

Water services delivery models: Guidance for local authorities

LOCAL WATER DONE WELL

December 2025



Introduction

Background

A key feature of Local Water Done Well is providing councils with the flexibility to determine the optimal structure and delivery method for their water services. This is enabled by the new legislative framework for water service delivery in the Local Government (Water Services) Act 2025 (the Act).

Councils will continue to be able to deliver water services directly (such as through in-house business units or contracts with third parties). However, they are also be able to establish or become shareholders in new water organisations, and transfer responsibilities for providing water services to those organisations by entering into a transfer agreement.

Water organisations are intended to enable enhanced access to long-term borrowing for water infrastructure – supporting infrastructure development, while managing costs for consumers. Using these models may make it easier for councils to achieve cost savings, and improve efficiency and affordability.

Councils have choices about which water services are provided through different service delivery arrangements. For example, they may wish to transfer responsibilities for water supply and wastewater services to a water organisation and retain stormwater services in-house.

This guidance document

This guidance document focuses on the service delivery models and arrangements that are available to local authorities through the Local Government (Water Services) Act 2024 (the Act).

It provides further detail on the range of service delivery models available to councils, including new water organisations owned by councils and/or consumer trusts.

In the Act and this guidance, the term '**water service provider**' includes councils that continue with direct delivery, and water organisations (to which responsibilities for water services have been transferred). The term '**water organisation**' refers only to separate organisations that councils establish to provide water services (including former council-controlled organisations that provide water services), not councils with direct, in-house delivery.

This guidance document has four sections:

- Section 1: Requirements of all water services providers and for specific delivery models
- Section 2: Service delivery models available to councils
- Section 3: Governance and accountability arrangements
- Section 4: Charging, borrowing and related matters (applicable to water organisations)

This guidance document aims to help inform local authorities on service delivery models. It should be read alongside other Local Water Done Well information.

It updates the 'Water services delivery models: Guidance for local authorities' shared in August 2024 and in December 2024, to reflect the provisions of the Local Government (Water Services) Act 2025 – as enacted in August 2025.

For further information about Local Water Done Well, visit www.dia.govt.nz/Water-Services-Policy-and-Legislation

Questions? Contact water.services@dia.govt.nz

01

**Requirements for
water service
providers, and specific
delivery models**

Requirements for all water service providers

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

The Local Government (Water Services) Act establishes a framework for water services delivery that includes:

- requirements that apply to all local government water service providers (these being councils and water organisations – with respect to the services they are responsible for providing)
- additional requirements that apply to water organisations, focusing on the ownership, governance and structural arrangements for these organisations
- further provisions that apply only to water organisations that are owned by consumer trusts (alone or with councils).



Are 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 *Environmental performance standards and infrastructure design solutions*.*



Are subject to the new planning and accountability framework for water services in Part 4 of the Act, including preparing water services strategies and water services annual reports – 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 water service provider arrangement. The Act includes specific provisions that apply to contracts, including requirements relating to significant contracts.



Are subject to restrictions against privatisation. For example, the Act includes prohibitions on losing control, selling or disposing of significant infrastructure, and water services assets cannot be used as security. Franchises and concession agreements are also prohibited. Only local authorities and consumer trusts (established by local authorities) can be shareholders in water organisations.

Additional requirements for water organisations

In addition to the requirements that apply to all water services providers, the Act includes provisions that only apply to water organisations – affecting their ownership, governance, and structural arrangements.

These requirements apply to all water organisations. (This includes Watercare and any other water services council-controlled organisations or council-controlled trading organisations that became water organisations upon enactment of the new Act.)

These features are not relevant where councils continue with direct service delivery.

The Act applies instead of most of the provisions in the Local Government Act 2002 relating to council-controlled organisations.

The Act includes a process for seeking an exemption from some of the requirements that apply to water organisations (marked*). This involves an application to the Secretary for Local Government and consideration by the Minister of Local Government. Successful applications are given effect through an Order in Council, which may include terms and conditions. Further details are provided in a later slide.

The following additional requirements apply in relation to water organisations:



Board appointments must be competency-based and have the appropriate mix of skills, knowledge, and experience in relation to providing water services.



Current elected members and employees of council shareholders (or the water organisation itself) 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 are **limited to the provision of water services** and services that are related to, or necessary for, providing water services.*



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. The Act also sets out the processes that apply to transfer agreements, and when a new agreement is required.

Requirements for trust-owned water organisations

For water organisations that involve consumer trusts:

The Act sets out bespoke requirements that apply to water organisations that are owned by the trustees of consumer trusts (wholly, or jointly with one or more councils).

This option requires a significant legislative framework for the consumer trust and trustees as they may have the effective control of water services and assets (depending on the ownership model).

Provisions in the Act ensure that, if a consumer trust expires or is terminated, the trustees must transfer to the territorial authority or territorial authorities that established the trust all shares they hold in the water organisation and all other assets and liabilities they hold for the trust.



The Act enables territorial authorities to establish consumer trusts, whose trustees will own or co-own a water organisation on behalf of consumers. Trustees of consumer trusts must represent consumers and their interests.



Trustees will be responsible for **appointing and removing boards and overseeing their performance**. They will also carry out other responsibilities of shareholders under the Act, including providing each statement of expectations to the water organisation.



Each trust must have a trust deed, setting out all of the information specified in the Act. The Secretary for Local Government must approve variations to the trust deed.



Trustees must be **elected by consumers**, through elections conducted in accordance with principles in the Act. Trustees are elected by consumers who hold an account with the water organisation owned or co-owned by the trust. Each consumer who is the named account holder may cast 1 vote.



Consumer trusts and trustees will have to **comply with all requirements in the Act and general law relating to trusts**, such as having a trust deed. They must prepare financial statements and annual reports each year, which will be audited and published.



Trustees in consumer trusts may be a **minority or majority shareholder** of a water organisation with territorial authorities, or may own 100% of the shares. (Note: if the organisation is owned by one or more territorial authorities and trustees, it is only considered a council-controlled organisation under the Local Government Act if the territorial authorities hold 50% or more of the shares and voting rights.)



Trustees will be **restricted from modifying the trust deed and selling their shareholding**. Shares and assets can only be transferred to the territorial authority (or authorities) that established the trust.

Protections against privatisation

Under Local Water Done Well, the Government has committed that water services will remain in public ownership.

Councils and water organisations will not be able to privatise water services.

The Act includes the following statutory protections:

- A water service provider must not:
 - use the assets of its water services networks as security for any purpose;
 - transfer its ownership of water services infrastructure or of any other interest in a water service – except to another water service provider, if the transfer is a necessary part of a transfer agreement, contract, or a joint water service provider arrangement;
 - lose control of, sell, or otherwise dispose of the significant infrastructure necessary for providing water services in its service area, unless it retains its capacity to meet its statutory obligations.
- Only local authorities and/or trustees in consumer trusts will be permitted to own shares in a water organisation.
- Shares in water organisations cannot give any right, title or interest in the assets, security, debts, or liabilities of the water organisation, and cannot be sold or transferred.
- Shares and assets in a consumer trust-owned water organisation can only be transferred to the territorial authority (or authorities) that established the trust, or to trustees in another consumer trust.

In addition, the Act carries over provisions from the Local Government Act 2002 that prohibit water service providers from entering into any contract or arrangement that involves a franchise or concession agreement. (These are agreements under which a contracted third party would be entitled to receive a payment from a person other than the provider for the provision of the water services.)

Exemptions from certain requirements relating to water organisations

The Act includes a process that allows territorial authorities to apply for exemptions from certain requirements that relate to water organisations, for consideration on a case-by-case basis.

This will help to provide territorial authorities with the flexibility to identify and establish the delivery arrangements that work best for them. The exemptions framework acknowledges that there may be certain circumstances where there may be justification in waiving some requirements.

Under the Act, the Governor-General may, by Order in Council made on the recommendation of the Minister, exempt a water organisation or trustees from the following requirements:

- water organisations must be companies;
- water organisations cannot provide services other than water services and directly-related services;
- trustees must not have any roles and responsibilities other than their roles and responsibilities as shareholders in a water organisation.

A territorial authority may also apply for an exemption from the requirement that only councils or trustees of consumer trusts can be shareholders of a water organisation, if the authority intends the organisation will be owned by:

- one or more local authorities or trustees of one or more consumer trusts; and
- consumer shareholders in a co-operative company holding only a nominal number of non-transferable shares in the water organisation.

Territorial authorities that wish to apply for exemptions from any of these requirements must submit applications to the Secretary for Local Government, who will:

- consult the Water Services Authority, the Commerce Commission, and the Inland Revenue Department in relation to the application;
- advise the Minister of Local Government whether to recommend granting an exemption, including whether the exemption should be subject to any terms and conditions, and be granted in full or in part.

The Minister must not recommend an exemption order unless satisfied on reasonable grounds that it:

- would not prevent the water organisation or the trustees of the consumer trust (as applicable) from complying with the Act;
- would not adversely affect the ability of the water organisation to meet its objectives, or the financial sustainability of the water organisation.

If an Order in Council is made, the territorial authority must make information about the exemption, and the territorial authority's reliance on the exemption, publicly available.

02

Service delivery
models

Councils can choose from a range of service delivery models

The choices available to councils include:

- whether to deliver water services in-house, or establish a water organisation and transfer responsibilities for one or more water services to that organisation
- whether to deliver services on a stand-alone basis or establish a joint water organisation with other councils
- how to structure ownership and governance arrangements for any water organisation
- how to set up water organisations to facilitate access to long-term borrowing for water infrastructure

Council-controlled organisations or council-controlled trading organisations that were providing water services before the Act was enacted, and are continuing to do so, were deemed to be water organisations for six months after enactment – and, within that period, their board must adopt a document confirming compliance with the relevant statutory requirements (for them to continue to be water organisations and water service providers). A transfer agreement must be entered into within three years.

This guidance provides further detail on the illustrative examples outlined below. Other delivery models may be permissible if they are consistent with the legislation or if a council obtains an exemption. Councils (and water organisations) can also enter into contracts with other parties and/or joint water service provider arrangements – but in these situations the council (or water organisation) is still the “water service provider” under the Act.

Illustrative examples of service delivery models

	In house business unit	Water organisations			
Ownership variations	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Not applicable Structure is part of council </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Single council owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Multi-council owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Mixed council and consumer trust owned </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Consumer trust owned </div>
Council financial support	1	2	3	4	5
	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Not applicable Structure is part of council </div>	<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> Council provides support (eg guarantees or uncalled capital) </div>		<div style="border: 1px solid black; border-radius: 10px; padding: 5px; text-align: center;"> No council financial support </div>	

Overview of service delivery models

1	Internal business unit or division	<ul style="list-style-type: none"> • Status quo delivery model for many councils • New statutory requirements for water service providers will apply – including statutory objectives, financial principles and sustainability requirements, and new planning and reporting framework • Economic regulation will apply (including monitoring and enforcement of “ring-fencing”)
2	Single council-owned water organisation	<ul style="list-style-type: none"> • New company established, 100% owned by the council • Financial sustainability and ringfencing rules will apply, but retains a financial link to the council • New water organisations (and any existing water CCOs) must meet statutory requirements that apply to water service providers and water organisations, and will be subject to new economic regulation regime. (These requirements are relevant to the other models below, as well) • Can access LGFA financing up to the equivalent of 500% of operating revenues with the provision of parent support (through guarantee or uncalled capital)
3	Multi-council owned water organisation	<ul style="list-style-type: none"> • New company established with multi-council ownership • Use of a shareholder council (or similar body) to appoint board directors (and undertake some other shareholder responsibilities) is advisable, but not a statutory requirement • Can access LGFA financing up to the equivalent of 500% of operating revenues with the provision of parent support (through proportional guarantee or uncalled capital)
4	Mixed council/consumer trust owned water organisation	<ul style="list-style-type: none"> • Consumer trust established to part-own a water organisation • One or more councils own the remainder of the shares (as majority or minority shareholders) • Structure can enable financially independent organisation to be established while retaining some council ownership/involvement as shareholders
5	Consumer trust owned water organisation	<ul style="list-style-type: none"> • One or more territorial authorities establish a consumer trust to wholly own a water organisation, and transfer all water assets and responsibilities • Consumers elect trustees to represent their interests in the organisation • Most financially independent of the available models

1. Internal business unit or division

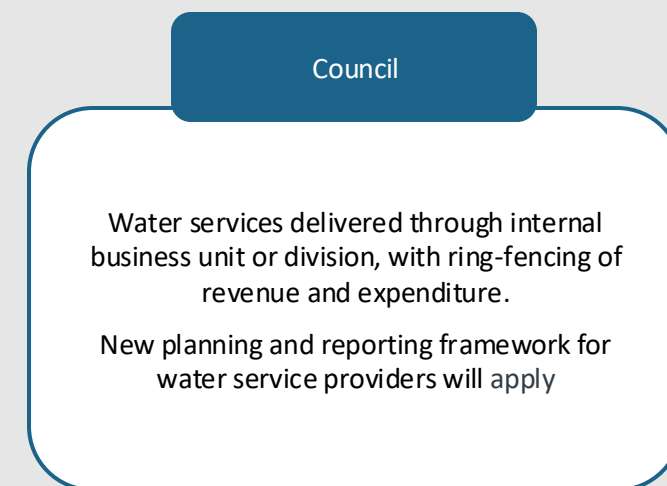
This option represents a continuation of the existing in-house service delivery model used by many councils – but with some differences.

Under this option, water services would be delivered directly by the council ‘in-house’ through an internal business unit or division. This model will be subject to all the requirements in the Act that apply to water service providers – including meeting statutory objectives and financial principles (ringfencing and financial sustainability requirements), separate planning and reporting requirements for water services, and being subject to new economic regulation regime.

Revenue continues to be generated through a combination of general and targeted rates and financial/development contributions

Key features	
Ownership	<ul style="list-style-type: none">• 100% council owned as a business unit or division within the organisation• No new organisation is established
Governance	<ul style="list-style-type: none">• Internal business unit or division responsible to the elected council members, with other usual council governance oversight
Strategy	<ul style="list-style-type: none">• Councils will need to prepare a water services strategy, as required by the Act
Accountability	<ul style="list-style-type: none">• Water division reports to council per established internal processes• Water service delivery will be accountable to the public through usual local democracy practices• Water services annual report – including new financial statements on water supply, wastewater and stormwater – will be completed to enhance current requirements
Borrowing	<ul style="list-style-type: none">• Borrowing undertaken by council with water activity groups meeting their share of financing costs (on internal and any external borrowing)

Illustrative example



2. Single council-owned water organisation

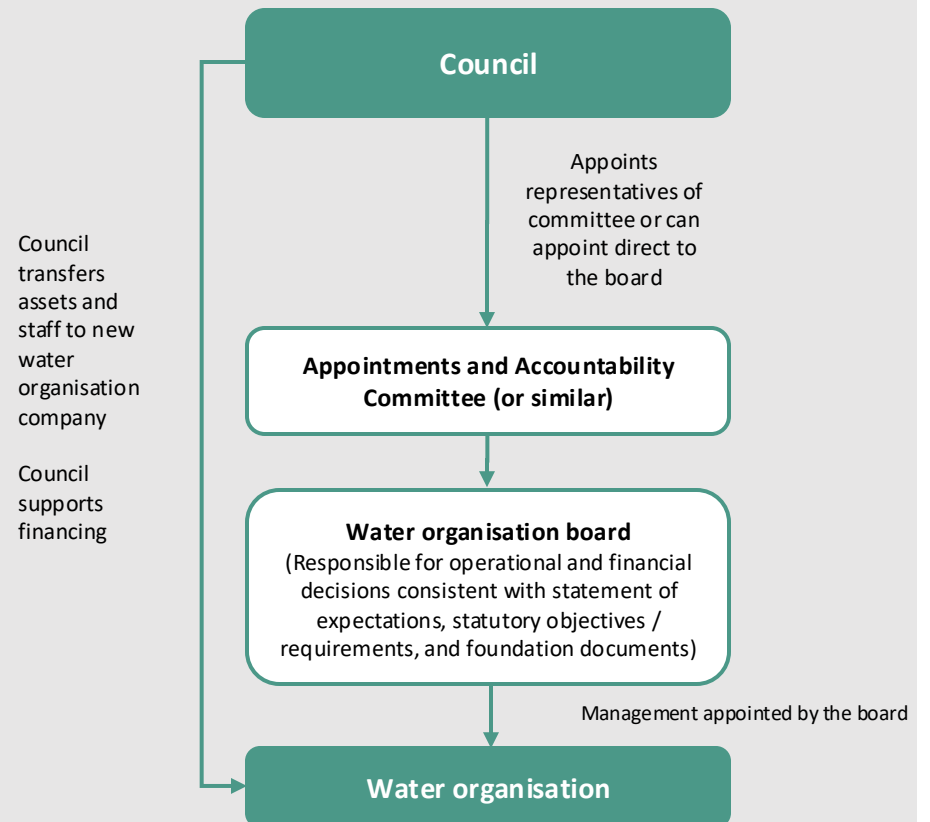
New company established to deliver water services, with ownership by a single council. Council can transfer or retain ownership of assets, subject to transfer of asset use rights. Council must prepare transfer agreement setting out all matters being transferred to water organisation, and those to be retained.

The council has flexibility to design governance and appointment arrangements. Most of these matters are determined by the council – not through legislation (except for the board-related requirements referred to earlier). Council prepares water organisation’s foundation documents (e.g. constitution).

The water organisation could access LGFA financing up to the equivalent of 500% of operating revenues with the provision of parent support (through proportional guarantee or uncalled capital).

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company, 100% owned by the council Ownership rights spelled out in a constitution, subject to compliance with legislation
Governance	<ul style="list-style-type: none"> Appointments made directly or via an Appointments and Accountability Committee (or similar body) Board comprised of independent, professional directors
Strategy	<ul style="list-style-type: none"> Shareholding council prepares statement of expectations and provides to water organisation board Water organisation board prepares water services strategy and consults the shareholding council (following requirements/processes set out in legislation and constitution)
Accountability	<ul style="list-style-type: none"> Water organisation board is accountable to council shareholders and reports regularly on performance (shareholders are accountable to community) Water organisation required to give effect to statement of expectations and meet statutory requirements Water organisation prepares annual report, including financial statements, and information on performance and other matters outlined in water services strategy
Borrowing	<ul style="list-style-type: none"> Borrowing via council or from Local Government Funding Agency directly supported by council guarantee or uncalled capital

Illustrative example



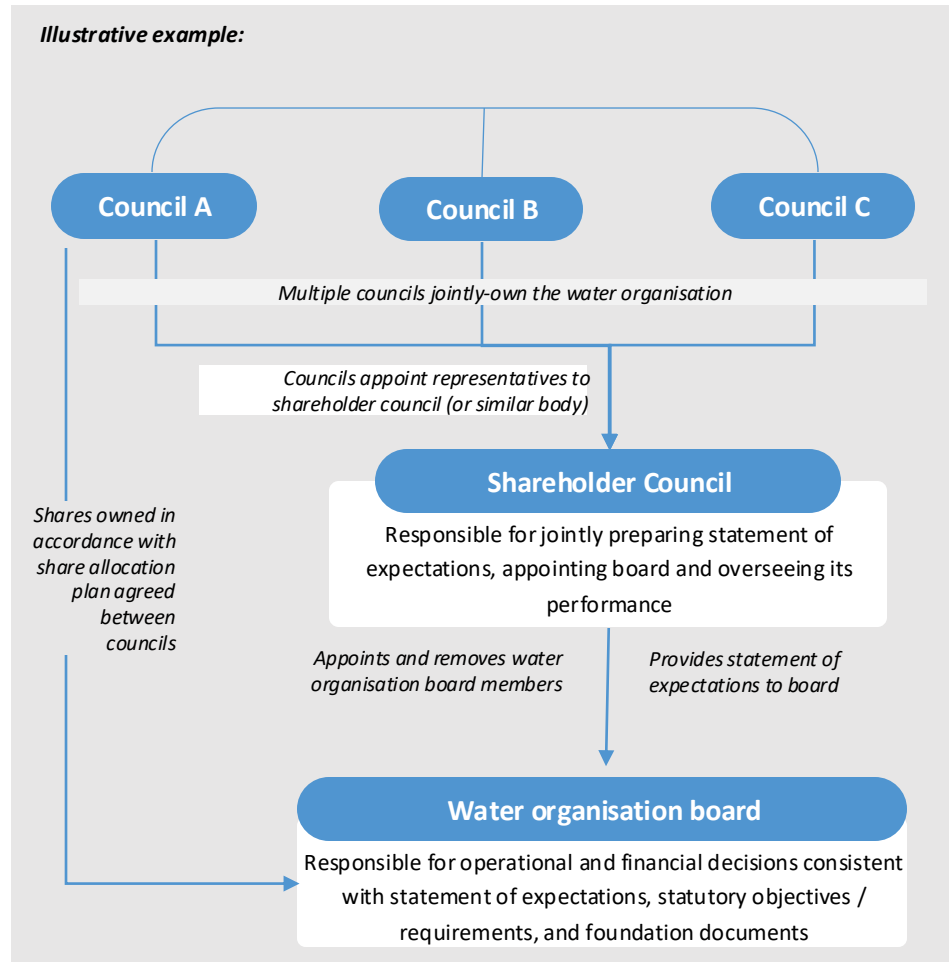
3. Multi-council-owned water organisation

Under this option, two or more councils would establish a jointly-owned water organisation.

Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement, subject to compliance with the legislation. Each council prepares transfer agreement setting out all matters being transferred to water organisation and those to be retained.

Financing options and credit rating impacts will be dependent on whether shareholding councils choose to provide financial support or not. The water organisation could access LGFA financing up to the equivalent of 500% of operating revenues with the provision of parent support (through proportional guarantee or uncalled capital).

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company owned by two or more councils Ownership arrangements and rights set out in a constitution and/or shareholder agreement, subject to compliance with the legislation
Governance	<ul style="list-style-type: none"> Councils agree how to appoint and remove directors (for example, through a shareholder council or similar body) Board comprised of independent, professional directors
Strategy	<ul style="list-style-type: none"> Shareholding councils agree the process for preparing and providing a combined statement of expectations Water organisation board prepares water services strategy and consults shareholding councils (following requirements/processes in legislation and constitution)
Accountability	<ul style="list-style-type: none"> Water organisation board is accountable to council shareholders and reports regularly on performance (shareholders are accountable to community) Water organisation required to give effect to statement of expectations and meet statutory requirements Water organisation prepares annual report, including financial statements, and information on performance and other matters outlined in water services strategy
Borrowing	<ul style="list-style-type: none"> Borrowing arrangements and credit rating implications dependent on whether shareholding councils provide financial support



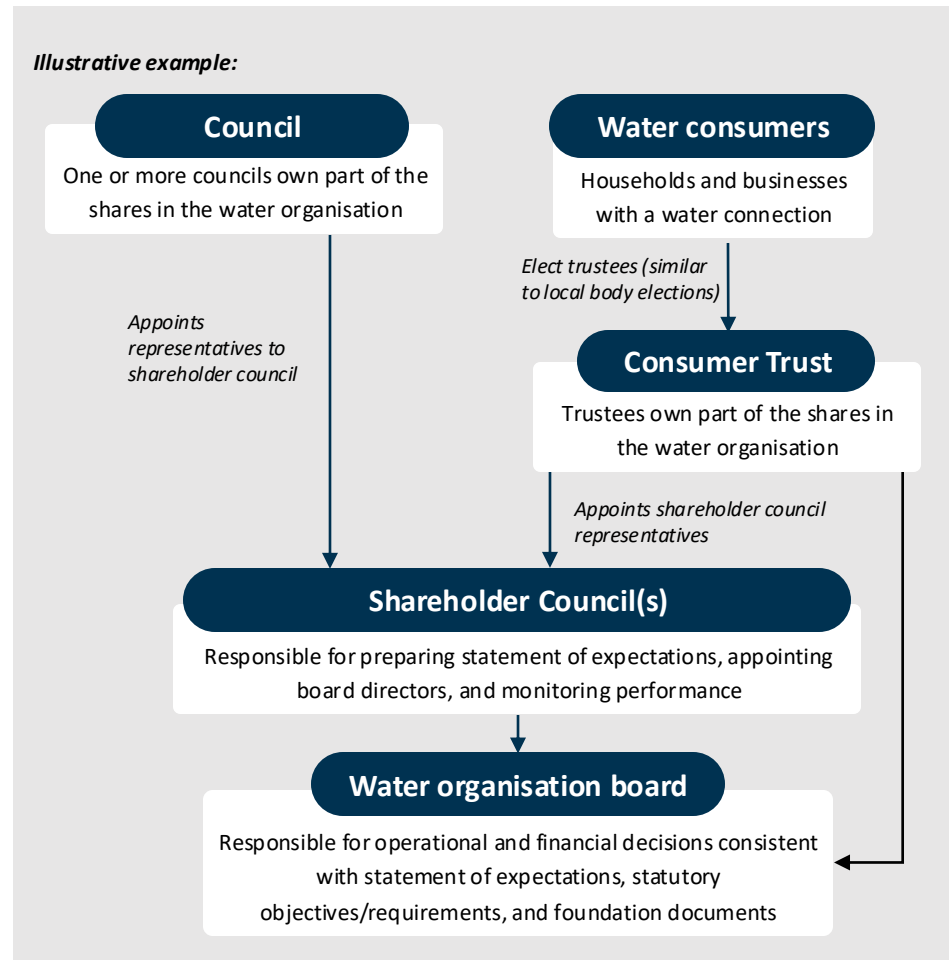
4. Mixed council/consumer trust owned water organisation

Under this option, a consumer trust would be established to part-own a water organisation, with one or more councils owning the remainder of the shares.

Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement upon establishment, subject to compliance with the legislation. Councils prepare transfer agreement setting out matters being transferred to water organisation, and being retained.

Water consumers elect trustees to the consumer trust (see details on next slide). That consumer trust is then represented on the shareholder council (along with council representatives) and/or appoints board members directly.

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company owned by trustees a consumer trust, with one or more councils owning the remainder of the shares Ownership arrangements and rights set out in constitution and/or shareholder agreement, subject to compliance with legislation
Governance	<ul style="list-style-type: none"> Councils and trustees of the consumer trust appoint a shareholder council to appoint directors Water organisation governed by independent, professional board of directors
Strategy	<ul style="list-style-type: none"> Shareholders agree the process for preparing and providing a combined statement of expectations Water organisation board prepares water services strategy and consults shareholders (following requirements/processes set out in legislation and constitution)
Accountability	<ul style="list-style-type: none"> Water organisation board is accountable to shareholders and reports regularly on performance (shareholders are accountable to communities / consumers) Water organisation required to give effect to statement of expectations and meet statutory requirements Water organisation prepares annual report, including financial statements, and information on performance and other matters outlined in water services strategy
Borrowing	<ul style="list-style-type: none"> Borrowing would be independent of local authorities (for example, banks) and subject to water organisation achieving sufficient credit-quality.



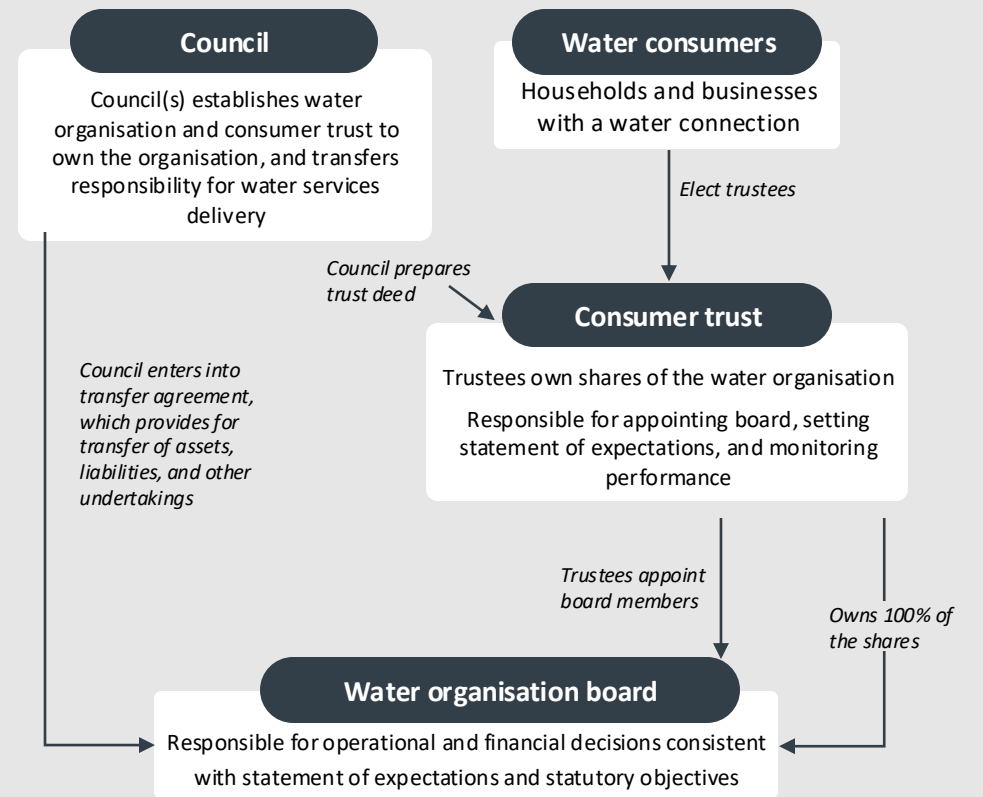
5. Consumer trust owned water organisation

Under this option, one or more territorial authorities would establish a water organisation, and a consumer trust to wholly own that organisation (with details set out in a trust deed). Responsibility for water services delivery, and all associated matters (including assets), would be transferred to the water organisation.

Territorial authorities would have no ongoing involvement, as the trustees perform all the roles and responsibilities of shareholders. The board is appointed through, and accountable to, the trustees – who represent consumers. Water consumers elect trustees to the trust, similar to local body elections. Principles for trustee elections are set out in legislation. Elections are held in accordance with a process set out in the trust deed and conducted by an electoral officer appointed by the trust.

Key features	
Ownership	<ul style="list-style-type: none"> Limited liability company solely owned by trustees in a newly-established consumer trust Trust deed is subject to content requirements and limitations set out in legislation
Governance	<ul style="list-style-type: none"> Water organisation governed by independent, professional board of directors – appointed by trustees
Strategy	<ul style="list-style-type: none"> Shareholders (trustees) issue statement of expectations Water organisation prepares water services strategy and consults shareholders
Accountability	<ul style="list-style-type: none"> Water organisation board is accountable to shareholders and reports regularly on performance (shareholders are accountable to consumers) Water organisation required to give effect to statement of expectations and meet statutory requirements Water organisation prepares annual report, including financial statements, and information on performance and other matters outlined in water services strategy
Borrowing	<ul style="list-style-type: none"> Borrowing would be independent of local authorities (for example, banks) and subject to water organisation achieving sufficient credit-quality.

Illustrative example:



Summary of features of service delivery models

	1. Internal business unit or division	2. Council-owned water organisation	3. Multi-council-owned water organisation	4. Mixed ownership / consumer trust owned water organisation	5. Consumer trust owned water organisation
Ownership	Wholly council owned as a business unit or division	Wholly council owned as a separate water organisation	Ownership shared across two or more councils	Consumer trust part-owns water organisation, with one or more councils owning the remainder of the shares	Wholly-owned by trustees of consumer trust
Governance	Internal business unit or division, responsible to council through established mechanisms under Local Government Act 2002 (LGA02)	Council appoints Appointments and Accountability committee (or similar) to make board appointments, or can appoint board directly. Council or committee oversee board performance	Councils appoint members to a shareholder council, which appoints board directors and oversees performance	Councils and trustees appoint a shareholder council to appoint board directors and oversee performance	Trustees appoint board directors and oversee performance
Strategy	Councils must prepare water services strategy (as described in the Local Government (Water Services) Act)	Shareholder council provides statement of expectations to water organisation board. Water organisation prepares water services strategy.	Shareholders agree process for preparing/providing combined statement of expectations. Water organisation prepares water services strategy	Shareholders agree process for preparing/providing combined statement of expectations. Water organisation prepares water services strategy	Shareholders (trustees) prepare and provide statement of expectations. Water organisation prepares water services strategy
Accountability	Water services annual reports under the Local Government (Water Services) Act, and other established mechanisms under LGA02	Board reports to shareholders regularly; prepares strategy and audited water services annual report; acts consistent with statutory objectives	Board reports to shareholders regularly; prepares strategy and audited water services annual report; acts consistent with statutory objectives	Board reports to shareholders regularly; prepares strategy and audited water services annual report; acts consistent with statutory objectives	Board reports to shareholders regularly; prepares strategy and audited water services annual report; acts consistent with statutory objectives
Borrowing	Council borrows, with water activity groups meeting their share of financing costs (on internal and external borrowing)	Borrowing via council or direct from Local Government Funding Agency with council financial support (guarantee or uncalled capital)	Borrowing direct from Local Government Funding Agency (with financial support from parent councils) or from banks	Borrows independently of local authorities, subject to water organisation achieving sufficient credit-quality	Borrows independently of local authorities, subject to organisation achieving sufficient credit-quality

Miscellaneous

Contracts relating to water services*

Under the Local Government (Water Services) Act, water service providers (councils and water organisations) may enter into contracts with third parties for up to 50 years. However, they:

- continue to be responsible, as the water service provider under the Act, for ensuring the provision of the water services to which the contract relates; and
- retain control over the development of policy relating to the relevant water services, and the pricing of the relevant services.

The Act includes provisions designed to improve the nature of contractual arrangements and procurement processes, particularly for significant contracts.

For example:

- an options assessment and consultation are required for significant contracts (if the provider is a water organisation, this includes consulting its shareholders and obtaining their approval of the proposed contract);
- the provider's significance and engagement policy must set out the matters for determining whether a contract is significant, and how to undertake engagement;
- providers will need to include details on how the contracted party has performed during the year in their water services annual report;
- when negotiating a contract, a water service provider must consider whether compliance with relevant current and anticipated regulatory requirements should be provided for in the contract;
- before entering into contract that will create a public-private partnership, water service providers will be required to have regard to any relevant procurement rules and guidance issued by central government, and seek advice from a relevant central government agency or private sector experts.

Joint water service provider arrangements

The Act enables water service providers to enter into a 'joint water service provider arrangement' with one or more other water service providers.

Before doing so, the provider must undertake options assessment and consultation in accordance with provisions in the Act (if the arrangement is considered significant). If the provider is a water organisation, it must also consult its shareholders and obtain their approval.

A territorial authority that enters into a contract or joint water service provider arrangement continues to be responsible, as the water service provider under the Act, for ensuring the provision of the water services to which the arrangement relates. It must ensure the other party to the contract or joint arrangement performs and exercises all regulatory requirements associated with providing the water services to which the arrangement relates.

Local Government Official Information and Meetings Act 1987

Parts 1 to 7 of the Local Government Official Information and Meetings Act apply to water organisations (though Part 7 only applies to board meetings and not to other meetings such as board committees).

Ombudsman Act 1975

References to water organisations have been included in Schedule 1, Part 3 of the Ombudsman Act 1975, so they will be subject to the jurisdiction of the Ombudsman.

*This does not include franchises and concession agreements, which are prohibited under the Act.

03

**Governance and
accountability**

Constitutions and accountability framework for water organisations

Constitutions for water organisations

Under the Act, a territorial authority that establishes a water organisation must prepare foundation documents for the organisation. These include a constitution or all rules and other documents that establish or govern the water organisation.

The Act includes a few matters that must be included in the foundation documents. Other content would typically include information like: minimum board size; rights and process to appoint and remove directors and board members; and board member requirements.

To ensure financial separation from councils is maintained (if relevant), amendment of key features of the constitutions is expected to require agreement by super-majority (75%) of shareholders.

Shareholder council (or similar body)

A water organisation's foundation documents must include a shareholders' agreement, if there is more than one shareholder. Shareholding councils may also wish to provide for the establishment of a shareholder council (or similar body) to represent council interests in relation to the water organisation. This body would support the coordination of multiple council interests and could play a key role in developing the statement of expectations, appointing board directors, and overseeing performance.

Establishment of a shareholder council (or similar body) is not a statutory requirement but is advisable to avoid multiple interfaces between the water organisation and its owners.

Members of a shareholder council could be appointed by councils and/or trustees of consumer trusts (if relevant). Unlike boards, there would be no statutory restrictions on who could be appointed to a shareholder council. The process of appointing a shareholder council could be set out in the shareholders' agreement.

Accountability framework

Boards of water organisation are accountable to shareholders— who are accountable to, and represent, their communities and consumers.

The Act provides for new planning and reporting documents for water services, which supports the accountability framework. It comprises:

- **Statement of expectations for water organisations prepared by shareholders** (or their representatives, such as shareholder's council), setting out their expectations and outcomes for the water organisation. This document informs and guides the decisions and actions of the board.
- **Water services strategy prepared by the water organisation.** This is the primary strategy and planning document, which will set out how the organisation is proposing to perform, respond to local expectations and outcomes, and meet statutory objectives and regulatory requirements. Prices and charges will be set in accordance with the proposals in the strategy.
- **Water services annual budget**, which will be prepared for each financial year that is not the first financial year of the strategy – consistent with the organisation's intended approach to funding, revenue, and pricing for the relevant year of the strategy.
- **Water services annual report** – this is the primary accountability document, through which the water organisation is required to report on performance against expectations, service standards, and financial performance.

Requirements for a water services strategy, annual budget, and water services annual report apply to all water services providers, including local authorities providing water services through an internal business unit or division of council.

Statement of expectations for water organisations

The Local Government (Water Services) Act requires shareholders in a water organisation to prepare a statement of expectations every three years. The water organisation must give effect to this statement.

Shareholders must publish (online) the process they will follow to prepare a statement of expectations – including where multiple shareholders prepare a joint statement. The statements provided to water organisations must also be published on shareholder and water organisation websites.

The statement of expectations must be consistent with all legislative obligations that apply to the water organisation, its responsibilities as specified in the transfer agreement, and its foundation documents (constitution or other similar documents).

If a water organisation is financially independent of its shareholders, the statement must not include any requirements or expectations that would compromise that financial independence.

A statement of expectations may contain a matter that applies to all, or a specified part, of the water services provided by the water organisation; and to all, or a specified part, of the organisation's service area.

The Act describes the mandatory content of the statement of expectations, including:

- the outcomes shareholders expect the water organisation to achieve by delivering water services;
- a requirement that the water organisation must act in accordance with any relevant statutory obligation that applies to a shareholder that is a territorial authority;
- requirements relating to the territorial authority's resource management planning and land-use planning that are relevant to the organisation's service area;
- the information that the water organisation must include in its water services half-yearly report.

The statement of expectations may include other matters the shareholders may wish to include, including:

- performance indicators and measures that the shareholders may use to monitor the water organisation;
- how shareholders require the water organisation to conduct relationships with the shareholders and their communities, consumers, and/or hapū, iwi, and other Māori organisations;
- expectations relating to the strategic priorities to be included in the water organisation's water services strategy;
- a requirement that the water organisation must act in accordance with an obligation that a territorial authority shareholder may have with a third party (including with hapū, iwi, or other Māori organisations) under a contract or other agreement;
- requirements to undertake community or consumer engagement, and the contents of that engagement.

Water organisations must also engage with shareholders and their communities to prepare a significance and engagement policy, which contains a locally-appropriate approach to engagement (including identifying how and when communities can expect to be engaged in different matters, and whether the engagement will be undertaken by shareholders or the water organisation).

The Act requires shareholders of a water organisation to regularly monitor the performance of the water organisation.

This must include an annual review of the organisation's performance in giving effect to:

- the statement of expectations provided by the shareholders;
- the strategic priorities, objectives, and outcomes specified in the water organisation's water services strategy.

Water services strategy – for all water service providers

The Act includes requirements for a water services strategy, which must be prepared and adopted by all water services providers (councils and water organisations) every three years. The purpose of the strategy includes to:

- state publicly the activities and intentions of the water services provider, and the objectives and outcomes to which those activities will contribute;
- provide a basis for the accountability of the provider for its performance;
- provide transparency about:
 - the costs of, and level of investment associated with, providing water services;
 - proposed charges and service levels (over three years); financial forecasting information (over 10 years), and long-term infrastructure and investment plans (over 30 years).

For a water organisation, the purpose is also to provide an opportunity for shareholders to participate in the organisation setting its strategic intentions and performance framework, and to influence the strategic direction.

If the provider is a territorial authority, it must undertake consultation with its communities on a summary of the draft strategy. Water organisations must consult their shareholders – and undertake any community consultation in accordance with their significance and engagement policy.

For water organisations, shareholders must determine the nature of their involvement in preparing and finalising the water services strategy, including whether they will be able to:

- as necessary, provide comments on the draft strategy; require amendments; and approve the final strategy; or
- provide comments on the draft strategy but not have the power to require changes or approve the final strategy.

The board must adopt the final strategy and provide it to shareholders before the start of first financial year to which it relates.

The content of the strategy includes:

- information on the provider’s strategic priorities, objectives and outcomes, and how the provider intends to achieve/meet them;
- in the case of a water organisation, the measures and targets by which shareholders can assess the organisation’s performance in relation to its objectives and outcomes;
- factors that the provider expects will have a significant impact, including expected changes in population and land use in its service area, and associated capital and operating costs; and expected investment needed to meet objectives relating to housing growth and urban development;
- information relating to a territorial authority’s land use and resource management planning in the water service provider’s service area;
- intended levels of service provision, performance measures and targets;
- a complete set of financial statements for the water service provider;
- the provider’s intended approach to funding, revenue, and pricing (with detailed information for the first three years of the strategy);
- for each water services group of activities, and each year of the strategy:
 - forecasts of capital and operating expenditure to meet additional demand, improve the level of service, and replace existing assets;
 - a forecast statement of comprehensive revenue and expenses; forecast statement of cash flow; and forecast statement of financial position;
 - funding impact statements;
- the most likely scenario for managing the provider’s infrastructure assets over a period of at least 30 years, significant decisions about capital expenditure, and associated options and costs.

This information is included in the water services strategy, instead of in council long-term plans and infrastructure strategies.

Adopted strategies must be published on the provider’s website.

Reporting documents

Water services annual reports – territorial authority

The Act requires territorial authority water service providers to prepare a water services annual report, and adopt this no later than four months after the end of the financial year to which it relates.

The purpose of this report is to:

- compare the territorial authority's intended activities and intended performance levels for providing water services, as set out in its water services strategy for the financial year, with the actual activities and performance levels;
- provide transparency of the territorial authority's activities, performance, and decisions in relation to providing water services;
- promote the territorial authority's accountability to its communities in relation to the decisions it has made in the financial year that relate to providing water services.

The Act enables a territorial authority provider to include its water services annual report in its general annual report (under the Local Government Act), if in doing so the purposes of both annual reports are met, and the content relating to providing water services forms a discrete part of the annual report.

Content of water services annual reports

The Act sets out the information that must be included in water services annual reports – with consistent content requirements for all providers.

These documents must contain a report by the Auditor-General on specified matters (including the financial statements for the provider).

Water services annual reports – water organisation

The Act requires water organisations to prepare a water services annual report, and adopt this no later than three months after the end of the financial year to which it relates.

The purpose of this report is to:

- enable the water organisation's shareholders and the public to make an informed assessment of the water organisation's performance;
- compare the water organisation's intended activities and intended performance levels for providing water services, as set out in its water services strategy for the financial year, with the actual activities and performance levels;
- promote the water organisation's accountability to its shareholders for its performance throughout the financial year;
- support the water organisation's shareholders' accountability to the shareholders' communities with respect to the provision of water services and the water organisation's performance.

Territorial authority shareholders must include specified information on water organisations that are CCOs in their annual reports under Schedule 10 of the Local Government Act 2002. Trustees in shareholding consumer trusts must prepare annual reports for their trust under the Local Government (Water Services) Act.

Other reporting by water organisations

The Act requires each water organisation to prepare and adopt a water services half-yearly report that reports on the organisation's operations during the first six months of the financial year.

Shareholders of a water organisation may also require, by written notice, their water organisation to prepare additional plans or reports (e.g. quarterly reports).

04

Charging,
borrowing and
related matters

Powers to charge customers and debt collection

Charging customers

The Act includes provisions that enable water organisations to:

- assess, set and collect water services charges (for the water services they are responsible for providing), including charges for any or all of the following:
 - water supply, wastewater (including trade waste services), and stormwater;
 - the initial connection to one or more of the above services;
 - serviceability;
 - meeting the costs that the water organisation incurs in performing and exercising its functions, duties and powers;
- determine how charges are assessed and invoiced, when they are due, and how they will be paid or collected.

There are additional requirements that apply when setting charges for stormwater services.

Water charges must be set in accordance with the water organisation's water services strategy, and a list of charges must be published each year.

Water charges must not be based on, or take into consideration, a property's rateable value. However, the Act includes a transitional provision that allows water organisations to smooth prices over a five-year period if consumers are shifting from a property-based rate levied by a council to a water charge assessed by a water organisation.

The Act includes a framework to enable water organisations to identify which ratepayers should be charged for water services – based on a modified version of the existing framework in the Local Government (Rating) Act 2002.

The Act provides for councils to share relevant billing information with water organisations to enable them to contact and bill their customers. Councils will be able to charge a reasonable fee for this service.

Water organisations may waive water services charges and penalties for unpaid charges, but must adopt a waiver policy that allows them to do so.

The Act includes a modified version of the development contributions regime in the LGA02, which will enable water organisations to directly charge developers who place new or additional demand on water infrastructure, to help recover the capital expenditure that is necessary to service that growth over the long term.

It is anticipated the Act will be updated to provide for a new development levies regime, as part of the proposed legislation on development levies.

Debt collection powers

New water organisations will not have the same debt collection powers as local authorities and will instead rely on commercial debt practices to collect overdue amounts. This is similar to the situation that already applies to Watercare and regulated utilities.

Powers of receivers

The Local Government Act 2002 and Receiverships Act 1993 contain longstanding provisions that allow a receiver to be appointed where a council defaults on a debt. Among other things, a receiver may collect rates to repay the debt.

Similar provisions will apply to water organisations to ensure receivers can act appropriately in the event that a water organisation defaults on a debt.

The legislation:

- allows the receiver to assess and collect for a given financial year both the amounts owed by the water organisation for that year and the reasonable costs incurred in collecting that amount;
- prohibits the receiver from having any interest or security in water services infrastructure assets;
- allows the receiver to collect the amount through water services charges assessed on consumers.

In the event of financial distress, relevant provisions of the Corporations (Investigation and Management) Act 1989 will also apply.

Borrowing and credit rating implications

Local Government Funding Agency

The Local Government Funding Agency will be able to provide financing to a new water organisation guaranteed by its shareholders in the same way as council-guaranteed council-controlled organisations.

LGFA will support leverage for water organisations up to a level equivalent to 500% of operating revenues, subject to water organisations meeting prudent credit criteria.

LGFA will treat borrowing by water organisations as separate from borrowing by parent councils.

LGFA is the lowest cost provider of finance to the local government sector and will make its existing suite of financial products available to water organisations.

Councils will also retain the ability to borrow through LGFA should they choose to keep water services ‘in-house’ rather than establish a water organisation.

Foreign currency borrowing

The Local Government (Water Services) Act includes provisions that enable water organisations to borrow in foreign currency. This acknowledges that many organisations will need to borrow significant amounts to meet infrastructure costs, expected to exceed the amount of New Zealand-based lending available.

Water organisations will also be allowed to enter into incidental arrangements, such as derivatives and hedges, which allow the organisations to reduce their exposure to currency risk.

Credit rating implications

The impact on local authority credit ratings of establishing a water organisation will depend on a range of factors, including key features of the proposed model adopted, ownership, and financing arrangements (including provision of any council support). Councils that are considering establishing a water organisation should obtain their own advice on the rating and financial implications prior to deciding to establish the organisation.

With support from NIFFCo and its commercial advisors, the following table has been prepared as an illustrative guide of the hypothetical rating treatment based on certain scenarios and assumptions. NIFFCo is available to answer any questions councils have about this indicative rating evaluation, including the assumptions underpinning it.

Model	Council support	Indicative rating treatment	Financing mechanism
Internal business unit or division	N/A	On balance sheet*	LGFA
Single-council water organisation	N/A	On balance sheet*	LGFA
Multi-council water organisation (with council support)	Parent council provides guarantee	Contingent liability*	LGFA
Multi-council water organisation (with no council support)	No support from parent	Contingent liability*	Banks and/or capital markets
Mixed ownership (council and consumer trust)	No support from parent	Contingent liability*	Banks and/or capital markets
Consumer trust-owned	No support from parent	Off balance sheet	Banks and/or capital markets

* Impact on council credit rating depends on council and/or water organisation revenues and debt.

Distributions, taxation and related arrangements

Distributions/dividends

Councils will be able to decide whether to permit water organisations to make distributions or pay dividends to shareholders, and in what circumstances, when they establish a water organisation. Should councils wish to prevent a water organisation from making distributions / paying dividends to shareholders, this can be provided for in the constitution.

If water organisation is authorised by its shareholders to pay a dividend, it must not pay a dividend amount that could compromise its ability to act in accordance with one of the financial principles in the Act. The relevant principle is that a water service provider must ensure that the revenue and funding it applies to providing water services is sufficient to sustain the provider's long-term investment in its water services while meeting all regulatory requirements.

The Commerce Commission may make determinations under the Commerce Act 1986 that apply to regulated water suppliers, including requirements that may set limits on any dividends paid by a water organisation, to the extent necessary or desirable to ensure the organisation acts in accordance with the above financial principle.

Civil Defence Emergency Management cost-sharing arrangements

Legislation ensures that Civil Defence Emergency Management cost-sharing arrangements with the Crown would apply directly to water organisations. This will allow them to directly seek partial reimbursement from the Crown for emergency expenses.

Rateability of land and assets owned by water organisations

Land transferred to water organisations will be rateable. This aligns with the way that land and assets of other network providers, such as electricity and telecommunications companies, are rated.

Councils may decide to remit those rates if they decide that the water organisation (which they will likely be shareholders in) should not have to pay them.

Tax status of water organisations

Most new water organisations will be exempt from income tax. This is because water organisations are not primarily engaged in commercial activities with a profit-making objective and will be owned by councils or consumer trusts.

If a water organisation is wound up, assets must be transferred back to the establishing council(s) on wind-up. This ensures that a taxable consumer trust or private shareholder would not receive any of the water organisation's assets (including any untaxed accumulated gains).

Exemptions from certain requirements that apply to water organisations, outlined earlier, may affect a water organisation's tax status if it no longer meets the criteria for the income tax exemption. If a water organisation has a shareholder that is not tax exempt (such as a consumer trust that does not have charitable status) it may not be granted tax exempt status.