing land to carry out water services infrastructure work (clauses 116 to 121)	Council is concerned that the proposed provisions on access to land to carry out water services infrastructure work favours the rights and interests of private property owners over the rights and interests of the water service providers. This contrasts with the approach taken by the equivalent access provisions in the LGA 2002. Council is concerned that the proposed provisions could reduce the efficiency of water services infrastructure delivery.	Council recommends clauses 116-121 of the Bill are reviewed and amended ensuring efficient delivery of water services infrastructure.
Clause 143 - Water service provider must make drinking water catchment plan	The proposals would place a substantial workload on water service providers in the two years following the Bill's enactment. Not only are they required to make drinking water catchment plans, trade waste plans and SWNRMPs but all water services related bylaws are also required to be reviewed in	Council recommends that the timeframes for water service providers to complete all mandatory plans and bylaw reviews are assessed for feasibility and amended as appropriate.
Clause 150 - Water service provider must make trade waste plan		

Bill Clause	Commentary	Recommendation
Clause 165 - Stormwater network risk management plan	the same timeframe. This places a heavy burden on providers in the first two years.	
Clause 351(3) - Initial review of bylaws	Given the amount of work includes plans requiring public consultation, the workload over a relatively short timeframe is burdensome.	
Clause 155 Bylaw may authorise making trade waste permits	Clause 155(8) appears to be at odds with clause 178(1)(b). While clause 155(8) states that it is an offence to discharge trade waste into a wastewater network without a trade waste permit, clause 178(1)(b) allows trade waste discharged into a sewerage drain without consent (if it is permitted by a trade waste bylaw). It appears that clause 155(8) forbids all trade waste discharges without a permit, and clause 178(1)(b) allows them (provided they are permitted by a trade waste bylaw). Furthermore, it is not clear if there is a material difference between a 'wastewater network' in clause 155(8) and a 'sewerage drain' in clause 178(1)(b).	Council recommends that clauses 155(8) and 178(1)(b) are reviewed for clarity and consistency and amended as appropriate.
Clause 178 Discharge of trade waste		
Clause 167(2) Content of SWNRMP	It is not clear what the difference is between an "emerging hazard" and "potential future hazard".	Council recommends that clause 167(2) is amended to improve clarity.
Clause 168 Preparation and publication of SWNRMP	Water organisations should consult with shareholders when preparing their SWNRMP. This is important especially given that in heavy rain events stormwater services will overlap with local authorities' retention of civil defence and emergency management responsibilities, as well as stormwater services that are provided in the roading corridor.	Council recommends that clause 168 is amended to include a requirement for water organisations to consult with shareholders.
	Are the Gazette timeframes in clauses 168(1)(a) and (c) a timeframe within a timeframe? Will the final SWNRMP need to be completed and sent to Taumata Arowai for review early so it can be finalised within the two-year limit? Notifying a timeframe in the Gazette for the due date of the draft and final SWNRMP does not provide any certainty to water service providers. The SWNRMP will be substantial and requires clearer timeframes for workstream planning.	

PLANNING, REPORTING AND FINANCIAL MANAGEMENT

26 Council acknowledges the principle behind separate planning, reporting and financial management ensuring that money collected for the delivery of water services is spent on water. However, the framework could be said to be another example of prescriptions within the Bill more weighted towards some models over others.

27 Council further questions how the Government can be assured that new water organisations

have been transferred sufficient requirements as compared to existing territorial authorities operating in the established local government framework. An example of this is that the Bill does not require a water organisation (or its shareholders) to consult communities or consumers on a draft water services strategy, yet a territorial authority that is a water service provider must consult the community using the special consultative procedure under the LGA.

- 28 Council also repeats Taituarā’s intended submission point, that shareholders of a water organisation should be able to request an audit of a Water Services Strategy in addition to the Secretary for Local Government and the Commerce Commission at clause 199 of the Bill.

- 29 *Council Recommendation:*

Bill Clause	Commentary	Recommendation
Clause 199	Shareholders of a water organisation should be able to request an audit of a Water Services Strategy in addition to the Secretary for Local Government and the Commerce Commission.	Council recommends the addition of a new clause 199(1)(a): “(iii) the shareholders of a water organisation; or”

ECONOMIC REGULATION AND CONSUMER PROTECTION

- 30 Council is generally supportive of the establishment of a framework for economic regulation within the water services industry. Council further acknowledges the need for broad information disclosure to enable such regulation particularly in a CCO context.

- 31 However, Council considers the scope and scale of the Commerce Commission’s economic regulation activities should be tailored to the water service provider’s delivery model. Council is concerned that the level of Commerce Commission oversight currently proposed may be higher than is necessary in cases where territorial authorities adopt a delivery model that retains a high degree of territorial authority control (e.g., ‘in-house’ delivery). Council notes that the existing ‘in-house’ delivery model for water services already has a number of checks and balances in place that contribute to achieving the objectives of the proposed economic regulation system. These include long-term planning and audit requirements, with democratic elections as a backstop if the Council’s performance does not meet the expectations of consumers.

- 32 Council has separately submitted on the proposed levies to fund both Taumata Arowai-the Water Services Regulator (Taumata Arowai) and the Commerce Commission. In addition to these submissions, Council would like to also raise its concern regarding any longer-term increases to the respective levies particularly given the increasing functions of Taumata Arowai and the staged approach to economic regulation ahead. Council would expect that the Crown would pick up the majority of any increase to continue to ensure affordability and certainty for local communities.

TAUMATA AROWAI – THE WATER SERVICES REGULATOR

- 33 Council, in line with its commitment to the Treaty partnership, supports retention of the Māori language name 'Taumata Arowai' as the primary name for the Water Services Regulator. Council does not agree the proposal to change the name to 'Water Services Authority – Taumata Arowai' is necessary or beneficial. Council takes no issue with substituting 'Authority' for 'Regulator' in the organisation's name to recognise the expansion of Taumata Arowai's functions beyond pure regulatory activities.
- 34 Council understands parts of the Bill have been designed to reduce the cost and burden for drinking water suppliers associated with complying with the Water Services Act 2021 (WSA 2021). The same provisions are also intended to improve the efficiency and effectiveness of the drinking water regulatory system. Council recognises the proposed changes are pragmatic and would likely contribute to achieving the aims of reducing costs and improving efficiency.
- 35 However, Council is concerned that some of the changes could result in a step backwards in terms of improving drinking water safety outcomes for New Zealand. In other words, Council is concerned the proposed changes may not achieve the aim of increasing the regulatory system's effectiveness in terms of improving drinking water safety, especially in smaller communities. Council is encouraged by the expansion of Taumata Arowai's functions to include education and training for domestic self-suppliers and shared domestic drinking water suppliers. Council considers the sector of the community serviced by these types of drinking water supplies are vulnerable to drinking water safety issues and submits it is vital to ensure Taumata Arowai is well-resourced to deliver this function.
- 36 Making drinking water regulation be more "proportionate to the scale, complexity, and risk profile of each drinking water supply" is attractive in theory but has the potential to make things less clear for the regulator and drinking water suppliers in practice. Council anticipates implementing this policy direction would see Taumata Arowai taking a more case-by-case approach to drinking water regulation. This could erode certainty of the regulatory approach for both the regulator and suppliers, adding to resourcing requirements for the regulator and making planning for the future (for suppliers) more uncertain. Council would expect to see Taumata Arowai set out, in detail, how it will implement regulation in a manner "proportionate to the scale, complexity, and risk profile of each drinking water supply" in the drinking water compliance, monitoring, and enforcement strategy prepared under section 136 of the WSA 2021.
- 37 Council supports, in principle, the Te Mana o te Wai hierarchy of obligations as an overarching framework for freshwater management. Council does not support the proposed amendment to WSA 2021 included in this Bill that would remove the requirement for Taumata Arowai and water services providers to give effect to the Te Mana o te Wai hierarchy of obligations when exercising duties, powers and functions under the WSA 2021. Council is concerned that excluding this requirement could reduce the likelihood that aspects of the delivery and regulation of water services are carried out in a manner protecting the health of freshwater and associated values, including mana whenua values and drinking water values.
- 38 Council understands the Government intends to review the National Policy Statement for Freshwater Management 2020 (NPS-FM) in the near future. Council has previously made submissions in Otago regional policy and plan-making processes on the challenges that may arise for the DCC as water services provider due to the application of the hierarchy of obligations. The DCC would recommend that any updates to the NPS-FM retain the

hierarchy of obligations but with appropriate modifications to ensure large public drinking water suppliers like the DCC are enabled to continue providing water supply for the health and wellbeing of communities, including growing communities.

39 *Council Recommendations:*

Bill Clause	Commentary	Recommendation
Clause 288 and Schedule 10, Part 1 – amendments related to Water Services Authority – Taumata Arowai	Council supports retention of the name ‘Taumata Arowai’ as the primary name for the Water Services Regulator / Authority.	Council recommends that clause 288 and Schedule 10, Part 1 be either deleted, or amended so that ‘Taumata Arowai’ remains the primary name of the regulator / authority.
Part 5, Subparts 8 and 9 – amendments to other legislation	Council is concerned that provisions in Part 5, Subparts 8-9 of the Bill, which are designed to achieve cost reductions and efficiencies in the drinking water regulatory system, could potentially compromise the effectiveness of the drinking water regulatory system. Council is particularly concerned about potential negative impacts on drinking water safety outcomes in small communities and certainty of regulatory approach for all drinking water suppliers.	Council recommends that Part 5, Subparts 8-9 be reviewed and amended, as appropriate, to address Council’s concerns.
Clause 304 – repeal of section 14 of WSA 2021	Council is concerned that removing the requirement for Taumata Arowai and water service providers to give effect to Te Mana o te Wai could reduce the likelihood that aspects of the delivery and regulation of water services are carried out in a manner protecting the health of freshwater and associated values, including Mana Whenua values and drinking water values.	Council recommends clause 304 of the Bill is deleted.

NATIONAL ENGINEERING DESIGN STANDARDS FOR WATER NETWORKS

- 40 Council supports the reintroduction of the National Engineering Design Standards (NEDS) for water services networks. Council notes clause 97B (Clause 319 of the Bill) outlines the purpose of the NEDS which is to provide mandatory technical standards for the design, construction and operational performance of infrastructure and processes for water services.
- 41 It is Council’s understanding that the intention is that minimum standards will form the basis of the NEDS with definitive technical standards that can be used uniformly by water service providers to deliver better water infrastructure nationwide. It is, therefore, concerning to see clause 97D(3) (Clause 319 of the Bill) proposed for insertion into the WSA 2021 using the word “may” rather than “must” when referring to minimum standards and performance-based requirements.
- 42 Council appreciates the development of the NEDS by Taumata Arowai will be a sizeable task, however, information on the timing of this project and when it will be delivered would be appreciated as the impact of the NEDS on current and future water service providers’ workstreams is considerable.

43 **Council Recommendation:**

Bill Clause	Commentary	Recommendation
Clause 319 Addition of new subpart 1AA of Part 3 of WSA 2021	The inclusion of minimum standards and performance-based requirements in the NEDS should be mandatory to ensure the NEDS achieve the desired outcome.	Council recommends clause 319 is amended so that 'may' is replaced with 'must' in clause 97D(3)(b) proposed to be inserted into WSA 2021.

ENVIRONMENTAL PERFORMANCE STANDARDS AND INFRASTRUCTURE DESIGN SOLUTIONS FOR WASTEWATER AND STORMWATER SYSTEMS

44 Council recognises the proposed suite of changes designed to reduce the costs and increase the efficiency of consenting and operating wastewater and stormwater systems, are pragmatic and will likely contribute to achieving their aims. In other words, the Council recognises the proposals have the potential to deliver benefits to wastewater and stormwater system operators in terms of cost reductions, efficiency and certainty when consenting wastewater and stormwater systems.

45 Council understands Taumata Arowai would be required to consult on any proposed environmental performance standards and infrastructure design solutions prior to their coming into effect. However, the consultation requirements for making standards and infrastructure design solutions appear to provide less opportunity for input than is currently provided to the community, including local authorities, mana whenua and the general public, in the RMA plan-making system. Council is concerned that the implementation of standards and infrastructure design solutions could – if the details are not right – potentially compromise environmental outcomes and/or lead to outcomes inconsistent with cultural values and other values. Council is particularly concerned a standardised, one-size-fits-all approach may not be suitable for all circumstances.

46 Council considers a rigorous process should be followed to make the standards and infrastructure design solutions, to reduce the potential for standards to cause adverse effects once implemented. Council suggests the Committee considers introducing provisions in the Bill to improve the ability of the community to participate in the development of environmental performance standards and infrastructure design solutions, for example by requiring Taumata Arowai to hold hearings on submissions and by providing an avenue for appeals on decisions on the final content of standards or infrastructure design solutions. This would provide a regulation-making process more akin to the RMA plan-making system, which is appropriate because any new standards and infrastructure design solutions would override some current policies and rules for managing the effects of wastewater and stormwater systems that were originally made through the RMA system.

47 **Council Recommendations:**

Bill Clause	Commentary	Recommendation
Clause 310 – amendment to section 53(1) of WSA 2021	For the sake of clarity, section 53(1) of the WSA 2021 should also include specific reference to consultation being required before making infrastructure design solutions.	Council recommends the following is added to clause 310: "(f) regulations setting infrastructure design solutions under section 139B."

Bill Clause	Commentary	Recommendation
Clause 310 – amendment to section 53(2) of WSA 2021	Council is concerned that the requirements of section 53(2) of WSA 2021 do not provide sufficient opportunity for public participation in making environment performance standards and infrastructure design solutions for wastewater and stormwater systems. Additional opportunities for public participation in the regulation-making process – for example, through hearings and appeals – would provide for a process more akin to the RMA plan-making process.	Council recommends clause 310 is expanded to strengthen the consultation requirements in section 53(2) of the WSA 2021 in accordance with Council’s submission points above.

REVIEW OF WATER SERVICES SYSTEM

- 48 Council notes the requirement for the Minister to initiate a review of the water services system no earlier than 54 months (4.5 years) after commencement of the Act under Part 6 of the Bill. The Bill currently leaves the decision on who to consult as part of the review with the reviewer. Council’s view is that it should be mandatory for the reviewer to consult local authorities and water service providers to ensure a balanced review process.

SUMMARY OF KEY SUBMISSION POINTS

- 49 Council is supportive of the enabling approach of LWDW including retention of ownership and local influence. Council urges the Government to ensure that restrictions against privatisation are enduring, and that local influence is preserved by ensuring all delivery models are on a comparable path. There should be no difference in debt funding availability between models.
- 50 It is essential that Parliament clarify in the Bill that the implications of the new “Change Proposal” provisions in the Bill only relate to changes outside the WSDP process to ensure that territorial authorities are not subject to unnecessary process. Further, that there is some narrowing or flexibility given to the definition of a JWSPA to ensure simpler shared service arrangements can be entered efficiently.
- 51 Further consideration should be made to increase mandatory engagement with Māori within the Bill in line with other legislation such as the LGA 2002. Additionally, to ensure Māori representation on water organisation boards.
- 52 Further consideration of the complexities of stormwater management should be made, particularly relating to charging, integration with other bodies, transport corridors and maintenance.
- 53 While supportive of the benefits that various operational tools such as bylaws and plans will provide, some leniencies on timeframes and resources would be appreciated given the sheer volume of work that needs to be completed in such a short time.
- 54 The scope and scale of the Commerce Commission’s economic regulation activities should be tailored to the water service provider’s delivery model. Council notes that the existing ‘in-house’ delivery model for water services already has several checks and balances in place that contribute to achieving the objectives of the proposed economic regulation system.
- 55 Council is supportive of retaining the Māori language name ‘Taumata Arowai’ as the primary

name for the Water Services Regulator. Council has no issue with substituting 'Authority' for 'Regulator'.

- 56 Changes designed to achieve cost reductions and efficiencies in the drinking water regulatory system should not come at the expense of the effectiveness of the system. This is particularly important in terms of improving drinking water safety outcomes in small communities and providing some certainty in the regulatory approach.
- 57 Additional opportunities should be provided for interested parties to participate in the process of making environmental performance standards and infrastructure design solutions for wastewater and stormwater systems. As proposed, these new regulatory tools have the potential to be very powerful enabling instruments for wastewater and stormwater service providers. Following a robust process to develop the content of these tools, will reduce the risk that their implementation unintentionally leads to adverse effects on environmental or cultural values.

CONCLUSION

- 58 The Council thanks the Committee once again for the opportunity to provide a submission on the Bill.
- 59 The Council requests the opportunity to make an oral submission to the Committee.

Kā mihi

Jules Radich
MAYOR OF DUNEDIN

Jim O'Malley
COUNCILLOR
CHAIR OF INFRASTRUCTURE SERVICES COMMITTEE

Local Government (Water Services) Bill - Key Themes

<p>Delivery Models</p>	<p>Further clarifies that there are many ways to deliver water services and that territorial authorities (TA) may use one or a combination of the following:</p> <ul style="list-style-type: none"> • Providing water services themselves directly. • Transferring responsibility for providing water services to a ‘water organisation’ e.g., CCO (through a transfer agreement, such that the organisation becomes the water service provider in respect of those services – noting that cl 10 prevents the transfer of responsibility for ‘transport corridor stormwater infrastructure’). • Contracting with a person or body to provide water services on behalf of the TA (TA still remains responsible as the water service provider). • Entering into a joint water service provider arrangement with other territorial authorities (TA still remains responsible as the water service provider). • Becoming a shareholder in a water organisation established by another territorial authority. • Entering another type of arrangement (other than a franchise or concession agreement) (TA still remains responsible as the water service provider). <p>Introduces further consultation requirements when a change process is triggered.</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Water-service-delivery-arrangements.pdf</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-guidance-Water-services-delivery-models-(updated-December-2024).pdf</p>
<p>Core Requirements</p>	<p>All water services providers must:</p> <ul style="list-style-type: none"> • meet a set of ‘objectives’ in cl 15, including that each provider must manage and provide water services in a cost-effective and financially sustainable manner; • comply with financial principles in cl 16, including a requirement that revenue received from the provision of water services must be spent on those services;

	<ul style="list-style-type: none"> operate within the planning and reporting framework for water services in the Bill; and comply with restrictions against privatisation (cl 18). <p>There are additional requirements for water organisations including must be a company, independent competency-based board and limit activities to the provision of water services. Exemption process for some requirements.</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-guidance-Ensuring-compliance-with-financial-principles-for-water-service-providers.pdf</p>
<p>Operational Matters / New Powers for Water Organisations</p> <p>(Part 3 – including a range of powers similar to those currently held by local authorities)</p>	<p>Include:</p> <ul style="list-style-type: none"> Set and charge customers for water supply services, stormwater services and wastewater (including trade waste) services. Charges can be set and collected for the initial connection, contribution to the capital costs of infrastructure, serviceability, and meeting the costs incurred in exercising the organisation’s duties, functions, and powers under the Bill. When setting a charge, the water organisation may determine how the charge is assessed, when its due, how it is to be collected, and how it may be paid. The Bill precludes council rates and water charges being charged for the same water service. Require <u>development contributions</u> for growth-related capital costs through a modified version of the development contributions regime in the LGA 2002. This would enable water organisations to recover a ‘fair and equitable portion of the total cost of capital expenditure necessary to service an additional or increased demand on water services infrastructure over the long term’. If a water organisation requires a development contribution, then a territorial authority cannot require a development contribution or financial contribution (under the RMA) for the same purpose. Formally propose that TAs create, amend, or revoke <u>water services bylaws to regulate connections</u> to water services networks. A bylaw would have to provide for a 3-step process: approval of concept plans, approval of engineering plans, and sign-off. Further, <u>a territorial authority would be able to delegate any of its functions or powers that relate to the administration or enforcement of a water services bylaw to a water service provider</u>, but not the function or power to make, amend, or revoke a bylaw. Water service providers that are responsible for stormwater network management in its service area will also be required to prepare <u>stormwater network risk management plans</u> to identify any hazards and assess risk

	<p>relating to the network. They may also make <u>stormwater network bylaws</u> to support this plan, including imposing requirements in relation to critical infrastructure and private land (relating to management of overland flow paths and watercourses).</p> <ul style="list-style-type: none"> • <u>Access private land</u> to carry out water services infrastructure work, subject to notice and other requirements (generally comparable to those which apply to territorial authorities entering land to construct works under section 181 LGA 2002). Include watercourses etc. • Sets out requirements relating to drinking water catchment plans, trade waste plans, and discharge of sewage and trade wastes. <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Future-arrangements-for-stormwater.pdf</p>
<p>New Planning and Accountability Framework (Part 4)</p>	<p>The new framework includes three core documents:</p> <ul style="list-style-type: none"> • Statement of Expectations: Issued by shareholders to a water organisation, this document outlines the strategic and performance expectations for the organisation. Water organisations must give effect to these statements. • Water Services Strategy: Prepared by all water service providers every three years and supported by an annual budget in other years. Single comprehensive document including response to local expectations, statutory objectives, regulation, financial forecasting over 10 years and infrastructure/investment over 30+ years. Pricing and charging will be set in accordance with proposals in strategy. Shareholders can decide their level of involvement in the preparation process of the strategy. Content required set out at Schedule 3. Not subject to mandatory review by auditors unless required by Commerce Commission or Secretary for Local Government. Subject to community consultation if TA delivers water. • Water Services Annual Report: This report is prepared by water service providers to ensure transparency about their performance over the past financial year. It includes detailed financial statements related to water services. Content required set out at Schedule 4. <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Planning-and-accountability-for-local-government-water-services-updated-Dec-2024.pdf</p>

<p>Economic Regulation and Consumer Protection</p>	<p>Regulation is a key requirement with many regulators and tools available and will be introduced in a staged approach.</p> <p>The Bill provides for economic regulation of water supply and wastewater services, with the flexibility to include stormwater later.</p> <p>The regime, introduced through amendments to the Commerce Act 1986, includes a range of regulatory tools such as information disclosure requirements, revenue threshold regulation, quality regulation, performance requirement regulation, and price-quality regulation. It will apply to water service suppliers (including councils and water organisations) who are responsible for making core decisions about capital and operating expenditure; and/or revenue recovery or charging levels. Initially, community suppliers, private schemes, Crown providers, and private third-party contractors will be excluded, but may be included later.</p> <p>The Bill will amend the Commerce Act 1986 to provide a pathway for the Commerce Commission to recommend regulations to the Minister, after considering whether doing so would better promote the long-term benefit of consumers in competitive markets, the nature of the water services delivery structure, and the extent of regulated suppliers' performance against each revenue threshold that applies.</p> <p>Revenue threshold regulation will enable the Commission to specify the minimum or maximum revenues that should be recovered by a supplier, with the intention that minimum levels of water services revenue will have to be set for water services investment and operating purposes.</p> <p>The Commission will be required to set initial information disclosure requirements within six months of the Bill's enactment.</p> <p>The Bill further introduces a consumer protection regime, allowing the Commerce Commission to monitor and enhance consumer protections based on gathered information.</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Economic-regulation-and-consumer-protection.pdf</p>
<p>Ministerial Powers</p>	<p>Extends the Ministerial powers to act in relation to local authorities, to apply to all water service providers and shareholders of water organisations. With these increased powers the Minister of Local Government could intervene in the operation of a water service provider, and appoint two new ministerial bodies:</p> <ul style="list-style-type: none"> • A Crown facilitator – water services: To assist and advise the body to which it is appointed, to monitor the body, to

	<p>direct the body to take a particular action, and to make recommendations to the Minister on further action.</p> <ul style="list-style-type: none"> • Two or more Crown commissioners – water services: To work with, direct, and oversee the body, and to make recommendations to the Minister on further action. Unlike a Crown facilitator, Crown commissioners have the functions, duties, and powers of the board of a water organisation, the trustees of a consumer trust, or the shareholders of a water organisation (as applicable), to which they have been appointed. Crucially, the water organisation must co-operate with the Crown commissioners and comply with their requests. <p>In addition, the LGA definition of a ‘problem’ (the trigger for considering ministerial intervention) will be expanded to include new situations relevant to water services delivery, such as matters or circumstances that could prevent the provision of water services being financially sustainable, or complying with regulatory requirements and standards, and so on.</p>
<p>Water Services Authority – Taumata Arowai</p>	<p>Changing the name of Taumata Arowai to ‘Water Services Authority – Taumata Arowai’ (the Authority). The Bill also amends the operating principles in the Taumata Arowai – the Water Services Regulator Act 2020 in an effort to “reduce regulatory burden” and “improve proportionality”.</p> <p>Notable changes to the Taumata Arowai–the Water Services Regulator Act 2020 include:</p> <ul style="list-style-type: none"> • Removing the requirement to give effect to Te Mana o te Wai from the list of objectives of the Water Services Authority. • Expanding the functions of the Water Services Authority to include developing National Engineering Design Standards (essentially, technical and design standards for water services infrastructure), and supporting education and training for domestic self-suppliers and shared domestic drinking water suppliers, and • Reducing the number of members of the Māori Advisory Group (from 5-7 down to 3-5) and narrowing the group’s role. <p>Changes to the operating principles will require the Authority to consider the costs of regulatory compliance for drinking water suppliers, in particular mixed-use rural water suppliers, and ensure the regulatory framework is proportionate to the scale, complexity, and risk profile of the relevant water services.</p>

	<p>The Authority will also be required to proactively engage with suppliers and network operators to ensure that there is a path to compliance that takes into account the risk profile and capacity of each supply. Finally, the Bill also amends the Water Services Act 2021 to require the Authority to include specific information on mixed-use rural water suppliers in its annual drinking water regulation report and its drinking water compliance, monitoring, and enforcement strategy.</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Drinking-water-quality-regulation.pdf</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-National-Engineering-Design-Standards.pdf</p>
<p>Singular standards for wastewater and stormwater environmental performance and consenting</p>	<p>The Water Services Authority – Taumata Arowai (the Authority) can make <u>environmental performance standards for activities related to wastewater and stormwater systems</u> (eg. discharges to land, air or water).</p> <p>The standards would operate like an RMA planning instrument and override any equivalent rules or policies in current RMA planning instruments (eg. a NPS, a NES, or a regional plan).</p> <p>Regional councils would implement the standards through conditions of resource consents i.e., if the activity (e.g., the discharge) is subject to a standard, the resource consent could not impose conditions that are more or less stringent than the requirements of the standard.</p> <p>Standards could prescribe circumstances in which a consent application is precluded from public or limited notification.</p> <p>Standards could prescribe activity status for different activities covered by the standards (e.g., permitted, controlled, discretionary, non-complying etc etc).</p> <p>The consent term for an activity subject to a standard would be 35 years.</p> <p>The Authority must consult before recommending the Minister approve standards.</p> <p>The Authority can make <u>Infrastructure Design Solutions</u> (IDS) that set out design and operating requirements for wastewater treatment plants (or components of wastewater treatment plants) that – if implemented – would meet the wastewater standards. In other words – if a plant complies with the IDS, it is deemed to meet the relevant standard for activities related to wastewater and stormwater systems (eg. discharges to land, air or water).</p>

	<p> https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Wastewater-and-stormwater-environmental-performance-standards.pdf </p> <p> https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Infrastructure-design-solutions.pdf </p>
<p>Compliance and enforcement regime</p>	<p>Includes a compliance and enforcement regime, including offences and penalties that cover new functions, and graduated enforcement tools for water service providers. Water organisations could propose that territorial authorities make bylaws to specify infringement offences and prescribe fees. A territorial authority may authorise a compliance officer to issue infringement notices to persons alleged to have committed an offence, resulting in fees. The Bill also introduces a range of offences, including in relation to drinking water, wastewater and stormwater networks (e.g., unauthorised connection or disconnection).</p>

LOCAL WATER DONE WELL - DECISION ON WATER MODELS FOR CONSULTATION

Department: Legal Services, Finance and 3 Waters

EXECUTIVE SUMMARY

- 1 The purpose of this report is to provide information and analysis so that Council can decide, for the purposes of consultation, on:
 - a) its preferred water services delivery model (Preferred Option); and
 - b) what other option(s) it will consult on (Alternative Option(s))
(together, referred to as “the Water Consultation Options”).
- 2 Staff recommend the following two options as the Water Consultation Options:
 - a) in-House delivery of 3 Waters (In-House Option); and
 - b) an asset owning council-controlled organisation for 3 Waters, with Council as the sole shareholder (CCO Option).
- 3 It is for Council to decide whether it prefers the In-House Option, the CCO Option or any other option. This will require careful weighting by Council of financial and non-financial considerations.
- 4 This report provides detailed information to help inform Council’s decision, including information on:
 - a) Financial and non-financial considerations;
 - b) the Local Government (Water Services Preliminary Arrangements) Act 2024 (Preliminary Act); and
 - c) the Local Government (Water Services) Bill 2024 (December Bill).
- 5 There are a lot of acronyms and definitions used in the context of water reforms. A glossary is attached as Attachment A.

- b) a summary of consultation undertaken as part of developing the WSDM; and
 - c) an implementation plan for delivering the WSDM.
- 13 If Council decided to enter a joint arrangement with one or more other territorial authorities, it could choose to prepare and submit a joint WSDP.
- 14 There is an opportunity to amend a WSDP within a specified timeframe if the proposed amendments are significant and necessary due to exceptional circumstances.
- 15 Council is required by law to give effect to the proposals or undertakings specified in the WSDP. Not doing so could be a ground for appointing a Crown facilitator.

Timeline and Process

- 16 DIA's implementation roadmap for LWDW is shown at Attachment B.
- 17 DIA has also provided a high-level roadmap for Council's planning and delivery, as shown at Attachment C.
- 18 Staff have presented on the WSDP (including on possible WSDMs) to Council at various workshops and meetings since the passing of the Preliminary Act on 2 September 2024. Council adopted a shortlist of three WSDM options at its Council meeting on 25 November 2024: https://infocouncil.dunedin.govt.nz/Open/2024/11/CNL_20241125_AGN_3009_AT_WEB.htm

An overview of the December Bill

- 19 The December Bill is currently going through the Parliamentary process and will be subject to amendment. It is anticipated that the December Bill will be enacted in mid-2025 and that most of the content will come into effect the day after Royal Assent.
- 20 Staff have prepared a draft submission on the December Bill. Councillors have had the opportunity to provide feedback through a workshop. Adoption of the submission is the subject of another Council Report on 26 February 2025.
- 21 It is expected that the December Bill will be divided during the Parliamentary process into two separate Bills (perhaps intended to separate the standalone provisions of the December Bill and the amendments to several other Acts). The two likely names of the separate Bills are:
- a) Local Government (Water Services) Bill; and
 - b) Local Government (Water Services Repeals and Amendments) Bill.
- 22 DIA has now updated its guidance materials given the introduction of the December Bill (Guidance). A copy of the updated Guidance can be found at <https://www.dia.govt.nz/Water-Services-Policy-Future-Delivery-System#Financing>. Specific factsheets have also been referred to through this report. Further general information on LWDW is also available on the DIA website: <https://www.dia.govt.nz/Water-Services-Policy-and-Legislation> .
- 23 As expected, the December Bill is comprehensive covering all aspects of the new water services delivery system and delivery entities. Specific impacts on the options presented in this report are discussed throughout this report. A Summary of the key themes of the December Bill (as previously provided to Councillors) is included at Attachment D.

- 30 Council is only required to consult once but may decide to undertake further consultation before deciding on a WSDM.
- 31 Consultation on the Water Consultation Options is a separate process from the 9YP consultation process. Consultation on the Water Consultation Options will be under the Preliminary Act whereas consultation on the 9YP will be under the LGA 2002.
- 32 There will be one consultation document for the 9YP and another consultation document for the Water Consultation Options. Each consultation document will cross reference the other.
- 33 Given that a decision on the Water Consultation Options has the potential to impact the 9YP, there will be combined Hearings in May for both the 9YP and the Water Consultation Options.

Consultation requirements with mana whenua

- 34 Council is required to consult with mana whenua under both section 77(1)(c) and section 81 of the LGA 2002 given both references are included under section 60 of the Preliminary Act. Further, section 14(1)(d) of the LGA 2002 also provides that a local authority should provide opportunities for Māori to contribute to its decision-making processes.

Decision Making on a Change Proposal (after enactment of the December Bill)

- 35 The December Bill, as currently drafted, includes new decision-making requirements if there is a “Change of Proposal”. This would only apply following enactment of the December Bill (mid-2025).
- 36 A Change Proposal includes things like establishing a council-controlled organisation (CCO) or agreeing on shared services with another territorial authority.
- 37 If a Change Proposal is triggered, Council would need to consult on three options; being the existing approach, the change proposal and at least one further reasonably practicable option, if available.
- 38 This contrasts with the minimum of two options under the Preliminary Act.
- 39 There is some uncertainty on whether Council would be required to re-consult if Council decided on the CCO Option for its WSDP and the CCO was not established until after enactment of the December Bill. However, DIA has indicated by e-mail to staff that the new decision-making requirements in the December Bill are intended to apply to *future* decisions by Council outside current decision making required to inform the WSDP. Staff are hoping that the December Bill will be amended to clarify this.
- 40 If Council decided on the In-House Option for its WSDP and then later (for example, in 2 years’ time) decided that it wanted the CCO Option then, based on the current drafting of the December Bill, Council would need to go through a fresh consultation process.

Legal Requirements for Water Service Providers

- 41 As noted in earlier reports:
 - a) A ‘water organisation’ means the separate organisation that territorial authorities may establish or be shareholders in, and which provides water services in accordance with transfer agreements. A water organisation does not include the in-house model. An example of a water organisation is a CCO.

b) A ‘water service provider’ is a wider term and means water organisations and territorial authorities. In other words, a water service provider includes both the in-house model and models such as the CCO model.

42 Legislative requirements are set out in the December Bill for all water service providers. Additional requirements are included for water organisations. Both sets of requirements are described below.

All Water Service Providers

43 The requirements for all water service providers (including in-house delivery) broadly follow earlier DIA guidance with some updates.

44 The following summary of these core requirements is taken from the DIA Guidance. Staff have provided further detail on each requirement at Attachment E:

The requirements in the Bill include that all water services providers:



Will be subject to economic, environmental and water quality regulation – further information is available in the factsheets: *Economic regulation and consumer protection*; *Drinking water quality regulation*; and *Wastewater and stormwater environmental performance standards*.



Will be subject to a new planning and accountability framework for water services, including preparing financial statements for water supply, wastewater, and stormwater – further information is in section 3 of this slide pack, and in the factsheet: *Planning and accountability for local government water services*.



Must act in accordance with statutory objectives and financial principles – which include ensuring water services are provided in a cost-effective and financially sustainable manner; that providers must spend the revenue received from providing water services on providing water services; and ensuring the revenue applied to the provision of water services is sufficient to sustain the provider’s long-term investment in the provision of water services.



Have a statutory obligation to continue to provide water services – but may enter into a contract with a third party relating to the provision of water services, or a joint arrangement with other water service providers. The Bill includes specific provisions that apply to contracts, including requirements relating to significant contracts.



Will be subject to restrictions against privatisation. For example, the Bill includes prohibitions on losing control, selling or disposing of significant infrastructure, and water services assets cannot be used as security.

Additional Requirements for Water Organisations

45 Additional requirements also apply to those councils forming a water organisation e.g., a CCO. These are set out in the Guidance as below including a new requirement relating to a transfer agreement:



Board appointments must be competency-based and have the appropriate mix of skills, knowledge, and experience.



Current council staff and elected members cannot be appointed to boards (except where the water organisation is wholly owned by trustees of a consumer trust).



Water organisations **must be companies**.*



Activities of water organisations will be **limited to the provision of water services** and directly-related activities.*



Only councils or consumer trusts can be shareholders of a water organisation.*



Each territorial authority that establishes or becomes a shareholder in a water organisation must prepare a transfer agreement, setting out which responsibilities and other matters (such as assets and liabilities) are being transferred to the water organisation, and which are being retained by the territorial authority.

- 46 It is possible to apply for exemptions from the marked (*) requirements on a case-by-case basis through a legislated process.

DISCUSSION

PART A: WHICH BASE MODELS DOES COUNCIL WANT TO CONSULT ON?

- 47 At Council's meeting on 25 November 2024, Council decided to shortlist three base WSDMs:

- a) In-House Delivery;
- b) Single CCO; and
- c) Regional Multi-Council Entity

(the "shortlist").

- 48 Some initial explanations and comparative analysis on the Shortlist were discussed in the November Report and included some advantages and disadvantages for each: https://infocouncil.dunedin.govt.nz/Open/2024/11/CNL_20241125_AGN_3009_AT_WEB.htm
- 49 Following Council's decision on the Shortlist, there have been discussions with staff at Christchurch City Council regarding the potential for shared water services. This is discussed in a separate report to Council, also on the agenda for 26 February 2025. The intention is to manage shared services through contracts rather than a multi-council entity.

- a) The revenue applied to the council’s delivery of those water services is sufficient to ensure the council’s long-term investment in delivering water services; and
 - b) The council is financially able to meet all regulatory standards and requirements for the council’s delivery of those water services.
- 58 The DIA Guidance suggests three components to assessing financial sustainability. How councils approach achieving financial sustainability can be different depending on local circumstances and requires councils to consider the balance between the three components:
- a) Revenue sufficiency - having sufficient revenue to cover the costs (including servicing debt) of water services delivery.
 - b) Investment sufficiency - having a sufficient level of investment to meet levels of service, regulatory requirements and provide for growth.
 - c) Financing sufficiency - having sufficient funding and financing arrangements to meet investment requirements.
- 59 The DIA Guidance makes further recommendations about how councils can demonstrate ringfencing. It also provides further information about financial sustainability as well as providing a template for financial projections and a financial sustainability test (See DIA link [https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\\$file/Guidance-for-preparing-Water-Services-Delivery-Plans-September-2024.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/$file/Guidance-for-preparing-Water-Services-Delivery-Plans-September-2024.pdf)).
- 60 Further DIA guidance: “Financing water services delivery through establishing new water CCOs” (Attachment G) provides advice on financing options for councils considering the CCO model for water services delivery. The guidance outlines criteria for accessing higher borrowing from the Local Government Funding Agency (LGFA).

Financial Analysis

- 61 The following financial analysis has been prepared to support Council’s decision making in preparation of the WSDP. The analysis does not provide the level of detail required in the WSDP but does provide a level of analysis and information that demonstrates the financial impacts of each option being considered.
- 62 Two sets of forecast financial statements for the 10 year period 2024-34 have been prepared:
- a) The In-House Option - as per the approved 2024/25 Annual plan and draft 9 year plan 2025-34 (9 year plan) (Attachment H) and
 - b) The CCO Option – a 3 Waters CCO, as at 1 July 2025 (Attachment I).
- 63 A series of tables comparing the two options have been included in Attachment J.
- 64 Although in practice a CCO probably would not be established until 1 July 2027, the modelling assumes a date of 1 July 2025 to provide financial comparison over the longest period possible.
- 65 The WSDP requires a minimum of ten years of financial projections for water services, covering the financial years 2024/25 - 2033/34. Due to the inherent uncertainties with forecasting, the financial forecasts provided do not go beyond the 2033/34 year.

66 As mentioned above, DIA provided a template to use for the financial sections of the WSDP. This includes financial projections, measures and charts required in the financial sustainability assessment. Staff have used these templates for the financial analysis of the two options.

Assumptions

67 Key assumptions underlying both options are:

- a) 1 July 2024 opening balance sheet to ringfence 3 Waters for modelling purposes.
- b) The 2024/25 Annual Plan is year 1 (due to the 9 year plan only being 9 years).
- c) The starting point is the draft 9 year plan 2025-34.
- d) Total operating expenditure of \$1.568 billion and total capital expenditure of \$1.095 billion is forecast over the 9 year plan.
- e) No allowance is made for savings as a result of efficiencies.

68 Each option assumes additional operating costs as follows:

- a) An increase in staff resourcing to meet new regulatory requirements, customer service, finance and billing.
- b) Additional levies to Taumata Arowai (Water Services Authority) and the Commerce Commission.
- c) Additional audit fees for additional financial reporting requirements.

69 The CCO Option attracts further operational costs, in particular governance and leadership.

70 Some corporate costs, including fleet, would shift from Council to the CCO, however some internal costs could remain as stranded costs within Council and need to be managed over time. Further work on this is required and will be underway in the coming months. An update on this work will be provided to Council in May.

71 LGFA have agreed in principle to lend up to 500% of operating revenues to a 3 Waters CCO, creating additional borrowing capacity. The CCO Option assumes access to this borrowing limit. It also assumes a Funds From Operations (FFO) of 10% of debt. LGFA has advised that most water CCOs will have a minimum FFO to debt ratio of between 8% and 12%, depending on credit profile. These will be negotiated with each water CCO.

72 Transitional costs need to be accounted for but these are yet to be determined.

73 In order to ensure compliance with the financial principles and financial sustainability provisions, current systems (including finance and asset management) are likely to need investment, for either option. A provisional amount for this has been included in the 9 year plan.

Funding Approach

74 The funding approach for the In-House Option aligns with Council's draft Financial Strategy and draft 9 year plan as follows:

- a) Balanced budget - the LGA 2002 requires councils to have a balanced budget unless it is prudent to do otherwise. This means fully funding depreciation, which in turn is used to pay for capital expenditure. For 3 Waters, the draft 9 year plan provides 15% per annum rate increases for the first three years leading to a balanced budget (for 3 Waters) by the 2027/28 year.
- b) Debt limit – Council’s gross debt limit is 250% of revenue. The LGFA financial covenants limit net debt to 280% of revenue.

75 The funding approach for the CCO Option follows DIA guidance as follows:

- a) Operating revenues pay for operating costs - DIA guidance indicates that financial sustainability and ringfencing requirements mean that operating revenues should be set to a level that covers the operating cost (including debt) of water services. This ensures sufficient operating cashflows are secured to support borrowing and investment requirements (including staying below borrowing limits). Operating revenues, including 3 Waters rates, should cover all **cash** operating costs plus a minimum FFO.
- b) Capital sources pay for capital investment - DIA guidance indicates that capital expenditure should be funded by capital revenues (such as development contributions) and debt financing.

76 The DIA guidance on CCO funding states:

“This approach could replace current council approaches to funding of depreciation to generate cash reserves to fund capital investment. Depreciation funding in effect pre-funds capital investment and results in a higher cost to consumers than using effective debt financing for investment.”

77 The difference in funding approaches means that under the CCO Option, over the 10 year period modelled, charges to customers could be lower and debt higher. This is because more debt is used to pay for capital expenditure. For the In-House Option, more rates income is used to pay for capital expenditure.

In-House Option

78 Under this option, 3 Waters remains in-house. This option is consistent with the draft 9 year plan. The key financial outcomes are:

Table 1

	In-house Option Year 10 Amount	In-house Option 10 Year Total
Operating revenue (\$ billion)	0.198	1.506
Operating expenditure incl interest (\$ billion)	0.198	1.568
Interest expense (\$ million)	30	196
Capital expenditure (\$ billion)	0.162	1.095
3 Waters debt (\$ billion)	0.630	
Council debt (\$ billion)	1.092	
LGFA debt limit (%)	280% for overall council	

- a) Operating revenue (excludes development contributions of \$26 million) over the 10 years is \$1.506 billion.
- b) Rate increases of 15% per annum for the first three years, followed by an average of 6% for the remaining years.
- c) The average customer charge per connection (including GST) increases from \$2,024 in 2024/25 to \$4,280 in 2033/34.
- d) Operating expenditure over the 10 years is \$1.568 billion, including interest costs of \$196 million.
- e) Net surplus is achieved in the 2027/28 year.
- f) Capital expenditure over the 10 years is \$1.095 billion.
- g) 3 Waters debt is \$630 million by 30 June 2034.
- h) Total Council debt is \$1.092 billion by 30 June 2034. Council debt remains within the 250% debt limit throughout the period. By year 10, debt reaches 174% of revenue. Council debt remains within the LGFA net debt limit of 280%. By year 10, net debt reaches 156% of revenue.

CCO Option

79 Under this option, a 3 Waters CCO is established. As indicated above, operating revenue covers cash operating expenses plus an FFO margin of 10%. The key financial outcomes are:

Table 2

	CCO Option Year 10 Amount	CCO Option 10 Year Total
Operating revenue (\$ billion)	0.194	1.392
Operating expenditure incl interest (\$ billion)	0.206	1.613
Interest expense (\$ million)	37	231
Capital expenditure (\$ billion)	0.162	1.095
3 Waters debt (\$ billion)	0.788	
Council debt (\$ billion)	0.463	
LGFA debt limit (%)	500% for CCO only	

- a) Operating revenue (excludes development contributions of \$26 million) over the 10 years is \$1.392 billion.
- b) Annual increases in water charges range from 5.8% in 2025/26 to 13.1% in 2029/30. The average price increases over the 9 year plan timeframe is 8.5%.
- c) The average customer charge per connection (including GST) increases from \$2,024 in 2024/25 to \$4,202 in 2033/34.
- d) Operating expenditure over the 10 years is \$1.613 billion including interest costs of \$231 million.

- e) The CCO Option does not achieve a balanced budget during the 10 year period because operational revenues cover operational cash expenses only (not depreciation) plus the FFO requirement (modelled at 10%). Over time, as debt and therefore the FFO requirement increases, the deficit reduces.
- f) Capital expenditure over the 10 years is \$1.095 billion.
- g) Debt is \$788 million by 30 June 2034. This is within the 500% LGFA net debt limit. By year 10, debt reaches 405% of revenue.
- h) Council debt excluding 3 Waters is considered in paragraphs 80-83 below.

In-House Option compared to the CCO Option

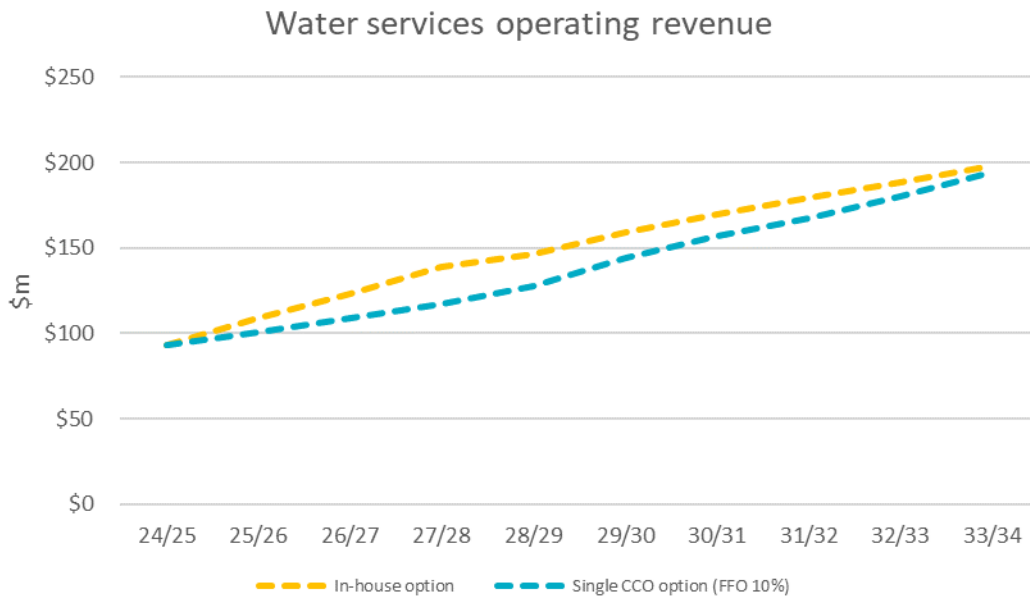
80 The key financial differences between the two options are discussed below. Table 3 summarises financial information for year 10 (2033/34) and the 10 year total for each of the options.

Table 3

	In-house Option Year 10 Amount	In-house Option 10 Year Total	CCO Option Year 10 Amount	CCO Option 10 Year Total
Operating revenue (\$ b)	0.198	1.506	0.194	1.392
Operating expenditure incl interest (\$ b)	0.198	1.568	0.206	1.613
Interest expense (\$ m)	30	196	37	231
Capital expenditure (\$ b)	0.162	1.095	0.162	1.095
3 Waters debt (\$ b)	0.630		0.788	
Council debt (\$ b)	1.092		0.463	
LGFA debt limit (%)	<i>280% for overall council</i>		<i>500% for CCO only</i>	

- a) Over the 10 year period, operating revenue under the CCO Option is \$114 million less than the In-House Option. As discussed in paragraph 76 above, charges to customers are lower. More debt is used to pay for capital expenditure than under the In-House Option, where more rates funding is used to fund capital expenditure. The CCO Option would debt fund an additional \$157 million over the 10 year period. Chart 1 below shows the profile of operating revenue under each option over the 10 year period. By the 2033/34 year, operating revenue is \$198 million in the In-House Option and \$194 million in the CCO Option.

Chart 1

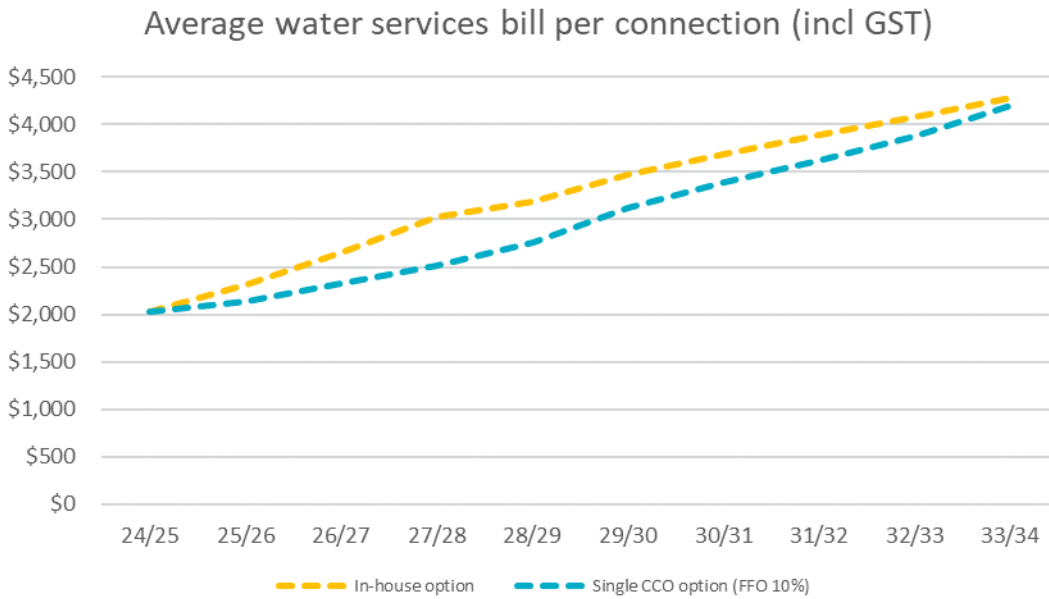


- b) The average charge per connection under both options is provided in Table 4 and Chart 2 below. The average charge per connection is lower in the CCO Option, however the difference (saving) reduces as more debt is raised. While this does not reflect the current charging model, it provides a comparison:

Table 4

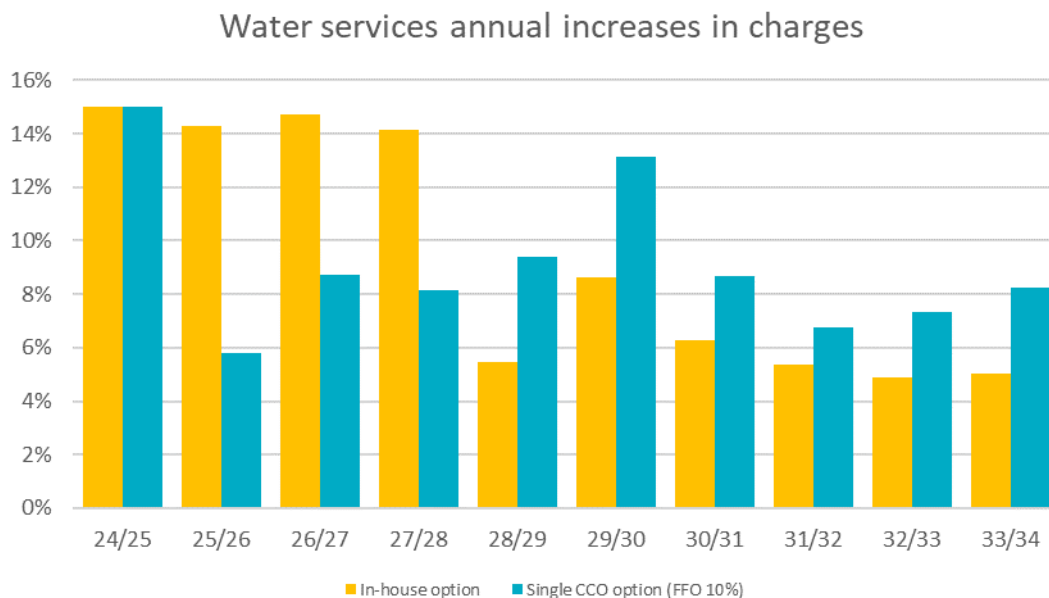
Average charge per connection per year (including GST)	In-house	CCO	Difference
2024/25	\$2,024	\$2,024	\$0
2025/26	\$2,314	\$2,142	\$172
2026/27	\$2,654	\$2,329	\$325
2027/28	\$3,029	\$2,519	\$510
2028/29	\$3,194	\$2,755	\$439
2029/30	\$3,469	\$3,117	\$352
2030/31	\$3,687	\$3,388	\$299
2031/32	\$3,885	\$3,617	\$268
2032/33	\$4,076	\$3,882	\$194
2033/34	\$4,280	\$4,202	\$78
Total	\$32,611	\$29,975	\$2,636
Average connection charge	\$3,261	\$2,998	\$263

Chart 2



- c) Annual increases in charges for water services are higher for the In-House Option for the first three years of the 9 year plan period (2025/26 – 2027/28), reflecting Council fully funding depreciation by 2027/28. From the 2028/29 year, the annual increases are higher in the CCO Option. This is illustrated in the Chart 3 below:

Chart 3

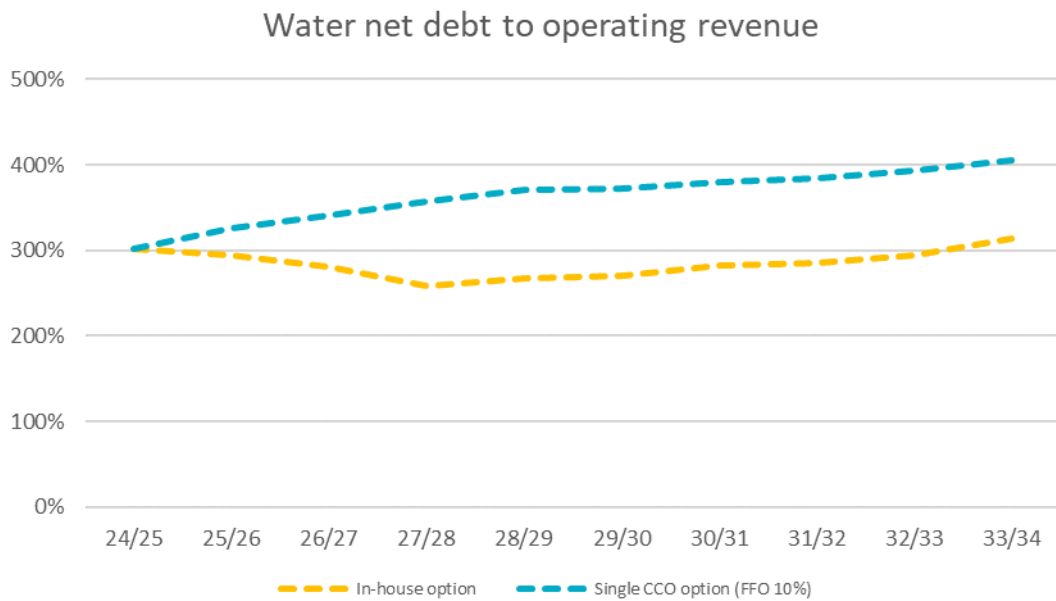


- d) Operating expenditure under the CCO Option is \$44 million higher than the In-House Option due to additional interest (\$35 million) and CCO related operational costs (\$9 million).
- e) Net surplus/(deficit) is different in each option and this reflects the different funding approaches. The In-House Option achieves a balanced budget in the 2027/28 year. The CCO Option does not achieve a balanced budget during the 10 year period because

operational revenues cover operational **cash** expenses only (not depreciation) plus the FFO requirement (modelled at 10%). As debt increases so does the FFO requirement therefore the deficits will reduce.

- f) Capital expenditure over the 10 year period is the same for each option.
- g) Under the CCO Option, 3 Waters debt is \$157 million higher than the In-House Option due to the reduction in operating revenue and the additional interest and operating costs. By year 10, net debt reaches 405% of revenue in the CCO Option and 314% in the In-House Option. The graph below shows the debt to revenue metric for each option:

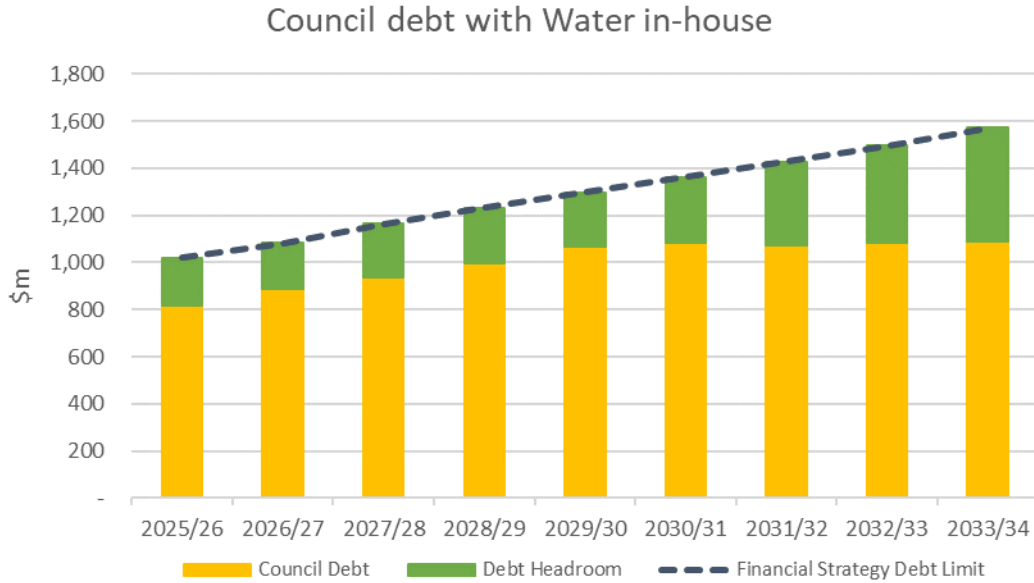
Chart 4



Council excluding 3 Waters

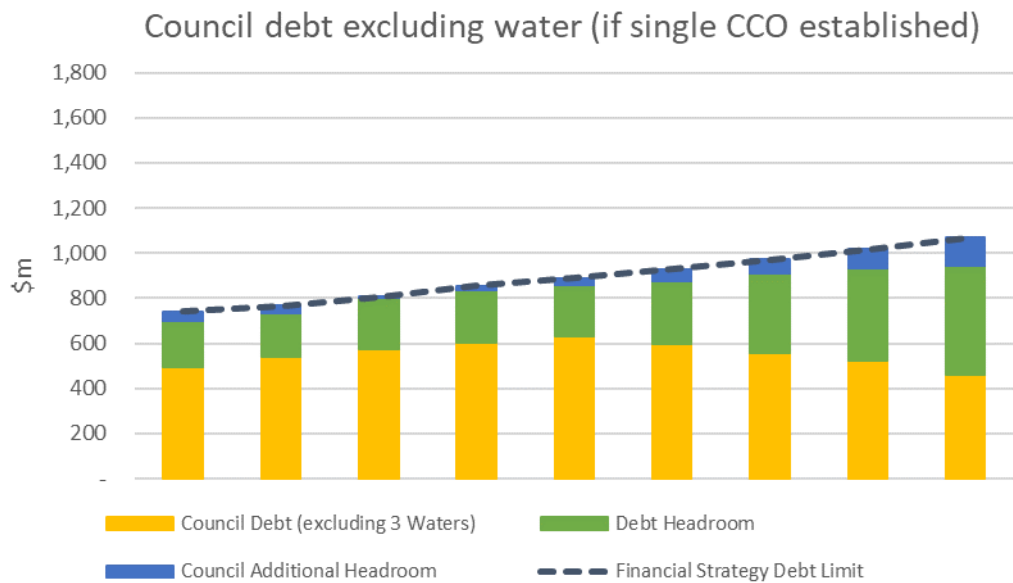
- 81 The establishment of a CCO for 3 Waters results in Council having less debt. This would create additional debt headroom compared to the in-house option, as shown in the two charts below, due to the ratio of revenue to debt improving without 3 waters. The debt limit indicated on each chart is the Council 250% limit.
- 82 Chart 5 shows the in-house option. The headroom in the 2033/34 year is \$480 million.

Chart 5



83 Chart 6 shows Council excluding 3 Waters. The headroom in the 2033/34 year is \$603 million, \$124 million higher than the In-House Option.

Chart 6



84 The debt forecast for both options, for Council companies and the total Council group have been summarised in Attachment J. This attachment also provides associated financial metrics. Group debt under the In-House Option reaches \$2.26 billion by 2033/34 and under the CCO Option group debt reaches \$2.42 billion by 2033/34.

Other Considerations

- 85 There are a number of possible scenarios. For example, in the CCO Option, expenditure could be increased if customer charges are maintained at the in-house level. Noting that all scenarios will be subject to the regulatory compliance.
- 86 The FFO margin is required to meet revenue sufficiency requirements and ensure debt is appropriately serviced. Financial modelling for the single CCO option has used a 10% FFO, the mid-point of the LGFA’s suggested range of 8-12%. Attachment K compares the In-House Option against the CCO option with the FFO margin set at 8% and 12%. Generally:
- a) A higher FFO margin increases operating revenue, resulting in higher customer charges, lower debt and lower interest expense.
 - b) A lower FFO margin decreases operating revenue, resulting in lower customer charges, higher debt and higher interest expense.

Summary of Non-financial Considerations

- 87 There are a wide range of considerations that are non-financial considerations, including the following:
- **Regulatory Compliance:** The capacity to meet current and future water quality, environmental, and economic regulations.
 - **Service Delivery and Operations:** The effectiveness and efficiency of day-to-day operations, including resource allocation and infrastructure management. Includes ease in modernising the customer experience, access and leveraging specialist skills/staff as well as digital systems.
 - **Governance and Control:** The degree of Council oversight, including through development of the water services strategy.
 - **Implementation Feasibility:** The practicality, cost, and risk of transitioning to the model, ensuring minimal disruption to services.
- 88 Staff set out below an analysis of these non-financial considerations.

Regulatory Compliance:

- 89 Regulatory compliance is non-negotiable for water services delivery in both the In-House Option and CCO Option. Whether Council establishes a CCO or decides on an In-House Option, it will be subject to:
- a) economic regulation; and
 - b) environmental and infrastructure regulation.
- 90 The second page of the Implementation Roadmap (Attachment B) shows the different types of economic, environmental and infrastructure regulation.
- 91 Regarding economic regulation:
- a) The Commerce Commission will have a range of tools to promote sufficient revenue recovery, and efficient investment and maintenance so that water services meet regulatory requirements. These are summarised in the DIA Guidance called “Economic regulation and consumer protection”: <https://www.dia.govt.nz/diawebsite.nsf/Files/>

[Water-Services-Policy/\\$file/LWDW-Bill-3-factsheet-Economic-regulation-and-consumer-protection.pdf](#)

b) The expected timelines for economic regulation tools are set out in the table below:

Milestone	What this means for providers
Early 2025	Stakeholders will be asked to provide feedback on Commerce Commission consultation on information disclosure under the Local Government (Water Services) Preliminary Arrangements Act 2024.
Mid-2025 Full economic regulation regime comes into effect	All regulated providers will be subject to a requirement for all revenues from regulated water services to be spent on regulated water services. The Commerce Commission will monitor compliance, with the ability to enforce any breaches that occur post 1 July 2027.
Sep 2025	Through their Water Services Delivery Plans, councils provide baseline information about their water services operations, assets, revenue, expenditure, pricing, and projected capital expenditure, as well as necessary financing arrangements. This information is shared with Commerce Commission to inform the development of the economic regulation regime.
Late 2025	Stakeholders will be asked to provide feedback on Commerce Commission consultation on potential information disclosure requirements.
From 2026, when necessary Revenue thresholds	Providers could be subject to revenue thresholds. This means they will receive a clear direction from the Commerce Commission about the level of revenue they should collect.
From 2026, if required, after designation Quality regulation	Under quality regulation, providers could be subject to quality standards or quality incentives to improve services.
From 2026, if required, after designation Performance requirement regulation	Under performance requirement regulation, providers could be required to perform certain actions to improve performance.
From mid-2026, if required, after designation Price-quality regulation	Under price-quality regulation, providers could be subject to minimum and/or maximum prices, and/or minimum and/or maximum revenues, alongside quality and performance requirements.
Late 2026	Providers are expected to make the first information disclosures under the new regime, based on the 2026/27 financial year.

- c) If Council decides on the CCO Option for its WSDP, then the Commerce Commission would regulate the CCO.
- d) If Council decides on the In-House Option for its WSDP, then:
- i) the Commerce Commission would regulate those parts of the Council that directly *and indirectly* deal with water services; and
 - ii) there will be a significant amount of work required (in a short period of time) to ensure that Council complies with the regulatory framework, particularly the requirement to ringfence water services from the finances of the rest of Council.

- 92 Regarding environmental and infrastructure regulation:
- a) Council already has established governance frameworks that facilitate strong compliance with water quality and environmental regulations.
 - b) A CCO would focus solely on water services, which creates a dedicated focus. However, the CCO Option would require significant work to establish compliance management during a transition period and would require strong ongoing collaboration with Council to ensure alignment with broader environmental and community goals.

Service Delivery and Operations:

- 93 At present:
- a) Water services are integrated with other Council functions, as there are a lot of interdependencies. For example, flood management, parks, urban planning, resource consenting and the transport network. This enhances co-ordination and efficiency.
 - b) The three waters team routinely co-ordinates with other teams within Council.
- 94 If there was a CCO for water services, then there is a risk of a “silo-type” approach. This would particularly be the case if the CCO offices were not co-located within the Council’s offices. While there is provision in the December Bill for a stormwater network service agreement between those entities having a role, function or interest in the operation of stormwater infrastructure in the area (including the Council and a CCO), there is a risk that the approach would be less co-ordinated than the In-House Option.
- 95 There is a perception within parts of the water sector that the CCO Option may be better able to attract and retain specialised expertise in water management, engineering, and compliance. It is difficult at this stage to know whether that is true. If Council proceeds with shared services (eg with Christchurch City Council), then it is likely that Council staff would get the opportunity to work with their peers.
- 96 Systems will need to be upgraded to ensure financial separation in both the In-House and CCO Options. The cost of these systems is expected to be substantial.

Governance and Control:

- 97 This topic is covered under the DIA’s factsheet called: Planning and accountability for local government water services: [https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\\$file/LWDW-Bill-3-factsheet-Planning-and-accountability-for-local-government-water-services-updated-Dec-2024.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/$file/LWDW-Bill-3-factsheet-Planning-and-accountability-for-local-government-water-services-updated-Dec-2024.pdf).
- 98 Under the In-House Option, Council would remain as the governing body for water services, and it would retain control (subject to regulatory requirements) over how water services are funded and charged to the community, including rates and the possibility of volumetric charging.
- 99 Under the CCO Option:
- a) Strategic oversight would remain with Council, but operational control would be transferred to the CCO’s board and management.

- b) Staff expect that, if Council chooses the CCO Option as its WSDM, then the most likely date that it would be established would be 1 July 2027 although it could in theory be earlier.
 - c) Council (as shareholder) would prepare a statement of expectations setting out the expectations, priorities, and strategic direction for the water organisation to inform and guide the decisions and actions of the board. Water organisations must give effect to these statements.
 - d) Council would be the sole shareholder. The shareholding would not be through Dunedin City Holdings Limited (DCHL). This is because the legislative framework specifies that a water organisation must be wholly owned by one or more local authorities (or trustees of consumer trusts).
 - e) Council could appoint directors to a board directly (or could appoint a committee) and ensure that relevant perspectives were brought to the director appointment process (flexibility to appoint mana whenua, community or consumer representatives) subject to statutory requirements including competency, collective skills, knowledge and experience.
 - f) The CCO would have less flexibility in how it charges for water being restricted from using property value-based charges and requires transition to specific water charges, such as fixed fees or volumetric billing within five years.
- 100 Under both the In-House Option and the CCO Option, there is a requirement to prepare:
- a) a water services strategy; and
 - b) a water services annual report.
- 101 The water services strategy is a single comprehensive water focused document which must be prepared every three years. There will be an annual budget in the intervening years.
- 102 The first water services strategy is to be adopted so it takes effect from 1 July 2027 (or an earlier date as determined by the water service provider) and ending on the 30 June 2030. Likewise, the first water services annual report would start on 1 July 2027 (or earlier in line with the water services strategy) and end on 30 June 2028.
- 103 The water services strategy will set out how the provider is proposing to perform, respond to local expectations and priorities, and meet statutory objectives and regulatory requirements. It will include financial forecasting information over 10 years, and infrastructure and investment information over more than 30 years. Strategies prepared by water organisations will respond to matters in the statement of expectations. Prices and charges will be set in accordance with the proposals in the strategy.
- 104 Under the In-House Option, Council would be required to consult communities in relation to its proposed water services strategy. Under the CCO Option, the CCO would be required to consult with Council (as its shareholder).
- 105 Under the CCO Option, the Council would determine the nature of its involvement in preparing and finalising the water services strategy. Council would ensure that information on its preparation and finalisation of the water services strategy is included in the CCO's constitution, or elsewhere.

- 106 The water services annual report is a document reporting on the water service provider's actual performance against the expectations and proposals in water services strategy and, if applicable, in the statement of expectations.

Implementation Feasibility

- 107 The In-House Option is expected to have the least initial setup costs and to be the most straightforward to implement. However, there will be significant costs and changes required to meet the regulatory regime. For example, there will need to be new systems for ring-fencing and water billing.
- 108 The CCO Option provides an opportunity to invest in a new fit for purpose entity within the new water services framework. However, the CCO Option has a higher initial cost to implement as well as being potentially more disruptive in the short term due to transition.
- 109 There is a perception in parts of the water sector that the CCO Option may offer long-term efficiencies (assuming a successful transition, operational integration, a robust implementation plan and resource allocation).
- 110 Shared services could be added to either the In-House Option or the CCO Option (noting that shared services may trigger a requirement for further consultation).

OPTIONS

- 111 The Preliminary Act requires Council to choose its future WSDM.
- 112 There are a range of advantages and disadvantages for both the In-House Option and the CCO Option. In essence, the In-House Option provides Council with direct control over water services, ensuring residents can participate in decision making through usual local democracy practices, and there is alignment with broader Council strategies and Council functions. However, the CCO has access to higher borrowing and operates under different financial arrangements.
- 113 The Council's financial modelling is over a 10-year period (2024-2034). It is not possible to accurately model beyond this period, but the models prepared show that the option to reduce charges to customers decreases towards the end of the modelled period when there is increased debt.
- 114 Although it is finely balanced, staff recommend that Council:
- a) Consult on the In-House Option and the CCO Option; and
 - b) Decides its Preferred Option for consultation is the In-House Option.
- 115 This recommendation is set against the context that:
- a) Council's decision on its Preferred Option will be subject to public consultation.
 - b) The draft 9YP supports the ability of Council to retain 3 Waters.
 - c) Council has a proven ability to deliver water services to a high standard. Council over the last 5 years has invested in the capital programme and has accelerated investment in both planning and delivery. This means the 3 Waters Team and Council's contractor base are well positioned to continue delivery at pace.

- d) Council is in the process of investigating shared services with Christchurch City Council. It would be helpful to have time to see how and to what extent the shared services, in practice, assist Council to achieve cost reductions and enhance water services.
 - e) Subject to changes in legislation or Government direction, if Council chooses the In-House Option now it would still be open to Council to later decide that it wants to establish a CCO. For example, Council could decide as part of its next long term plan process in 2027 that it would like to re-consult the public on the Council's WSDM.
 - f) If Council chooses the CCO Option, then this may be difficult to unwind in the future.
 - g) It is unclear what the long-term benefits or risks would be after the end of the modelled period.
- 116 It is possible that there will be future water reforms. Without knowing what those reforms may be, it is not clear whether Council would be in a better position for legislative change under the In-House Option or the CCO Option. The potential for legislative change has not therefore been discussed as an advantage or a disadvantage under the options.
- 117 Similarly, it is likely that there will be systems, staff and technology costs under both the In-House and CCO Options, so these have not been discussed as an advantage or disadvantage.
- 118 The governance arrangements under the In-House Option and the CCO Option are different, but there are mechanisms available to ensure that each entity has specialist advice available.
- 119 The impact on emissions and zero carbon is likely to be similar whether the Preferred Option is the In-House Option or the CCO Option. Should Council decide on the CCO Option, then the Statement of Expectations for the CCO could include provisions regarding emissions and zero carbon.

Option One – Recommended Option - In-House Delivery as the Preferred Option, and CCO is the additional reasonably practicable option

- 120 Under this option, Council would:
- a) Decide to consult on the following two options under the Local Government (Water Services Preliminary Arrangements) Act 2024:
 - i) In-House delivery of 3 Waters (the In-House Option); and
 - ii) An asset owning CCO for 3 Waters, with Council as the sole shareholder (the CCO Option).
 - b) Decide that its Preferred Option for consultation is the In-House Option.
 - c) Note that there will be a report to Council on 18 March 2024 asking Council to approve the water options consultation document.

Advantages

- Retains local control and accountability.

- Strong integration with other Council functions (e.g., flood management and urban planning) which supports operational efficiencies and aligns with Council’s broader strategies and city-wide priorities (subject to regulation).
- Builds on Council’s successful delivery of water services.
- Financial modelling indicates that the Council Group would take on less debt under the In-House Option.
- Avoids the costs of establishing a CCO and minimises transition costs (noting however that the In-House Option will have significant costs associated with setting Council up so that it can comply with the new regulatory regime).
- Council’s draft 9YP retains water while remaining within Council’s debt-to-revenue limit of 250% and the LGFA net debt limit of 280%.
- This option would allow Council time to test how the In-House Option works under the new regulatory regime, and to see the effects of any shared services arrangements (such as those currently being investigated with Christchurch City Council).
- This option does not prevent Council from reconsidering its WSDM later, such as in 2027 as part of the next Long Term Plan process and developing a Water Services Strategy.

Disadvantages

- Financial modelling shows this option as having fewer potential savings to households.
- Council does not have access to the 500% debt to revenue ratio that is available under the CCO Option.
- The In-House Option could constrain Council’s ability to spend in areas other than water and/or to deal with large-scale infrastructure investments not already budgeted for in the draft 9YP.
- Council will need to establish new mechanisms for ringfencing water revenue and costs.
- The Commerce Commission will have wide powers, with the ability to consider matters relating directly and indirectly to water services.
- Lacks single focus on delivering water services and does not ringfence legal liability to within the CCO.
- Arguably, less commercial and/or agile due to the legislative framework for councils.
- Does not capture scale benefits and may not attract specialist staff, although this may be mitigated through shared services arrangements.

Option Two – CCO is the preferred option and In-House Delivery is the additional reasonably practicable option, with the option of any add-ons, subject to further analysis

121 This option is the same as option one, except Council’s Preferred Option would be a CCO instead of In-House. Therefore, under this option, Council would:

- a) Decide to consult on the following two options under the Local Government (Water Services Preliminary Arrangements) Act 2024:
 - i) In-House delivery of 3 Waters (the In-House Option); and
 - ii) An asset owning CCO for 3 Waters, with Council as the sole shareholder (the CCO Option).
- b) Decide that its Preferred Option for consultation is the CCO Option.
- c) Note that there will be a report to Council on 18 March 2024 asking Council to approve the water options consultation document.

Advantages

- Financial modelling shows this option as having potentially greater savings to households -\$114 million over the 10 years modelled.
- LGFA will allow a debt to revenue ratio of 500% (compared to 280% for Council under the In-House Option).
- Does not constrain Council's ability to spend in areas other than water.
- The Council would not be subject to the new regulatory regime, and the associated compliance costs associated with that regime.
- The CCO's single focus would be on delivering water services.
- Legal liability would be ringfenced to within the CCO (at least to some extent).
- The CCO must give effect to statement of expectations (if consistent with CCO's purpose and statutory objectives).
- A director of a CCO must be appointed based on their competency to perform the role, and the directors of a CCO must collectively have an appropriate mix of skills, knowledge, and experience in relation to providing water services.
- Accountability to the Council as shareholder via regular reporting and annual reporting.
- Arguably, a CCO may be more commercial and/or agile due to it not operating under the same legislative framework as councils.

Disadvantages

- Potential for higher debt, with the associated risk and cost of servicing higher debt. Council Group will have an extra \$157 million of debt.
- Risks reduced co-ordination with Council functions if not adequately managed.
- Independent governance introduces risks of misalignment with Council priorities (unless effectively managed through governance arrangements and key accountability documents).
- Potential for reduced community input.

- Accountability to consumers for service delivery potentially blurred.
- Establishment and transition costs reduce immediate value.
- If Council found that the CCO Option was problematic, it would be difficult to unwind the arrangements.

NEXT STEPS

- 122 The next steps are currently being discussed with Audit New Zealand, who are currently in the process of auditing Council’s 9YP CD. The Water Options CD does not need to be audited.
- 123 Although the 9YP process and the WSDP process are two separate processes undertaken under separate legislation, the 9YP CD and the Water Options CD will need to be cross-referenced and the processes will need to run in parallel.
- 124 Staff expect that the process will be essentially as follows (although this is subject to change depending on the approach taken by Audit New Zealand):
- a) Staff will report back to Council on 18 March 2025 with a draft Water Options CD for approval by Council.
 - b) The Water Options CD and 9YP CD will be released and open for submissions from 31 March 2025 to 30 April 2025.
 - c) There will be combined Hearings in the week commencing 5 May 2025 on the Water Options and the 9YP.
 - d) As soon as possible after the Hearings (mid-May), Council will decide on its WSDM. A decision on the WSDM would need to be made in mid-May so that staff can update the 9YP to reflect the WSDM, as required, and to allow time for the Audit Report on the 9YP.
 - e) Council will adopt its 9YP prior to 30 June 2025, and will submit its WSDP to the Secretary for Local Government before 3 September 2025.

Signatories

Author:	Karilyn Canton - Chief In-House Legal Counsel Nadia McKenzie - In-House Legal Counsel Carolyn Allan - Chief Financial Officer Hayden McAuliffe - Financial Services Manager
Authoriser:	David Ward – General Manager, 3 Waters and Transition Sandy Graham - Chief Executive Officer

Attachments

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SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This report enables democratic local decision making and action by, and on behalf of communities and promotes the social, economic environmental and cultural well-being of communities in the present and for the future.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Economic Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
3 Waters Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Future Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Other strategic projects/policies/plans	✓	<input type="checkbox"/>	<input type="checkbox"/>

This report has been prepared with reference to the Dunedin strategic framework.

Māori Impact Statement

Council will be consulting on the models directly with iwi Māori through Te Pae Māori.

Sustainability

Financial sustainability of local government water services is a key objective of the Government’s ‘Local Water Done Well’ policy. The Preliminary Act and December Bill are designed to implement this policy and ensure delivery of water services is financially sustainable.

Zero carbon

The impact on emissions and zero carbon is likely to be similar whether the Preferred Option is the In-House Option or the CCO Option. Should Council decide on the CCO Option, then the Statement of Expectations for the CCO could include provisions regarding emissions and zero carbon.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

There are significant implications for the LTP, and associated documents. Audit New Zealand expects Council’s 9YP CD to reflect the Preferred Option and Council’s 9YP to reflect either the Preferred Option or the WSDM (depending on timing).

Financial considerations

The financial considerations are discussed in depth in this report.

Significance

The matters discussed in this report are considered high in terms of the Council’s Significance and Engagement Policy. There will be public consultation on the water services delivery models in accordance with legislation.

SUMMARY OF CONSIDERATIONS

Engagement – external

There is engagement with other territorial authorities, mana whenua and Audit New Zealand as discussed in the report.

Engagement - internal

Staff from Legal, Finance, 3 Waters, and the Executive Leadership Team have contributed to this report.

Risks: Legal / Health and Safety etc.

There are no identified health and safety risks related to this report. Legal considerations are discussed in the body of this report.

Conflict of Interest

There are no known conflicts of interest.

Community Boards

There are no specific implications for Community Boards, although the LWDW reform will affect all areas.

Glossary

Acronym/Term	Definition
9YP	9 Year Plan
9YP CD	9 Year Plan Consultation Document
Alternative Option(s)	Other options that Council will consult on in addition to the Preferred Option
CCO	Council-Controlled Organisation
CCO Option	As defined in the report: asset owning CCO for 3 Waters with Council as the sole shareholder
Change Proposal	New decision-making requirements under December Bill for territorial authorities proposing to make a change to the provision of water services in their district eg establishing a CCO, agreeing on shared services with another territorial authority etc.
December Bill	Local Government (Water Services) Bill introduced to Parliament on 10 December 2024
DIA	Department of Internal Affairs
DCHL	Dunedin City Holdings Limited
Economic Regulation	The regulation of the price and quality of goods or services in markets with monopoly characteristics is covered by the Commerce Act 1986 and is implemented by the Commerce Commission (for relevance to water services ahead refer DIA Factsheet: Economic Regulation and Consumer Protection)
Financially Sustainable	Means, in relation to a territorial authority's delivery of water services, that— (a) the revenue applied to the authority's delivery of those water services is sufficient to ensure the authority's long-term investment in delivering water services; and (b) the authority is financially able to meet all regulatory standards and requirements for the authority's delivery of those water services
FFO	Funds from Operations
In-House Option/Delivery	In-house delivery of 3 Waters
Joint Local Government Arrangement	Refer s137 LGA 2002 – currently tagged for repeal under December Bill (but note JWSPA term introduced in December Bill as referred to below).
Joint Water Service Provider Arrangement (JWSPA)	A JWSPA is an arrangement entered into by two or more water service providers for the purpose of providing water services or any aspect of water services in the provider's combined service area, or any matters relating to the provision of water services e.g., a shared service agreement for technical or administrative support.
LGA 2002	Local Government Act 2002

Acronym/Term	Definition
LGFA	Local Government Funding Agency
LWDW	Local Water Done Well
Morrison Low Report	Attached to the November Report (Morrison Low Report dated 24 October 2024)
Preferred Option	Preferred water services delivery model
Preliminary Act	Local Government (Water Services Preliminary Arrangements) Act 2024
Regional Multi-Council Entity	Two or more councils would establish a jointly owned water entity for delivering water services
Secretary for Local Government	Secretary for Internal Affairs (currently Paul James).
Taumata Arowai (Water Services Authority)	New Zealand Water Regulator
Three-waters CCO	A CCO that covers drinking water, wastewater and stormwater
Two-waters CCO	A CCO that covers drinking water and wastewater
Water Consultation Options	Preferred Option and Alternative Option(s)
Water Options CD	Water Options Consultation Document
Water Organisation	A water organisation is a separate organisation that territorial authorities may establish or be shareholders in, and which provides water services in accordance with transfer agreements. An example is a CCO.
Water Service Provider	Means water organisations <u>and</u> territorial authorities. In other words, a water service provider includes both the in-house model and models such as the CCO model.
WSCCO	Water Services Council-Controlled Organisation
WSDM	Water Services Delivery Model
WSDP	Water Services Delivery Plan

December 2024

LOCAL WATER DONE WELL

Implementation roadmap



**Te Tari Taiwhenua
Internal Affairs**

This document provides an overview of key activities and milestones for the implementation of Local Water Done Well.

It outlines the key steps in the overall Local Water Done Well programme to help councils and other stakeholders understand the timing of the programme. It is not intended to be comprehensive or cover related agency workstreams. All information and timeframes are indicative and subject to change, in line with legislative processes.

Workstream	December 2024	January to June 2025	July to December 2025	January to June 2026	July to Sep 2026	Nov 2026 onwards	
LEGISLATION							
Local Government (Water Services Preliminary Arrangements) Act 2024 (Prelim Arr Act)	Department of Internal Affairs (DIA) continues to provide guidance to support implementation of Prelim Arrangements Act						
Local Government (Water Services) Bill (Bill 3)	Bill 3 introduced (Dec 2024)		Bill 3 enacted (mid-2025); DIA provides guidance to support Bill implementation				
COUNCIL WATER SERVICE DELIVERY ARRANGEMENTS							
Water service delivery arrangements	Councils can establish new water organisations allowed under existing legislation		Councils can establish new water organisation models provided through Bill 3				
	DIA/Crown Infrastructure Partners (CIP) support councils on delivery model considerations		New legislative requirements for local government water service providers in effect				
	CIP and Local Government Funding Agency (LGFA) support councils on structuring and financing for new water organisations (Dec 2024 – Jun 2025)						
Water Services Delivery Plans (WSDPs)	Councils to develop WSDPs with support from DIA as required. Indicative timeline: - Sept – Oct 2024: Financial viability assessment - Nov 2024 – Jan 2025: Financial sustainability and delivery model - Feb – Apr 2025: Community consultation - May – Jul 2025: Finalise plans for submission		WSDP extension deadline (3 Aug 2025)	Councils publish WSDPs (Dec 2025)			
			Councils submit WSDPs to DIA for review and acceptance (by 3 Sep 2025)	Published plans available to Commerce Commission and the Water Services Authority	DIA monitor WSDPs Implementation Plan (Nov 2025 until complete)		
PLANNING & REPORTING FRAMEWORK FOR WATER SERVICES							
New planning and reporting framework for water service providers (councils and water organisations)	Councils plan and design for ringfencing as part of WSDPs		Water service providers begin to apply new financial (ringfencing) principles as part of financial operations and policies	Shareholders in water organisations prepare statements of expectations to inform first water services strategy	Water service providers prepare first water services strategy – for adoption by 30 Jun 2027 (including forecast financial statements for water supply, wastewater and stormwater)		
					Councils include 'standalone' financial statements for water supply, wastewater and stormwater in annual report for FY 2026-27		

Workstream	December 2024	January to June 2025	July to December 2025	January to June 2026	July to Sep 2026	Nov 2026 onwards
ECONOMIC REGULATION						
Crown monitor for Watercare (interim economic regulator for Watercare)	Crown monitor quarterly reporting and annual reporting (first report for year ending 30 Jun 2025, due 30 Nov 2025)					
	Watercare develops business plan and submits to DIA					
	Watercare Charter under development	Watercare Charter in place (to Jun 2028)				
Information disclosure (ID)	Commerce Commission consultation on ID under Prelim Act		Commerce Commission consultation on a draft ID requirements for all suppliers (following enactment of Bill 3)	Commerce Commission sets ID requirements under Bill 3 (within 6 months of enactment)	ID requirements under Bill 3 in force from July 2026 for all suppliers	
	Councils/CCOs can be subject to foundational ID under Prelim Act, subject to Ministerial approval (providers can no longer be designated after Bill 3 commences)					
Ringfencing	Commerce Commission begins monitoring ringfencing requirements relating to water supply and wastewater (i.e. requirement for revenue from regulated water services to be spent on those services from enactment of Bill 3)					
Revenue thresholds	Revenue thresholds can apply (if required)					
Quality standards and performance requirements	Quality regulation and performance regulation can apply following designation (if required)					
Price-quality regulation	Price-quality regulation can apply following designation (if required)					
ENVIRONMENTAL & INFRASTRUCTURE REGULATION						
Drinking water						
Drinking water quality regulatory environment	Regulatory changes to ensure regulation is proportional to risk for drinking water suppliers					
Wastewater						
Wastewater environmental performance standards (and infrastructure design solutions)	Water Services Authority engages on development of wastewater standards	Authority consults on standards	Development of standards	Wastewater standards in place (Aug 2025)		
			Development of infrastructure design solutions	Infrastructure design solutions for modular plants in place		
Stormwater						
Stormwater management roles and responsibilities	New stormwater network risk management provisions take effect (following enactment of Bill 3)					
Water service bylaw alternatives	Alternative options to bylaws available to councils (e.g. drinking water catchment plans, trade waste plans and rules, water supply and waste management enforcement)					
Infrastructure						
National Engineering Design Standards (NEDS)	Water Services Authority develops draft NEDS		Water Services Authority consultation on draft NEDS. Transition to NEDS from making of final NEDS.			
Water service providers infrastructure powers	Modernised powers to access land and control connections apply in place (from enactment of Bill 3)					

December 2024

LOCAL WATER DONE WELL

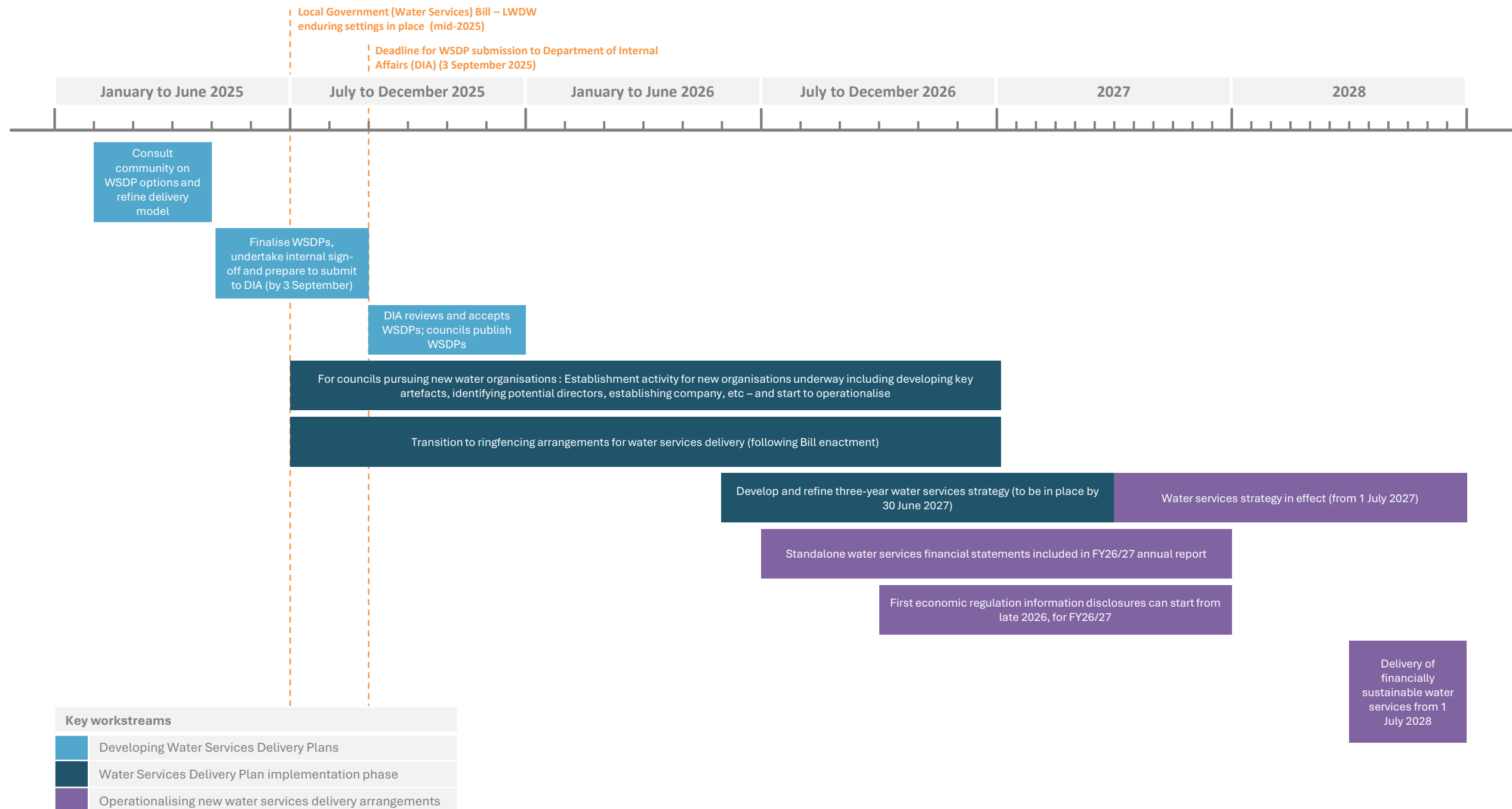


Te Tari Taiwhenua
Internal Affairs

Planning for future water services delivery (2025-2028)

This document provides a high-level roadmap for councils' planning and delivery of future water services arrangements under Local Water Done Well. It is indicative only and has been prepared to support councils as they develop their Water Services Delivery Plans (WSDPs). It includes key milestones and an indication of key workstreams for councils, which may be required to achieve councils' delivery of financially sustainable water services to their communities from 1 July 2028.

The Government has set out the foundations and preliminary arrangements for the new water services system, including tools and a new framework for councils. Legislation covering the enduring settings for the future water services system is expected to be in place by mid-2025.



Local Government (Water Services) Bill - Key Themes

<p>Delivery Models</p>	<p>Further clarifies that there are many ways to deliver water services and that territorial authorities (TA) may use one or a combination of the following:</p> <ul style="list-style-type: none"> • Providing water services themselves directly. • Transferring responsibility for providing water services to a ‘water organisation’ e.g., CCO (through a transfer agreement, such that the organisation becomes the water service provider in respect of those services – noting that cl 10 prevents the transfer of responsibility for ‘transport corridor stormwater infrastructure’). • Contracting with a person or body to provide water services on behalf of the TA (TA still remains responsible as the water service provider). • Entering into a joint water service provider arrangement with other territorial authorities (TA still remains responsible as the water service provider). • Becoming a shareholder in a water organisation established by another territorial authority. • Entering another type of arrangement (other than a franchise or concession agreement) (TA still remains responsible as the water service provider). <p>Introduces further consultation requirements when a change process is triggered.</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-Bill-3-factsheet-Water-service-delivery-arrangements.pdf</p> <p>https://www.dia.govt.nz/diawebsite.nsf/Files/Water-Services-Policy/\$file/LWDW-guidance-Water-services-delivery-models-(updated-December-2024).pdf</p>
<p>Core Requirements</p>	<p>All water services providers must:</p> <ul style="list-style-type: none"> • meet a set of ‘objectives’ in cl 15, including that each provider must manage and provide water services in a cost-effective and financially sustainable manner; • comply with financial principles in cl 16, including a requirement that revenue received from the provision of water services must be spent on those services;

- 6 LWDW allows for flexible arrangements, including the possibility of Shared Services.
- 7 Staff recommend investigating the possibility of Shared Services because this has the potential to reduce costs and enhance the delivery of water services, particularly if large metros are involved.
- 8 Staff have met with staff at CCC to discuss the possibility of Shared Services. CCC is also wanting to investigate the possibility of shared services.
- 9 Staff have prepared a MOU, in consultation with CCC, to record the proposed process for investigating the possibility of Shared Services between DCC and CCC. The MOU is attached as Attachment A and is subject to Council approval.

DISCUSSION

- 10 There is a report on the Council agenda for 26 February 2025 regarding Council's preferred model for the delivery of water services (e.g. in-house or CCO). Shared Services could apply to whichever model DCC or CCC chooses for their future delivery of water services.
- 11 Shared Services would be managed through contracts rather than a shared entity. The underlying ownership of each council's existing water assets would not change through Shared Services.
- 12 The MOU sets out a process for investigating the possibility of Shared Services.
- 13 The initial process will be to form a joint working group comprised of staff from DCC and CCC.
- 14 The joint working group will investigate and make recommendations on the feasibility of any Shared Services, and report back to each council within a specified timeframe. Any steps beyond the investigation phase would be fully at the discretion of each council.
- 15 The joint working group will engage with mana whenua and will consider how any Shared Services could be extended to involve other territorial authorities.
- 16 At present, the scope of any Shared Services has not been agreed. This will depend on the outcome of the investigation of the possibilities by the joint working group, and each Council's decision on how it wants to proceed beyond the investigation phase.
- 17 The joint working group will look at new ways of working and sharing expertise. They will consider a wide range of functions or services, such as joint procurement, laboratory services, plans for asset management, infrastructure planning and delivery, water safety, compliance, and performance monitoring.
- 18 Key points from the MOU include:
 - a) The MOU records the proposed process for investigating the possibility of Shared Services between CCC and DCC.
 - b) Each Council will be required to follow the proposed process, but with some flexibility around timeframes if agreed.
 - c) There will be agreed relationship principles and communication goals, and rules around intellectual property and confidential information.

- Each council has a wealth of expertise and specialist staff. Shared services create opportunities for those staff to collaborate and share ideas.
- This option aligns with the Government’s ‘Local Water Done Well’ reform programme as shared services have the potential to reduce costs and enhance water services.
- This option could apply to any base model for the delivery of water services (eg to an in-house model or a CCO model).

Disadvantages

- There will be some staff cost and time in investigating the possibility of Shared Services.

Option Two – Do not approve the Memorandum of Understanding

26 Under this option, Council would not approve the MOU.

27 There is no impact on debt, rates, and city-wide and DCC emissions.

Advantages

- There would be no staff cost and time involved in investigating the possibility of shared services.

Disadvantages

- This would be a missed opportunity to work with CCC to investigate the possibility of Shared Services, which have the potential to reduce costs and enhance services.

NEXT STEPS

28 If Council approves the MOU, then it will be signed and a joint working group will be established.

29 The joint working group will report back to Council following its investigation into the possibility of Shared Services between DCC and CCC.

Signatories

Author:	Karilyn Canton - Chief In-House Legal Counsel
Authoriser:	Sandy Graham - Chief Executive Officer

Attachments

	Title	Page
↓A	Draft MOU with Christchurch City Council	114

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This report enables democratic local decision making and action by, and on behalf of communities and promotes the social, economic environmental and cultural well-being of communities in the present and for the future.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Economic Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
3 Waters Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Future Development Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Other strategic projects/policies/plans	<input type="checkbox"/>	<input type="checkbox"/>	✓

Māori Impact Statement

Mana whenua has a strong interest in water resources and the delivery of water services. The Council will seek to engage with mana whenua as the process progresses in investigating the possibilities for certain shared water services with Christchurch City Council.

Sustainability

Financial sustainability of local government water services is a key objective of the Government’s ‘Local Water Done Well’ policy. The proposal to investigate certain shared water services with Christchurch City Council aligns with the Government’s stated aim of financial sustainability.

Zero carbon

It is too early to say whether there would be any zero carbon implications through the sharing of certain water services with Christchurch City Council. This would be considered further once the specific services were identified as being suitable for sharing.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

The investigation itself will not have any implications for the LTP/Annual Plan/Financial Strategy/Infrastructure Strategy. There may be implications later depending on how the Councils decide to proceed following the investigation phase.

Financial considerations

The cost of establishing a joint working group comprised of staff from DCC and Christchurch City Council is unlikely to be significant and can be absorbed within current budgets.

SUMMARY OF CONSIDERATIONS

Significance

The proposed investigation into the possibility of certain shared water services with Christchurch City Council is considered low to medium under Council’s Significance and Engagement Plan. The possibility of shared services will be referred to in the consultation document on its preferred model for the delivery of water services. That consultation document will be prepared under the Local Government (Water Services Preliminary Arrangements) Act 2024.

Engagement – external

Christchurch City Council.

Engagement - internal

Council’s Chief Executive Officer and staff from Legal, 3 Waters and Procurement have been involved in discussions to date.

Risks: Legal / Health and Safety etc.

There are no identified health and safety risks related to this report. Legal considerations are discussed in the body of this report.

Conflict of Interest

There are no known conflicts of interest.

Community Boards

There are no specific implications for Community Boards.

