



Kaipara te Oranganui

**KAIPARA  
DISTRICT**

Two Oceans Two Harbours

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## Kaipara District Council Briefing Agenda

**Date:** Wednesday 05 August 2020  
**Time:** 10:00 a.m.  
**Location:** Northern Wairoa War Memorial Hall  
37 Hokianga Road, Dargaville

**Elected Members:** His Worship the Mayor Dr Jason Smith  
Deputy Mayor Anna Curnow  
Councillor Victoria del la Varis-Woodcock  
Councillor Karen Joyce-Paki  
Councillor Jonathan Larsen  
Councillor Mark Vincent  
Councillor Peter Wethey  
Councillor David Wills  
Councillor Eryn Wilson-Collins

*For any queries regarding this meeting please contact  
the Kaipara District Council on (09) 439 7059*



Wednesday, 5 August, 2020

10:00 am

Conference Room, Northern Wairoa Memorial Hall, Dargaville

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# Draft Dangerous, Affected and Insanitary Buildings Policy

**Meeting:** Council Briefing  
**Date of meeting:** 05 August 2020  
**Reporting officer:** Virginia Smith, Policy Analyst

## Purpose/Ngā whāinga

To update Council on amendments to the Building Act 2004, which has changed the statutory requirements for Council to have a policy on dangerous, earthquake-prone and insanitary buildings and to introduce the draft Dangerous, Insanitary and Affected Buildings Policy (The Policy) that gives effect to these changes.

## Context/Horopaki

In 2006 Council adopted two policies to meet the statutory requirement under section 131 of the Building Act 2004 (the Act) to have a policy on dangerous, earthquake-prone and insanitary buildings. In accordance with legislative requirements, these policies were reviewed and amended in 2013. These Policies are the Dangerous and Insanitary Buildings Policy (Attachment A) and the Earthquake-Prone Buildings Policy (Attachment C). It is unclear why Council decided to split the single policy requirement into two separate policies. No further reviews have been completed since 2013.

Since these last reviews, the Act has been amended twice. In July 2013, a requirement was added to include 'affected buildings' in the Policy, as well as a directive to update the Policy to give effect to this within a 'reasonable period'.

In 2016, The Building (Earthquake-prone Buildings) Amendment Act 2016, provided further amendments to provide a nationally consistent framework for managing the risks posed by earthquake-prone buildings. These amendments removed the requirement for Council to include earthquake-prone building matters in the Policy, and instead included the regulations within the Act provisions itself. This amendment included a directive to amend the Policy within 18 months of its commencement date to give effect to these changes. This was due in December 2019 (noting the Act also requires a five-yearly review of the Policy under section 132).

While section 132(5) of the Act states 'a policy does not cease to have effect because it is due for review or being reviewed', it is appropriate to address the review and amendment requirements in a timely manner.

In undertaking the review, Council is also required to consult with the community in accordance with section 83 of the Local Government Act 2002, when making amendments to the Policy.

## Discussion/Ngā kōrerorero

The Act is the primary legislation governing the building industry. It provides the accreditation and authority for Council to manage the safety of buildings within its District in alignment with the Act's purpose. These generally being that:

- people can use buildings safely and without endangering their health
- buildings have attributes that contribute appropriately to the health, physical independence and wellbeing of the people who use them
- people who use a building can escape from the building if it is on fire
- buildings are designed, constructed, and able to be used in ways that promote sustainable development.

This policy framework within the Act intends to enable Council the flexibility and discretion to work with building owners and /or occupants to ensure that the purpose of the Act is achieved in relation to dangerous, affected and insanitary buildings by directing policy made under section 131 outline:

- the approach that the territorial authority (Council) will take in performing its functions under the sections pertaining to dangerous, affected and insanitary buildings
- Council's priorities in performing those functions
- how the Policy will apply to heritage buildings.

Staff have developed a revised Policy (Attachment B) that meets the requirements of the Act. It is noted that this policy development process was undertaken in consultation and conjunction with staff from Far North and Whangarei District Councils to support alignment and co-ordination of approaches and implementation where appropriate.

The proposed policy and its additional information address the changes and directives of the Act and provides a consistent framework that will assist with monitoring, transparency of assessment, and accountability for all users.

While the amendments are primarily technical in nature to give effect to the changes in the Act, Council must still consult on these amendments in accordance to the special consultative process (section 83) of the LGA as stipulated by section 132(1) of the Act.

As indicated, most councils adopted a single policy to meet the statutory requirements of the Act. In amending their policies as a result of the legislative changes outlined, this will have included removing any references to earthquake-prone buildings and associated content, as the responsibilities of councils for this are now provided in detail in the Act itself.

Kaipara District Council however has a separate policy on this matter. The requirements of the Act now supersede the matters contained within that Policy, it does not inform Council's actions and responsibilities anymore. However, it is proposed that for completeness and as part of this process, Council formally revokes its Earthquake-prone Building Policy.


The Building Control Manager will be present at the meeting to outline the technical details and respond to any questions.

## **Next steps/E whaiake nei**

Based on any feedback received at this briefing, staff will prepare a final draft Policy and a Statement of Proposal to present to Council's September meeting for adoption for consultation.

## **Attachments/Ngā tapiritanga**

	Title
A	Current Dangerous and Insanitary Buildings Policy 2013
B	Draft Dangerous, Affected and Insanitary Buildings Policy
C	Current Earthquake-Prone Buildings Policy 2013

 <b>KAIPARA</b> <b>DISTRICT</b> <small>Two Oceans Two Harbours</small>	<b>Title of Policy</b>	Dangerous and Insanitary Buildings Policy		
	<b>Sponsor</b>	General Manager Operations		
	<b>Written By</b>	Policy and Planning Manager	<b>Authorised/Adopted by</b>	
	<b>Type of Policy</b>	Regulatory	<b>Date Adopted</b>	
	<b>File Reference</b>	3118.02	<b>Review Date</b>	

## 1 Background

Section 131 of the Building Act 2004 requires Councils to review its Policy on Dangerous and Insanitary Buildings.

The definitions of "dangerous" and "insanitary" buildings are set out in Sections 121 and 123 of the Act respectively (refer Appendix). In general terms, dangerous buildings are those which are liable to collapse or to be a fire hazard with the potential to cause loss of life, whereas insanitary buildings have problems with moisture, drinking water or human waste disposal.

## 2 Objective

This Policy endeavours to ensure that Council complies with the Building Act 2004 and is able to ensure that any remedial work required on identified buildings is carried out in a timely way, while taking into consideration any social or economic implications.

## 3 Definitions

The following are extracts from the Building Act 2004:

### 121 **Meaning of dangerous building-**

- (1) *A building is dangerous for the purposes of this Act if,-*
  - (a) *in the ordinary course of events (excluding the occurrence of an earthquake), the building is likely to cause-*
    - (i) *injury or death (whether by collapse or otherwise) to any persons in it or to persons on other property; or*
    - (ii) *damage to other property; or*
  - (b) *in the event of fire, injury or death to any persons in the building or to persons on other property is likely because of fire hazard or the occupancy of the building.*
- (2) *For the purpose of determining whether a building is dangerous in terms of subsection (1)(b), a territorial authority-*
  - (a) *may seek advice from members of the New Zealand Fire Service who have been notified to the territorial authority by the Fire Service National Commander as being competent to give advice; and*
  - (b) *if the advice is sought, must have due regard to the advice.*

### 123 **Meaning of insanitary building-**

*A building is insanitary for the purposes of this Act if the building-*

- (a) *is offensive or likely to be injurious to health because-*
  - (i) *of how it is situated or constructed; or*
  - (ii) *it is in a state of disrepair; or*

- (b) *has insufficient or defective provisions against moisture penetration so as to cause dampness in the building or in any adjoining building; or*
- (c) *does not have a supply of potable water that is adequate for its intended use; or*
- (d) *does not have sanitary facilities that are adequate for its intended use.*

## **4 Policy Statement**

### **4.1 Policy Principles**

Kaipara District Council has noted that provisions of the Building Act 2004, in regard to dangerous and insanitary buildings, reflect the Government's broader concern with the safety of people in buildings. The purposes of the Building Act 2004 as set out in s3 include ensuring that:

- a) people who use buildings can do so safely and without endangering their health; and
- b) buildings have attributes that contribute to the health, physical independence and well-being of the people who use them; and
- c) people who use a building can escape from the building if it is on fire.

It is recognised that a balance must be struck between the need to address the risk posed by dangerous and insanitary buildings and other priorities, taking into account the social and economic implications of implementing any policy.

### **4.2 Overall Approach**

It is recognised that the Act provides several statutory tools. These tools include issuing formal notices to carry out remedial work, the Council doing the remedial work itself or ordering demolition. Council will always in the first instance seek the co-operation of the landowner concerned to achieve compliance, without having to resort to the formal notice provisions of the Act.

A flexible approach must be taken to achieve the objective of this Policy because of the diversity of situations which result in buildings being dangerous or insanitary.

Factors to take into account when determining the approach to be taken include:

- an assessment of the scale and immediacy of risk to the public, and to the occupiers
- an assessment of the likelihood of harm to adjoining properties, including contamination of water bodies
- the availability and viability of alternative accommodation options.

Council recognises that it is not well-placed to offer alternative accommodation. Council is nevertheless committed to the "Whole of Government" approach contemplated in the Community Outcomes process and thus it has a close working relationship with Housing New Zealand and other social agencies.



### **4.3 Identifying Dangerous and Insanitary Buildings**

This Council does not have the resources to carry out a systematic survey of the standard of buildings across the District. Council will rely on the observations of its Staff as well as information provided to Council by members of the public and other agencies.

### **4.4 Assessment**

In assessing whether or not a building may be dangerous with respect to fire hazard, Council will seek the advice of the NZ Fire Service as provided for in s121(2) of the Act.

In assessing whether or not a building may be insanitary with respect to drinking water and waste disposal, Council will seek the advice of its Environmental Health service providers.

In all other cases, Council Staff will assess the extent to which buildings may be dangerous or insanitary. This will be undertaken with the assistance of a suitably qualified engineer if required.

### **4.5 Interaction Between Dangerous and Insanitary Buildings Policy and Related Sections of Building Act 2004**

#### **4.5.1 Section 112: Alterations to Existing Building**

- (a) This section applies when a Building Consent application is received for any work on a building which is subject to a notice pursuant to s124(1)(c) of the Act. Irrespective of the general priorities set by Council for dealing with dangerous and insanitary buildings, Council will require the owner to then include in the application any work necessary to make the building safe and sanitary.
- (b) This section applies when a Building Consent application has been received for significant upgrading or alteration of a building which is not subject to a notice pursuant to s124(1)(c) of the Building Act 2004 and Council has grounds for believing that the building may be dangerous or insanitary. Then, irrespective of the general priorities set by Kaipara District Council for dealing with dangerous and insanitary buildings, the Council will require the owner to provide a detailed assessment of the dangerous and insanitary performance of the building in its existing condition. This is to be prepared by a suitably qualified and experienced person.

The Council will not issue a building consent unless it is satisfied that the building is not dangerous or insanitary and that the building work involved in the Building Consent application will comply with the Building Code in all aspects.

If the building is shown to be dangerous or insanitary, then the Council will require that remedial work be carried out to ensure that it will comply as near reasonably practicable with the provisions of the Building Code.

#### **4.5.2 Section 115: Change of Use**

- (a) This section applies when a Building Consent application is received for change of use of a building that is subject to a notice pursuant to s124(1)(c) of the Act. Then, irrespective of the general priorities set by Council for dealing with dangerous or insanitary buildings, Council will require the owner to include in the application any work necessary to make the building safe and sanitary.
- (b) This section applies when a Building Consent application has been received for change of use and the building is not subject to a notice pursuant to s124(1)(c) but Council has grounds for believing that a building may be dangerous or insanitary. Then, irrespective of the general priorities set by Kaipara District Council for dealing with dangerous or insanitary buildings, it will be a requirement of the building consent that the owner provide a detailed assessment of the safety or sanitation of the building in its existing condition. This is to be prepared by a suitably qualified and experienced person.

If the building is shown to be dangerous or insanitary then the Council will require that remedial work be carried out to ensure that it will comply as near reasonably practicable with every provision of the Building Code that relates to structural performance as required by s115(b)(i)(A) of the Building Code.

#### **4.6 Recording a Building's Dangerous or Insanitary Status**

Kaipara District Council will keep a register of all dangerous and insanitary buildings for which it has issued a notice pursuant to s124(1)(c) of the Building Act 2004 noting the status of requirements for improvement or the results of improvement as applicable.

In addition, the following information will be placed on the relevant property file for each dangerous and insanitary building:

- a description of the building, and if there is more than one on the property (so that the building is correctly identified) a statement that the building is on the Council's register of dangerous and insanitary buildings
- the date by which remedial work or demolition is required or was undertaken (if known).

#### **4.7 Economic Impact of Policy**

Council will take into account the cost of undertaking remedial work in assessing the various means of reducing the hazard to human life presented by a building which has been identified as dangerous or insanitary. Council will also take into account the availability of alternatives to continued use and occupation of the building, both in the short and long term. It is considered likely that Housing New Zealand and other social agencies will become involved in such an assessment.

#### **4.8 Access to Dangerous and Insanitary Building Information**

Information concerning the safety and sanitation status of a building will be contained on the relevant Land Information Memorandum (LIM) or Project Information Memorandum (PIM).

In granting access to information concerning dangerous and insanitary buildings, the Council will conform to the requirements of the relevant legislation.

### **5 Priorities**

Recognising that a building will only be classified as dangerous if it is likely to cause injury or death, and insanitary if it is likely to be injurious to health, Council has prioritised the requirement to repair or demolish buildings as follows, in descending order of priority:

- 1 The building is likely to cause injury or death to the public using a public place or another building
- 2 The building, being a building to which the public has access, is likely to cause injury or death to people in it
- 3 The building, not being a public building, is likely to cause injury or death or be injurious to the health of its occupants
- 4 The building is likely to be injurious to the health of the public using adjacent land or waterways.

Despite the priorities listed each case will be considered on its own merits. It may be possible, therefore, that a Category Four building might require immediate response if the nature of the effect is believed significant enough.

### **6 Heritage Buildings**


#### **6.1 Special Considerations and Constraints**

Kaipara District Council believes it is important that its heritage buildings continue to have the opportunity to contribute to the social and cultural fabric of the District.

However, Council does not wish to see the intrinsic heritage values of these buildings unnecessarily affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other dangerous and insanitary buildings and discussion held with owners and the Historic Places Trust to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives.



 <small>Kaipara te Orangahau</small> <b>KAIPARA</b> <b>DISTRICT</b> <small>Two Oceans Two Harbours</small>	<b>Title of Policy</b>	<b>Dangerous, Affected and Insanitary Buildings Policy</b>		
	<b>Policy owner</b>	Building Control Manager	<b>Authorised/adopted by</b>	
	<b>Author position title</b>	Policy Analyst	<b>Date authorised/adopted</b>	
	<b>Type of Policy</b>	Statutory	<b>Last review date</b>	2020
	<b>File reference</b>	3118.02	<b>Next review date</b>	2025

# Dangerous, Affected and Insanitary Buildings Policy

## 1. CONTEXT

### 1.1. Introduction

Kaipara District Council (Council) is required by the Building Act 2004 (the Act) to adopt a policy that covers the identification, assessment, and management of any dangerous, affected, and insanitary buildings within its District, including historical buildings.

Conversions of existing aged buildings, lack of maintenance, overcrowding, and unauthorised building alterations can cause serious building problems for occupants and those who use them. The failure to obtain a building consent or using a building for a purpose for which it is not suitable can result in a building no longer complying with the Building Code and posing a danger to occupants, the general public, and/or other properties.

This Dangerous, Affected, and Insanitary Buildings Policy (the Policy) details how Council will manage these buildings so that they do not pose a risk to public health and/or safety or put any other buildings that are situated within proximity to them at risk.

This Policy replaces Council's Dangerous and Insanitary Buildings Policy 2013.

The Policy is supported by a Risk Framework and Assessment Criteria (RFAC) document that is used by Council staff when investigating a possible dangerous, affected, and/or insanitary building. The RFAC does not form part of the Policy but is included for completeness and to support understanding.

1.2. Legislative framework Part 6 of the Act requires territorial authorities (councils) to determine whether buildings in their districts or cities are dangerous, affected, and/or insanitary. In situations where risks may be linked to fire hazards, Council may seek advice from Fire Emergency New Zealand (FENZ) as being the authority to give that advice. If advice is sought, the Council must give due regard to that advice.

Section 131 of the Act requires this Policy to state Council's:

- approach to performing functions under the Act
- priorities in performing these functions
- how it applies to heritage buildings
- how it applies to affected buildings.

The policy must be adopted (and amended or replaced) following the special consultative procedure of section 83 of the Local Government Act 2002. Council must provide a copy to the Chief Executive of the Ministry of Business Innovation and Employment, once it has been adopted or amended.

If Council is satisfied that a building or part of a building is dangerous, affected, or insanitary, Council may exercise any of its powers or perform any of its functions to that building or part of the building under the Act's provisions.

When exercising its power, Council must be satisfied that the thresholds of dangerous, affected, or insanitary have been met under the provisions set out in the Act. In most cases, Council will seek professional advice on these aspects.

## **2. THE POLICY**

### **2.1. Purpose**

- protect public health and safety from potentially dangerous, affected and/or insanitary buildings
- recognise that historic buildings may require a variation to the normal approach if their particular heritage values could be compromised.

### **2.2. Definitions**

Where a term is used in this Policy that has a meaning defined in the Act, it will have the same meaning as provided Part 6 of the Act.

### **2.3. Objective**

The objective of this Policy is to achieve compliance with the Act and protect public health and safety.

### **2.4. General approach**

Wherever possible, Council will seek the co-operation of the owner and occupant to achieve compliance without resorting to the Act's formal notice provisions; however, this may not always be possible.

Council will adopt a flexible approach to achieve the overall co-operation objective as it is aware of the diversity and dynamics which result in dangerous, affected, or insanitary buildings.

Factors in determining the approach to be taken are included in Council's RFAC document, as attached to this Policy.

The critical factors in determining the approach that Council will take:

- an assessment of the scale and immediacy of risk to occupants and the public
- an evaluation of the likelihood of harm to adjoining properties
- an assessment of environmental impacts including contamination of water bodies
- the availability and viability of alternative options.

### **2.5. Identifying dangerous, affected and/or insanitary buildings**

Council does not have the resources to carry out a systematic survey of the standard of buildings across the District, nor does it need to.

Rather, an investigation into whether a building is dangerous, affected or insanitary will be triggered by one or more of the following:

- the observations of its staff or contractors
- information or complaints received from members of the public or members of professional bodies such as Engineering New Zealand etc.
- events arising following natural or humanmade disasters
- notification from the Ministry of Business Innovation and Employment
- notification from FENZ.

In determining whether a building is dangerous or affected with respect to a fire hazard, Council may seek the advice of FENZ. Similarly, in determining whether a building is insanitary concerning drinking water, waste disposal or weather tightness, Council may seek advice from appropriate sources, such as Council's Environmental Health staff,

technical building specialists, testing laboratories, geotechnical, fire, or structural engineers.

Council may also be guided by relevant legislation, codes, or bylaws, and may choose to seek legal advice.

The Act itself provides several statutory tools for managing identified dangerous, affected and/or insanitary buildings; these include:

- issuing formal notices
- owner carrying out remedial work
- Council undertaking the necessary remedial action/work
- demolition.

## **2.6. Heritage buildings**

Heritage buildings will be evaluated in a manner consistent with assessments for other potentially dangerous, affected and/or insanitary buildings. Council is aware of the protection mechanisms and heritage values that these buildings hold, which is why special efforts will be made to meet heritage objectives.

Discussions will be held with owners and the New Zealand Historic Places Trust to identify a mutually acceptable way forward.

If a dangerous, affected, or insanitary building notice is issued for a heritage building, a copy of the notice will be sent to the Heritage New Zealand Pouhere Taonga as required by section 125(2)(f) of the Act.

## **2.7. Affected buildings**

Affected buildings are those that are within close proximity to either a dangerous building or a dangerous dam. It allows Council to assess and determine a management plan with the owner and/or occupant.

## **2.8. Investigation**

Council will respond to and investigate all alerts received about any dangerous and/or insanitary building. The investigation will utilise the RFAC document, and will include as part of the enquiry the following points:

- review Council records before a site visit
  - understand what consents have been approved for this site; whether a Compliance Schedule exists; the status of the Building Warrant of Fitness / IQP reports; Notices to Fix, etc.)
- review GIS/aerials prior to site visit
  - understand whether there are any natural or humanmade hazards or other issues to be aware of
- how Council was made aware of the situation
- location of the building
- actual site conditions
- previous and current use of the building
- occupancy numbers
- ownership/occupancy details
- whether the public has access to the building, e.g. via the building or adjacent land and waterways
- what aspects of the building are dangerous (all, or only parts of the building)
- whether any neighbouring properties are affected by the potentially dangerous, and/or insanitary building



- what aspects of the building are considered insanitary, e.g. lack of potable drinking water, sanitary fixtures and waste disposal, light, and ventilation or vermin
- how and to what extent these aspects are non-compliant with the Building Code
- who is or was responsible for creating this hazard (e.g., whether authorised or unauthorised work is in progress/completed)
- whether the land or building has heritage status
- priorities (the immediacy) of the issue

## 2.9. Criteria for determining priority of issue

A building (or part of a building) will be classified as dangerous or affected if it is likely to cause injury or death to the occupants, public or other property.

A building (or part of a building) will be classified as insanitary if it is likely to be injurious to the health of occupants, public, or people on other property.

The *urgency* of the issue will depend on whether the building is occupied or poses a danger to the public or other property; for example:

- land is unstable
- building is structurally unsound and considered dangerous to occupants, the public and/or other property
- building has a high fire risk
- building lacks sufficient protection to occupants, public or other property (i.e., unfenced pool or large-scale excavations)
- building which has poor sanitation and poses an immediate impact on the health of the occupants or the public
- building is inadequately protected against moisture penetration, (i.e., not weathertight).

A building is less likely to be classified as dangerous, affected, or insanitary if it is unoccupied; however, the risk to the public and other properties must still be considered. Council will need to carefully evaluate these issues and determine whether they warrant immediate action to prevent injury or death. Each case must be assessed based on its own merits.

Examples of different approaches include:

- if the risk is significant and cannot be managed or mitigated to ensure public health and safety, immediate action may be warranted.
- if the risk is substantial but can be managed to minimise the risk to the point that provides public health and safety, then the Council may seek a different approach.

There are always risks associated with an event of a fire where death or injury can occur. However, there must be 'particular features' for this risk to be deemed 'likely to occur.' Therefore, Council must first focus on whether the building complies with the Building Code. If the answer to that question is NO, then the next consideration must be to focus on what features do not comply with the Building Code that makes this building dangerous according to the dangerous building definition. A building may be non-compliant with the Building Code; however, this does not make a building dangerous.

Following the site visit and preliminary investigations, Council will determine whether the building is dangerous, affected, or insanitary and, if so, whether to issue a notice and/or take other actions.

Council will consider the cost of effecting remedial work in assessing the various means of reducing the hazard to human life presented by a building that has been identified as dangerous, affected, or insanitary. The Council will explore the availability of alternatives to continued use and occupation of the building, both in the short and long term.

Below is an example of how Council would apply this Policy and the RFAC to investigate and assess a possible risk and produce possible management options for the owner to consider.

*Example scenario:*

This scenario involves multiple people living in transient accommodation (e.g. a 'backpackers' accommodation), which does not have a fire alarm system. The risk is the loss of life or severe injury occurring due to people being unable to escape in the event of a fire (i.e., not aware of fire or smoke in the building).

Risk Factor	Extreme
Risk type	Fire hazard
Building occupied	Yes
Sleeping accommodation	Yes
Death or injury likely	Yes
Can risk be eliminated immediately	No
Can risk be eliminated eventually	Yes - install compliant alarm
Can risk be minimised immediately	YES Interim measure - provide security guard 24/7 who could raise the alarm in event of emergency and have evacuation plans in place
	NO Evacuate the building; apply for building consent or complete work under urgency; obtain CCC / CoA and Compliance Schedule

In each assessment situation, timing may also impact on the outcome of the site visit. In the above scenario, the risk is extreme because there is sleeping accommodation in the building. If the site assessment is conducted early in the day, a mitigation management plan could be agreed upon between the proprietor and Council by the end of the day, and occupancy may be allowed to continue in the short term.

If conducted late in the day, then this option may not be available, and immediate evacuation and closure of the building may be necessary until a plan has been developed and implemented.

## 2.10. Enforcement actions

If Council is satisfied that a building is dangerous, affected, and/or insanitary, it may exercise any or all of its power contained between sections 123B to 130 of the Act.

## 2.11. Records

Where a building is identified as dangerous, Council will have a building note (requisition) placed on the property file where the building is situated. This building note will remain until the danger is remedied. In granting access to information concerning dangerous buildings, Council will conform to the requirements of the Local Government Official Information and Meeting Act 1987 and the Local Government Act 2002. In addition, the following information will be placed on the Land Information Memorandum (LIM):

- the notice issued informing the owner that the building is dangerous and where necessary notice of the requirement to evacuate
- a copy of the letter to owner, occupier and any other person to inform them that the building is dangerous
- a copy of the notice given under section 124(1) that identifies the work to be carried out on the building and the timeframe given to reduce or remove the danger.

draft

## Additional Information

### Dangerous, Affected and Insanitary Building Policy 2020

The following pages contain Council's Risk Framework and Assessment Criteria. This document is for information purpose only and does not form part of the Policy. It contains matters to help users to understand, use and implement this Policy. The document may be updated at any time.

#### Risk Framework

The purpose of this example is to describe a process for systematically and consistently identifying risk. The chance of something happening is measured in terms of consequences and likelihood; this is best described using a matrix<sup>1</sup>.

**Likelihood** - a qualitative description of probability or frequency

Level	Descriptor	Description
A	Almost Certain	Is expected to occur in most circumstances
B	Likely	Will probably occur in most circumstances
C	Possible	Might occur at some time
D	Uncertain	Could occur at some time
E	Rare	May occur in exceptional circumstances

**Consequence** - the outcome of an event expressed qualitatively or quantitatively, being a loss, injury, disadvantage or gain. There may be a range of possible outcomes associated with an event.

Level	Descriptor	Description
1	Insignificant	No injuries
2	Minor	May require some medical treatment
3	Significant	Medical treatment required
4	Major	Extensive injuries
5	Extreme	Death

**Risk rating** – the chance of something happening that will have an impact upon objectives. It is measured in terms of consequences and likelihood.

Likelihood	Consequences				
	Insignificant	Minor	Moderate	Major	Extreme
Almost Certain	Moderate	Moderate	High	Very High	Very High
Likely	Moderate	Moderate	High	High	Very High
Possible	Low	Moderate	Moderate	High	High
Uncertain	Low	Low	Moderate	Moderate	High
Rare	Low	Low	Moderate	Moderate	High

#### Legend:

Very high	extreme risk; immediate action required
High	high risk; senior management attention required
Moderate	management responsibility must be specified
Low	manage by routine procedures

<sup>1</sup> Source AS/NZS 4630:1999 Risk Management

In this example, it is assumed that:-

- there is no building consent for the building work being risk assessed; or
- if the work was consented in the past, it is no longer compliant with that building consent

Unauthorised building work means:

- building work for which a building consent has not been obtained when one was required; or
- building work which is considered exempt but does not comply with the Building Code

If the consenting process has been completed and a CCC issued and there are elements of that building work that do not comply then that work is considered non-compliant.

Note: In this scenario, it is likely that the bulk of the building work is compliant (work completed under a building consent) instead of the building work that occurred without a building consent. This is reflected in the risk assessment of unauthorised building work that occurs within a consented building for example, an extension or additions to a dwelling.

Once the outcome has been established i.e. that a building is dangerous and / or insanitary; the risk to other property (i.e. *affected buildings*) must then be considered using the same analysis.

# Qualitative Measures of Consequences for Risks

Rating	Consequences	Description	Examples
1	Insignificant	Would not cause illness or injury to any person Loss of amenity Temporary or very minor nuisance or inconvenience	Lack of insulation Unauthorised minor work e.g. carport, deck, small garden shed, temporary noise or odour, disconnected downpipe
2	Minor	May cause very minor injury to people Very minimal impact if any on people other than those in immediate proximity Minor damage to local physical environment only Significant loss of amenity, widespread impact from noise or odour	Unauthorised addition to existing building; multiple utility sheds on property; garden shed too close to boundary; mild stormwater runoff; tripping or slipping hazard in public place
3	Moderate	Potential to cause significant injury or illness to people Minor injury or illness to many people May cause some significant damage to property or the environment Can include multiple instances of minor effects long term	Structural elements fail that could cause a person to fall >1.0m but <2.0m Unconsented habitable space Significant storm water runoff Leaky home Persistent noise issues
4	Major	Serious illness, injury or death to one or more people Significant injury or illness to many people Major degradation to the wider environment (not contained on offending property).	Structural elements fail that could cause a person to fall >2m Non-compliant swimming pool Electrical supply to unauthorised building Sleepout or similar with unconsented sanitary fixtures Expired BWoF or failed systems
5	Extreme	Serious illness, injury or death to one or more people including building occupants, third parties (neighbours) or the general public. Threatens overall integrity of buildings other than the offending buildings Serious and irreversible degradation to the wider environment (not contained on offending property)	Serious threat to the overall structural integrity of the building such that collapse is imminent and would cause death or serious injury to third parties Public Use building considered unsafe due to fire or insanitary risk whether due to unsafe heating, energy systems or lack of means of escape Building condition could cause very serious harm to due to discharge or improper containment, processing of contaminants or hazards, including industrial and solid wastes Large excavation threatening other property

# Building Risk Factors – Dangerous Buildings

Risk Factor – B1	How can this occur?	Impacts	Impact rating
a) Deck (including stairs), roof tiles or roofing insecure or foundations / piles weak, removed or unsound	Degradation due to age Poor material quality Poor workmanship Unreasonable weight / loading Natural hazard including subsidence Willful damage Hazard zone not factored Poor design Change of use Fire / Flooding No / incomplete consent	May:- <ul style="list-style-type: none"> <li>cause a person or persons to fall or trip</li> <li>prevent access in or out of building</li> <li>persons to be hit by falling materials</li> <li>blow on to other property / roads</li> <li>dampness and moisture issues</li> <li>misalignment of doors and windows</li> <li>collapse of building with various impact depending on height, geography of site</li> </ul>	Major
b) Internal support-bracing weak, removed or unsound	Degradation due to age Poor material quality Poor workmanship Unreasonable weight / loading Natural hazard including wind Willful damage Hazard zone not factored Poor design Fire No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>collapse or sag of walls</li> <li>misalignment of doors and windows</li> <li>further weakening to main structural elements</li> </ul>	Moderate
c) Internal support-main structural beams weak, removed or unsound	Degradation due to age Poor material quality Poor workmanship Unreasonable weight / loading Natural hazard including wind Willful damage Hazard zone not factored Poor design Fire / Flooding Relocation of building Nearby excavation or erosion No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>full or partial collapse of building</li> </ul>	Extreme

Risk Factor – B1	How can this occur?	Impacts	Impact rating
d) Flooring weak or unsound (not including surface failure)	Degradation due to age Poor material quality Poor workmanship Unreasonable weight / loading Natural hazard including wind Willful damage Hazard zone not factored Poor design Fire / Flooding Relocation of building Nearby excavation or erosion No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>injury due to falling through floor</li> <li>illness due to moisture problems</li> </ul>	Moderate
e) Bridges and retaining walls weak, removed or unsound	Degradation due to age Poor material quality Poor workmanship Unreasonable weight / loading Natural hazard including wind Willful damage Hazard zone not factored Poor design Fire / Flooding Relocation of building Nearby excavation or erosion No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>collapse</li> <li>an injury or fall</li> <li>nuisance to other property, block road or river</li> <li>a lack of access resulting in isolation of property</li> </ul>	Extreme



Risk Factor – D1-2, E1, F1-9, G1-15	How can this occur?	Impacts	Impact rating
a) Unsafe pedestrian access	Slippery surface Unsafe slope Irregular rise in stairs Lack of handrail Ungraspable handrail No landing or at long intervals in stairs Size of landing does not accommodate door opening No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>injury due to tripping, slipping or other hazard</li> </ul>	Minor
b) Unsafe vehicular access of building	Slippery surface / unsafe slope Inadequate queuing / circulation space Inadequate sight distances Design does not avoid conflict between vehicles and people using or moving to space Safety from falling (lack of barriers or bollards) No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>injury</li> <li>damage to other property</li> </ul>	Moderate
c) Failure or inappropriate installation or use of a specified system (not fire related) e.g. mechanical installations	Degradation due to age Poor material quality Poor workmanship Not fit for purpose No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>entrapment of person or limbs resulting in injury</li> </ul>	Major
d) Falling from places other than decks and stairs e.g. temporary site fences, mezzanine levels, etc. <1.0m	Lack of suitable barrier Unreasonable weight Lack of warning No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>injury</li> </ul>	Minor
e) Falling from places other than decks and stairs e.g. temporary site fences, mezzanine levels, etc. >1.0m	Lack of suitable barrier Unreasonable weight Lack of warning No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>injury or death</li> </ul>	Moderate Major (if fall height exceeds 2.0m)
f) Hazardous construction or demolition including access to site by small children	Unlimited access Unmarked projections Open hazards / projections Lack of safe route through site No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>injury or death</li> <li>damage to other property</li> </ul>	Major

<b>Risk Factor – D1-2, E1, F1-9, G1-15</b>	<b>How can this occur?</b>	<b>Impacts</b>	<b>Impact rating</b>
g) Destabilisation of neighbouring property due to construction site	Collapse of land due to poor ground strength No retaining walls in place Silt and erosion Over-excavation of site No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• injury or death</li> <li>• damage to other property</li> </ul>	Extreme
h) Lack of adequate access or escape route for disabled persons including visibility, width, etc.	Lack of knowledge and awareness Site specific No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• loss of amenity or inconvenience</li> </ul>	Minor
i) Harms due to offensive odour, food contamination, inadequate privacy, inability to clean effectively, lack of amenity or other annoyance (excludes facility for load / drainage risks)	Inappropriate sanitary facility provision either for purpose or number No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• injury or illness</li> <li>• damage to property</li> </ul>	Moderate
j) Contamination from storage manufacturing or processing of food including animal products, medical treatment of humans or animals' reception of dead bodies	Inappropriate sanitary facility provision either for purpose or number No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• injury or illness</li> <li>• damage to property</li> </ul>	Moderate
k) Loss of fresh air, air temperature or activity space	Lack of ventilation Mechanical air handling system failure or not appropriate No means of removing or collecting cooking fumes, moisture from laundry, steam etc. No/incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• loss of amenity or inconvenience</li> <li>• illness</li> </ul>	Minor
l) Loss of noise transmission between adjoining occupancies	Lack of insulation Insufficient sound transmission class. Unreasonable noise levels No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• loss of amenity or inconvenience</li> <li>• illness or injury</li> </ul>	Minor
m) Lack of natural or artificial light	Poor design Obstruction by neighbours No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• loss of amenity or inconvenience</li> <li>• illness or injury</li> </ul>	Minor

<b>Risk Factor – D1-2, E1, F1-8, G1-15, H1</b>	<b>How can this occur?</b>	<b>Impacts</b>	<b>Impact rating</b>
n) Inadequate ventilation or explosion from gas appliance or installation	Improper installation System / product failure No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• fire</li> <li>• damage to property</li> <li>• death or injury</li> </ul>	Extreme
o) Hot water explosion	Lack of pressure relief Temperature too high Unauthorised building work No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• fire</li> <li>• damage to property</li> <li>• death or injury</li> </ul>	Extreme
p) Hot water unavailable	Failure to provide Energy supply failure Unauthorised building work No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>• inconvenience</li> </ul>	Insignificant
q) Foul odour, noise or other inconvenience	Unauthorised building work No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>• Inconvenience or nuisance</li> </ul>	Insignificant
r) Unauthorised foul water, industrial waste, solid waste disposal	Illegal dumping System not fit for purpose Unauthorised building work No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• illness</li> <li>• contamination of the environment</li> <li>• damage to property</li> </ul>	Extreme
s) Inefficient use of energy when sourced from a network utility operator or a depletable energy source	Failure to limit uncontrollable airflow Degradation due to age Poor material quality Poor workmanship No / incomplete consent	May:- <ul style="list-style-type: none"> <li>• generate systemic inefficiency</li> <li>• generate unnecessary cost</li> </ul>	Insignificant

<b>Risk Factor – C, G9-10</b>	<b>How can this occur?</b>	<b>Impacts</b>	<b>Impact rating</b>
t) Lack of means of escape (including accessible features and signage F8) or lack of, or expired BWOF	No means of egress at all Failure to maintain gates locks Expired BWOF Lack of signage / direction Inadequate for user numbers Unauthorised changes to specified systems or new systems added Alarms, etc. not fitted or appropriate Lack of resource Poor IQP performance Poor inspection, maintenance and monitoring process No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• lack of warning of fire resulting in people becoming trapped in a building or part of a building if it catches fire</li> <li>• serious injury from fire or attempts to escape</li> </ul>	Extreme
u) Unauthorised or unsafe installation or operation of solid fuel heating system	Deterioration due to age Lack of awareness Use of secondhand appliance Use of incorrect material when operating appliance No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>• fire when operated</li> <li>• injury or damage to property</li> </ul>	Extreme
v) Lack of appropriate fire retardation materials	Unauthorised work Poor installation Poor quality materials No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• fire to spread more rapidly</li> <li>• injury or damage to property</li> </ul>	Major
w) Unauthorised electrical supply installation or electrical supply in unsafe building	Unauthorised connection - no approval from Energy Provider Poor installation Poor quality materials No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>• electric shock and/or fire</li> <li>• injury or damage to property</li> </ul>	Major
<b>Risk Factor – F9</b>	<b>How can this occur?</b>	<b>Impacts</b>	<b>Impact rating</b>
x) Non-compliant pool barrier, unauthorised construction or lack of pool barrier	Poor audit / monitoring Poor or no maintenance on gates, landscaping, etc. No control of what happens on neighbouring property (boundary fences) Lack of awareness of risk No / incomplete consent	May cause: <ul style="list-style-type: none"> <li>• drowning or injury especially to young children</li> </ul>	Extreme

# Building Risk Factors – Insanitary Buildings

Risk Factor – G1, G12; G13	How can this occur?	Impacts	Impact rating
a) Insanitary due to lack of potable water supply or contaminated water	No connection to services Contamination of supply at source or by systems materials Lack of filtration Low rainfall No on site retention of water Failure to plan for growth Lack of resource consent Lack of public infrastructure provision Cost prohibitive private solutions Lack of awareness of potable standards No / incomplete consent	May:- <ul style="list-style-type: none"> <li>cause ill health due to drinking water that is not potable</li> <li>result in reliance on other methods for obtaining water</li> </ul>	Moderate
b) Insanitary due to drainage not functioning or non-existent drainage	Degradation due to age Poor material quality Poor workmanship Poor design Nearby works Failure to provide drainage solution Lack of resource consent Lack of public infrastructure provision Cost prohibitive private solutions Misunderstanding of sustainable solutions No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>illness from insanitary material</li> <li>flooding</li> <li>damage to property</li> </ul>	Moderate
c) Insanitary due to drainage unauthorised discharge	Lack of resource consent Lack of public infrastructure provision Cost prohibitive private solutions No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>illness from insanitary material</li> <li>flooding</li> <li>damage to property</li> <li>damage to environment</li> </ul>	Major
d) Insanitary due to not enough facilities for loads (e.g. toilets)	Overcrowding due to poverty Overcrowding at events Unexpected increase in user / visitor numbers Inappropriate use / purpose group No / incomplete consent	May:- <ul style="list-style-type: none"> <li>result in insanitary conditions being perpetuated due to alternative measures being used</li> <li>cause environmental degradation</li> <li>cause illness</li> </ul>	Moderate

Risk Factor – E2, G1-3	How can this occur?	Impacts	Impact rating
e) Insufficient facility for loads on other sanitary fixtures (e.g. bath, shower, hand washing)	Overcrowding due to poverty Overcrowding at events Unexpected increase in user / visitor numbers Inappropriate use / purpose group No / incomplete consent	May:- <ul style="list-style-type: none"> <li>• result in insanitary conditions being perpetuated due to lack of facilities</li> <li>• cause environmental degradation</li> <li>• cause illness</li> <li>• inability to wash</li> </ul>	Minor
f) Moisture ingress or moisture levels too high	Degradation due to age and lack of maintenance Poor material quality Poor design / workmanship Natural hazard including flooding Willful damage Hazard zone not factored Fire / Flooding Relocation of building Lack of impervious surface walls, floors and structural elements in contact with the ground Spaces and cavities transmitting moisture and / or condensation No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• illness</li> <li>• damage to entire structure</li> </ul>	Major
g) Insanitary due to nature of sanitation facility	Location of facility No / incomplete consent Degradation due to age and lack of maintenance Poor material quality Poor design / workmanship No / incomplete consent	May:- <ul style="list-style-type: none"> <li>• not be able to clean facilities to an acceptable standard</li> <li>• cause illness</li> </ul>	Moderate
h) Lack of laundering facilities	Inappropriate sanitary facility provision either for purpose or number No / incomplete consent	May cause:- <ul style="list-style-type: none"> <li>• injury or illness</li> <li>• damage to property</li> </ul>	Insignificant

# RISK MATRIX ASSESSMENT TEMPLATE

Risk Factor	D, A or I	Impact rating	Likelihood	Risk Rating	Possible options for risk mitigation

## Key:


Impact rating: (1) insignificant (2) minor (3) moderate (4) major (5) extreme

Likelihood: (A) almost certain (B) likely (C) possible (D) unlikely (E) rare

Risk rating: very high, high, moderate, low





 <p>Kaipara ke Orangakū <b>KAIPARA</b> DISTRICT Two Oceans Two Harbours</p>	<b>Title of Policy</b>	Earthquake-prone Buildings		
	<b>Sponsor</b>	General Manager Operations		
	<b>Written By</b>	Policy and Planning Manager	<b>Authorised/Adopted by</b>	Council
	<b>Type of Policy</b>	Regulatory	<b>Date Adopted</b>	26 November 2013
	<b>File Reference</b>	3118.01	<b>Review Date</b>	

## 1 Background

Section 131 of the Building Act 2004 requires Territorial Authorities to review its policy on Earthquake-Prone Buildings.

The definition of an Earthquake-Prone Building is set out in Section 122 of the Building Act 2004 and in the related regulations that define moderate earthquake. This definition covers more buildings and requires a higher level of structural performance of buildings than that required by the Building Act 1991.

## 2 Objective

The overall objective of implementing this Policy is to achieve compliance with the Building Act 2004 with respect to earthquake-prone buildings. In particular to state:

- the approach Kaipara District Council will take in performing its functions under the Building Act 2004;
- Kaipara District Council's priorities in performing those functions; and
- how the Policy will apply to heritage buildings.

## 3 Definitions

Meaning of earthquake-prone building (s122 Building Act 2004):

- (1) *A building is earthquake prone for the purposes of this Act if, having regard to its condition and to the ground on which it is built, and because of its construction, the building-*
  - (a) *will have its ultimate capacity exceeded in a moderate earthquake (as defined in the regulations); and*
  - (b) *would be likely to collapse causing-*
    - (i) *injury or death to persons in the building or to persons on any other property; or*
    - (ii) *damage to any other property.*
- (2) *Subsection (1) does not apply to a building that is used wholly or mainly for residential purposes unless the building-*
  - (a) *comprises 2 or more storeys; and*
  - (b) *contains 3 or more household units.*

## **4 Policy Statement**

### **4.1 Policy Principles**

Kaipara District Council has noted that provisions of the Building Act in regard to earthquake-prone buildings reflect the Government's broader concerns about risks to people from potentially life threatening situations for the public in buildings and, more particularly, the need to address public safety and protection when earthquakes occur.

Kaipara District Council has also noted that the process for developing an Earthquake-Prone Buildings Policy is flexible to allow each Council to respond accordingly.

### **4.2 Overall Approach**

The approach taken reflects the level of concern which Kaipara District Council has with regard to earthquake-prone buildings. Earthquake-prone buildings are not considered a significant matter for Council and this is for several reasons:

- The whole of Northland is considered to be of low earthquake risk, as confirmed in the 2003 report of the Institute of Geological and Nuclear Sciences Limited: "A review of national hazards information for Whangarei District". ref: 2003/153 at p9.
- There are also very few buildings in Kaipara which would fall within the definition of "earthquake-prone" within the meaning of s122 of the Act, principally because of the nature of their construction. There are very few unreinforced masonry buildings of more than one storey.
- In order to comply with the area's High/Very High Wind Zone hazard rating, buildings will generally have been required to be constructed to withstand at least a moderate earthquake.

It is therefore concluded that earthquake-prone buildings within the Kaipara District pose a low risk and the consequences are modest. For these reasons the Council considers a more passive approach is acceptable.

Council considers it appropriate to limit the scope for remedial work to the time when a building consent is received for work on a building which is likely to be considered earthquake-prone within the meaning of the Act.

However in the interest of public safety, Council will take a more active approach in respect of public buildings which have been identified as earthquake-prone and have been constructed with street-facing parapets or cantilevered verandas. These will be required to undertake remedial work within a given timeframe.

### **4.3 Assessment Criteria**

As a practical guide Kaipara District Council will assess earthquake-prone buildings as those that would not meet or exceed the design criteria for a moderate earthquake as described in the Building (Specified Systems, Change the Use, and Earthquake-Prone Buildings) Regulations 2005. Kaipara District Council will use the NZ Society for Earthquake Engineering (NZSEE) Recommendations as its preferred basis for defining technical requirements and criteria. These Recommendations are

designed to be used in conjunction with AS/NZS 1170 Loadings Standard, NZS 3101 Concrete Structures Standard, NZS 3404 Steel Structures Standard and other materials Standards.

#### **4.4 Interaction Between Earthquake-Prone Buildings Policy and Related Sections of Building Act 2004**

##### **4.4.1 Section 112: Alterations to Existing Building**

This Section applies when a Building Consent application is received for significant upgrading or alteration of a building that is or could be earthquake-prone. Irrespective of the general priorities set by Kaipara District Council for dealing with earthquake-prone buildings, the Council will require the owner to provide a detailed assessment of the earthquake performance of the building. This is to be prepared by a suitably qualified and experienced person to determine whether or not it is earthquake-prone in its existing condition.

The Council will not issue a Building Consent unless it is satisfied that the building is not earthquake-prone and that the building work will not detrimentally affect the building's compliance with the Building Code.

If the building is shown to be earthquake-prone, then the Council will require that the building be strengthened to comply with current government regulations (i.e. 34% of the current Building Standards).

##### **4.4.2 Section 115: Change of Use**

This Section applies when a Building Consent application is received for change of use of a building that is or could be earthquake-prone. Irrespective of the general priorities set by Kaipara District Council for dealing with earthquake-prone buildings, it will be a requirement of the Building Consent that the owner provide a detailed assessment of the earthquake performance of the building. This is to be prepared by a suitably qualified and experienced person to determine whether or not it is an earthquake-prone building in its existing condition.

If the building is shown to be earthquake-prone then the Council will require that the building be strengthened to comply with current government regulations (i.e. 34% of the current Building Standards) whether or not there is a change of use of that building.

#### **4.5 Recording a Building's Earthquake-Prone Buildings Status**

An initial desktop evaluation process will be undertaken, to enable Council to produce a register of all buildings within the District that have been identified as potentially earthquake-prone.

The register will be established on the basis of a risk category or classification of the buildings to enable confirmation of times to carry any strengthening work. The Council will keep a record of the NZSEE grade of all buildings assessed as a result of a Building Consent and this will be added to the appropriate building in the register.

All records for each individual building in terms of a register status will be added to property files, including any timeframe within which any strengthening work is required to be carried out.

#### **4.6 Economic Impact of Policy**

The primary function of the legislation and this Policy is to reduce the risks of buildings causing life-threatening situations.

Implementing this policy may create an economic burden on building owners and, where this does happen, the Council in its discretion may allow an owner more time to achieve compliance. Such provisions will be considered on a case-by-case basis.

With regard to heritage buildings, Council has a fund called 'the Kaipara Heritage Assistance Fund' which has some, albeit limited, funding from which grants could potentially be awarded towards a structural review or structural work. It is to be noted, however, that at the time of adopting this Policy, the Fund has been suspended.

## 5 Priorities and timescales

Kaipara District Council has prioritised both the identification and the requirement to strengthen or demolish buildings as follows. The order of priorities will be as indicated below:

- 1 Buildings with special post-disaster functions as defined in *AS/NZS 1170.0:2002 Importance Level 4* and Buildings that contain people in crowds or contents of high value to the community as defined in *AS/NZS 1170.0:2002 Importance Level 3* will be identified by June 2014. Owners of identified buildings will be notified and will be given 5 years from the enactment of the relevant legislation to place with Council an assessment by a suitably qualified person as to the extent of remedial work required. Owners will then have a further 15 years to carry out those works identified in the assessment. This timescale is in line with government regulations.
- 2 Buildings defined in *AS/NZS 1170.0:2002* with an *Importance Level* of 1 and 2 will be assessed in line with the same timescale as in 5(1) above.
- 3 Buildings with an Historic Places Trust category I or II classification will be identified in the same priority as above.

Where significant work is required, placing a financial burden on an owner, additional time may be provided for. This will be assessed on a case-by-case basis.

## 6 Heritage Buildings

### 6.1 Special Considerations and Constraints

Kaipara District Council believes it is important that its heritage buildings have a good chance of surviving a major earthquake. However, Kaipara District Council does not wish to see the intrinsic heritage values of these buildings unnecessarily affected by structural improvement measures.

Heritage buildings will be assessed in the same way as other potentially earthquake-prone buildings and discussion held with owners and the NZ Historic Places Trust/Heritage New Zealand Pouhere Taonga to identify a mutually acceptable way forward. Special efforts will be made to meet heritage objectives. There will be extensions of up to 10 years from the national timeframe in 5(1) above for strengthening for owners of earthquake-prone category 1 heritage buildings and those on any National Historic Landmarks list.

# Freedom camping update

**Meeting:** Council Briefing  
**Date of meeting:** 05 August 2020  
**Reporting officer:** Paula Hansen, Senior Policy Analyst

## Purpose/Ngā whāinga

To report on a proposed course of action to manage freedom camping in the Kaipara District.

## Context/Horopaki

In 2019 Council requested staff research and report back on freedom camping matters within the District. Over recent years Council has fielded a range of enquiries about freedom camping, including whether Council has a policy or bylaw that regulates freedom camping.

## Discussion/Ngā kōrerorero

### Locations

The analysis undertaken indicates a few main areas where freedom campers stay. They are Dargaville, Baylys Beach, Maungaturoto, Paparoa and Matakoho, Mangawhai, Kaiwaka, Kaihu and Trounson Park area.

Generally, freedom campers appear to stick closely to the length of State Highway 12, although some deviate and go to Baylys Beach and the Kai Iwi Lakes. Only the occasional freedom camper travels along State Highway 14, or down the Pouto Peninsula.

### Complaints

To date Council has had comparatively few complaints from the Kaipara communities regarding freedom campers. Some concerns raised include travellers defecating along SH12 heading into the Waipoua Forest, however this issue is unlikely to be caused solely by freedom campers, but all types of visitors, including domestic and international tourists as well as day-trippers.

### Other analysis and research

In addition to the analysis of complaints received, discussions were held with parks and enforcement officers who confirmed that in their view the perceived problem is not significant.

Research on other council approaches across New Zealand indicates that the Kaipara District is not experiencing freedom camping related problems to the extent other councils are. While not always attributable to freedom campers, community perceptions regarding human waste, rubbish and overcrowded carparks in popular locations are often linked to overnight campers. These associated matters are not being experienced to a significant degree in the Kaipara District.

The low level of complaints also indicates that freedom camping is not a significant problem for the District compared to other Council areas such as Whangārei, Thames- Coromandel and Queenstown-Lakes Districts.

There are at least three public facilities between the turn off onto SH12 from SH1 with other public facilities accessed by travelling on tar seal roads off SH12. Once a traveller gets through Dargaville however, there are no public facilities along SH12 and the only tar seal roads to a public facility are to Baylys Beach and the Kai Iwi Lakes. All other public facilities require travel along metal roads which is possibly a deterrent to visitors to the District.

Given the post Covid-19 situation it is very difficult to make any assumptions about visitor numbers for the foreseeable future and how much the domestic market may adjust as part of that.

### Regulatory tools available

As with most problems raised with Council, there are several options available for consideration to address freedom camping matters:

1. Do nothing
2. Develop a non-statutory policy
3. Develop a bylaw under the Freedom Camping Act 2011
4. Undertake educational activities/install signs encouraging positive behaviours
5. Provide additional facilities and amenities

## **Options discussion**

### **1. Do nothing**

This option is not recommended. As outlined, there are some concerns raised regarding the lack of public toilets for visitors and addressing this lack is further discussed under heading 5 in this section and as part of the staff recommendation.

### **2. Non-statutory policy**

A policy approach is not recommended. While a policy could help provide guidance on freedom camping, the approach would largely be educational in nature and this can be achieved through other mechanisms discussed in heading 4. One of the frequent complaints regarding freedom camping bylaws is the difficulty in accessing and understanding where freedom campers can and cannot camp. A policy would incur the same issues as a bylaw in this regard but would have no regulatory 'teeth' for enforcement, possibly creating community expectations that Council would then be unable to meet. Other problems, such as those outlined below for a bylaw would also potentially occur.

### **3. Develop a bylaw**

Developing a bylaw is not recommended. The Freedom Camping Act 2011 is clear that, an identified issue needs to be established before a bylaw can be put in place to manage freedom camping in a prescribed area. This required approach is supported by case law. Further to this, the cost to enforce a bylaw could be cost prohibitive, with additional resources required. Whangārei District Council spent approximately \$300,000 last summer enforcing their Freedom camping Bylaw.

While the purpose of a bylaw is to control freedom camping the unintended consequence is often that it can result in the perceived promotion of areas for freedom camping. And promotion of specific sites through social media can quickly cause issues within a District. People generally like to do the right thing, so if they know they can go one place and not another they will go to where they can. This in turn can skew the spread of freedom campers within a district.

### **4. Educational activities**

More education is recommended. Educational activities such as signs and interpretation provide a lower cost, flexible and agile approach to any freedom camping matters that may arise. Visitors can be encouraged to 'do the right thing' through signage, and any promotional material developed for the Kaipara District can incorporate the same messaging. While there is no current specific need for such activities, these can proceed as and when required and allow Council to be more agile when addressing arising problems. Council staff are aware of these solutions and will implement these through operational activities as required.

### **5. Provide additional facilities and amenities**

This approach is recommended. The research undertaken for this report clearly indicates that the key problem currently in relation to freedom campers in the Kaipara District is the lack of public facilities.

This is also considered a problem for all visitors, not just freedom campers. It is understood that the Parks and/or Infrastructure teams are considering a 'destination management' plan or approach as part of their wider forward planning work, which is relevant to future decisions and how we manage effects. Staff will also investigate options for more public facilities where identified.

**Next steps/E whaiake nei**

- Staff to report to a future Briefing on a potential proposed destination management approach
- Investigation of additional public facilities.





# Three Waters Reform Programme update

**Meeting:** Council Briefing  
**Date of meeting:** 05 August 2020  
**Reporting officer:** Louise Miller, Chief Executive

## Purpose/Ngā whāinga

To discuss the Three Waters reform programme to inform decision-making at the August Council meeting.

## Context/Horopaki

Over the past three years, central and local government have been considering solutions to challenges facing delivery of three waters services to communities. This has seen the development of new legislation and the creation of Taumata Arowai, the new Water Services Regulator, to oversee and enforce a new drinking water regulatory framework, with an additional oversight role for wastewater and stormwater networks.

There has been underinvestment in three waters infrastructure in parts of the country and persistent affordability issues along with the need for additional investment to meet improvements in freshwater outcomes, increase resilience to climate change and natural hazards, and enhance community wellbeing.

The Government has indicated that its starting intention is public multi-regional models for water service delivery to realise the benefits of scale for communities and reflect neighbouring catchments and communities of interest. There is a preference that entities will be in shared ownership of local authorities. Design of the proposed new arrangements is being informed by discussion with the local government sector through a reform programme.

There is a shared understanding that a partnership approach between Central and Local Government will best support the wider community interests and ensure that any transition to new service delivery arrangements is well managed and as smooth as possible. This has led to the formation of a joint Three Waters Steering Committee to provide oversight and guidance on three waters services delivery and infrastructure reform.

The Reform Programme is designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector, through a combination of:

- stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
- reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.

In July 2020, the Government announced the first stage of the reform programme with a funding package of \$761 million to provide immediate post COVID-19 stimulus to local authorities to maintain and improve three waters (drinking water, wastewater, stormwater) infrastructure, and to support reform of local government water services delivery arrangements.

## Discussion/Ngā kōrerorero

### Funding Package

The announced funding package will be made available immediately to those councils that sign up to a Memorandum of Understanding (MoU) and associated Funding Agreement and Delivery Plan for the first stage of the Three Waters Services Reform Programme. Signing up to the MoU and providing a Delivery Plan needs to be done by **31 August 2020**.

Councils signing the MoU are committing to the principles and objectives of working together with central and local government through the first stage of the reform programme. This stage has the following characteristics:

- Neighbouring councils will work together over the course of the reform period to consider the creation of multi-regional entities for the improvement of three waters service delivery for communities
- Initial funding allocation will be provided as soon as practicable following agreement to the MoU and associated Funding Agreement and Delivery Plan
- The Delivery Plan and associated reporting arrangements will need to show that the funding (by way of grant) is to be applied to operating or capital expenditure on three waters service delivery that supports economic recovery through job creation; and maintains, increases or accelerates investment in core water infrastructure renewals and maintenance
- This funding will not need to be repaid if the council does not ultimately commit to subsequent stages of the reform programme provided it meets the terms of the Funding Agreement and Delivery Plan
- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives and include signing a binding contract to commit to water reform (and any associated funding agreements).

Agreeing to the MoU does not commit Council to further stages of the programme, Council may opt out at the next stage. If Council does not sign up to the first stage, it can agree to be part of the process at the next stage, however, will miss out on funding allocated (\$761 million across New Zealand) to the first stage of the programme.

Government have advised that the initial stage doesn't trigger consultation processes for the upcoming Long Term Plan 2021-31 (LTP). This is reinforced via a legal opinion from Simpson and Grierson. Council staff will obtain the opinion and review for clarity.

An overview of the reform programme is available at **Attachment A**. Frequently asked questions (FAQs) are provided at **Attachment B**. The draft MoU is provided at **Attachment C** and the presentation provided on the programme is provided at **Attachment D**. The Department of Internal Affairs website for further information is <https://www.dia.govt.nz/Three-Waters-Reform-Programme>.

## Next steps/E whaiake nei

- A report will be presented to the August Council meeting for decision to sign, or not, the MoU
- Staff will prepare a Delivery Plan to inform that decision.

## Attachments/Ngā tapiritanga

	Title
A	Three Waters Reform Programme - Overview
B	Three Waters Reform Programme - FAQs
C	Three Waters Reform Programme – Draft MoU
D	Three Waters Reform Programme - Presentation

# Three Waters Reform Programme

A proposal to transform the delivery of three waters services

## 1. BACKGROUND

Over the past three years central and local government have been considering solutions to challenges facing the regulation and delivery of three waters services. This has seen the development of new legislation and the creation of Taumata Arowai, the new water services regulator.

Both central and local government acknowledge that there are broader challenges facing the delivery of water services and infrastructure, and the communities that fund and rely on these services. There has been regulatory failure, underinvestment in three waters infrastructure in parts of the country, and persistent affordability challenges.

Iwi/Māori also have a significant interest in te mana o te wai. Both central and local government acknowledge the importance of rights and interests under the Treaty of Waitangi and the role of the Treaty partners in progressing these issues.

Additional investment is required to increase public confidence in the safety of drinking water, and to improve environmental outcomes. The reform of three waters services will also support increased sustainability and resilience of communities to natural hazards and climate change.

## 2. CHALLENGES

**THE EXISTING INFRASTRUCTURE DEFICIT**

Quantifying the precise infrastructure gap remains challenging. The Office of the Auditor General (OAG) has raised concerns about relevant and reliable information about assets remaining a challenge.

**UNGRADED ASSETS**

Across our water networks

Potable & wastewater

45%

Stormwater categorised as upgraded

52%

**RENEWAL GAPS**

A more recent analysis highlights the extent of the reinvestment challenge and the “renewals gap”.

Water supply

82%

Wastewater

67%

Stormwater

52%

While unquantified in New Zealand due to limited asset quality data, experience from places like Scotland that have undertaken significant water services reforms indicates the bulk of asset replacement value (potentially up to 80%) and the accumulated infrastructure deficit likely lies in renewal of pipes rather than treatment plants.

### FURTHER RESEARCH COMMISSIONED BY DIA FOUND:

**\$309-\$574 million**

Estimated cost for upgrading networked drinking water treatment plants to meet drinking water standards, with an additional annual operating cost of \$11-\$21 million.

**\$3-\$4 billion**

Estimated cost for upgrading wastewater treatment systems that discharge to coastal and freshwater bodies to meet national minimum discharge standards, with an annualised operating cost of \$126-\$193 million.

## 3. OBJECTIVES

- A** Significantly improving safety and quality of drinking water services, and the environmental performance of wastewater and stormwater systems.

**B** Ensuring all New Zealanders have equitable access to affordable three waters services.
- C** Improving resource coordination and unlocking strategic opportunities to consider national infrastructure needs at a larger scale.

**D** Increasing resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards.
- E** Moving three waters services to a financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and councils.

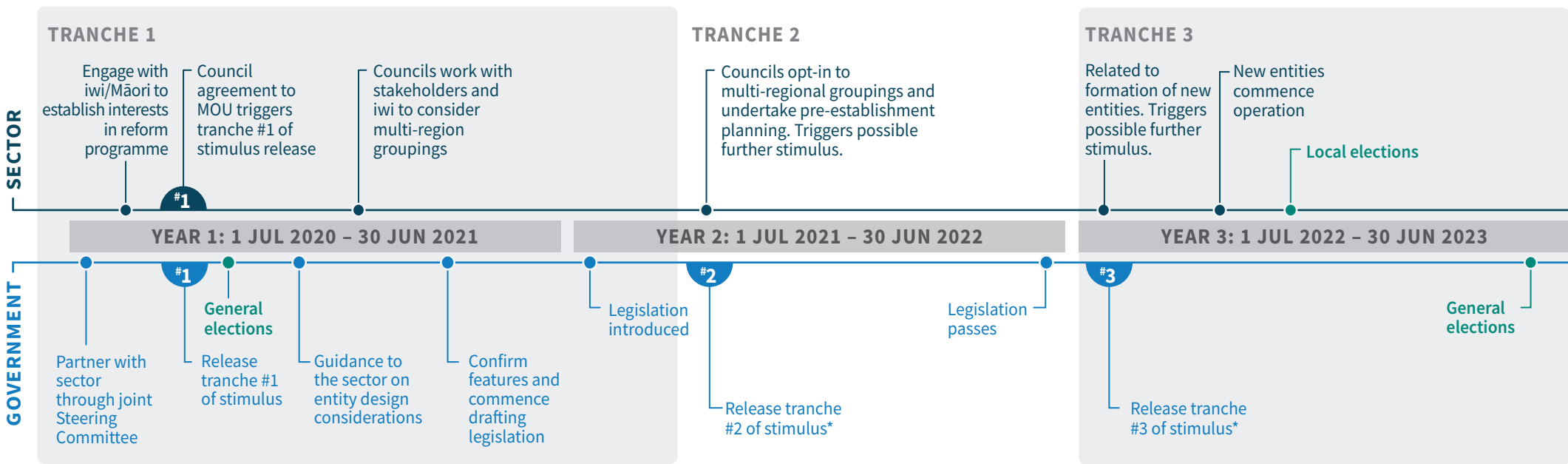
**F** Improving transparency and accountability in cost and delivery of three waters services, including the ability to benchmark performance of service providers.

## 4. KEY FEATURES

- Design features of the proposed reform programme should examine, as a minimum:
- A** Water service delivery entities that are:

  - of significant scale (most likely multi-regional) to enable benefits from aggregation to be achieved over the medium- to long-term;
  - asset-owning entities with balance sheet separation, to support improved access to capital, alternative funding instruments and improved balance sheet strength; and
  - structured as statutory entities with appropriate and relevant commercial disciplines and competency-based boards.
- B** Delivery of drinking water and wastewater services as a priority, with the ability to extend to stormwater service provision only where effective and efficient to do so.
- C** Publicly owned entities, with a preference for collective council ownership.
- D** Mechanisms for enabling iwi /Maori and communities to provide input in relation to the new entities.

## 5. INDICATIVE REFORM PATHWAY



## 6. PROPOSED PROCESS

**An opt-in reform and funding programme to:**

- Stimulate investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance.
- Reform current water service delivery into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium- to long-term.

**Progressed in phases:**

- Three phases of reform with three tranches of investment proposed (as set out above). The first phase of the programme includes a Memorandum of Understanding between central and local government to progress the reform in partnership. Reform will be guided by a joint Steering Committee at key stages.

**Memorandum of understanding:**

- Non-binding MOU between each Council and Government.
- Does not commit Councils to reforming water services or transferring assets.
- Enables Councils to access funding for three waters through an associated Funding Agreement and Delivery Plan.

## 7. FUNDING AND IMPACT

<b>Government funding</b>		<b>\$761 million</b>
<b>Jobs protected or created</b>	(direct)	<b>2,288 jobs</b>
	(direct, indirect, induced)	<b>7,230 jobs</b>
<b>GDP increase</b>	(direct)	<b>\$236 million</b>
	(direct, indirect, induced)	<b>\$800 million</b>

**ALLOCATION OF FUNDING**

First tranche funding provided as a grant to Councils who opt-in to participate in the reform process.

Allocation is based on a simple formula applied on a nationally consistent basis.

Future additional funding will be subject to Government decision-making and reliant on progress against the reform objectives.

**INDICATIVE ALLOCATION SUBJECT TO CONFIRMATION**

**LEGEND**

- Metropolitan Councils (50%)
- Provincial Councils (37%)
- Rural Councils (13%)



*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

## Three Waters Reform Programme: Frequently Asked Questions

### **FAQs Part 1: High-level questions on reform parameters and scope, and the joint approach**

#### **1. Why does service delivery reform need to happen?**

- The Havelock North inquiry highlighted some significant deficiencies in the provision and regulation of safe drinking water. This has seen the Government progress a programme of three waters regulatory reform, including the establishment of Taumata Arowai, the new Water Services Regulator.
- While addressing the regulatory issues, both central and local government acknowledge there are broader challenges facing local government water services and infrastructure, and the communities that fund and rely on these services.
- Under-investment in three waters infrastructure in some parts of New Zealand and persistent affordability challenges make it increasingly difficult to meet rising drinking water and environmental regulatory requirements and community expectations, while providing resilient infrastructure. There are concerns that the economic recovery from COVID 19 will exacerbate this situation.
- Addressing these challenges through service delivery reform is intended to facilitate good public health and environmental outcomes, increase resilience to climate change and natural hazards, and enhance community wellbeing and equitable access to affordable water services for all New Zealanders.

#### **2. What will the reform programme entail?**

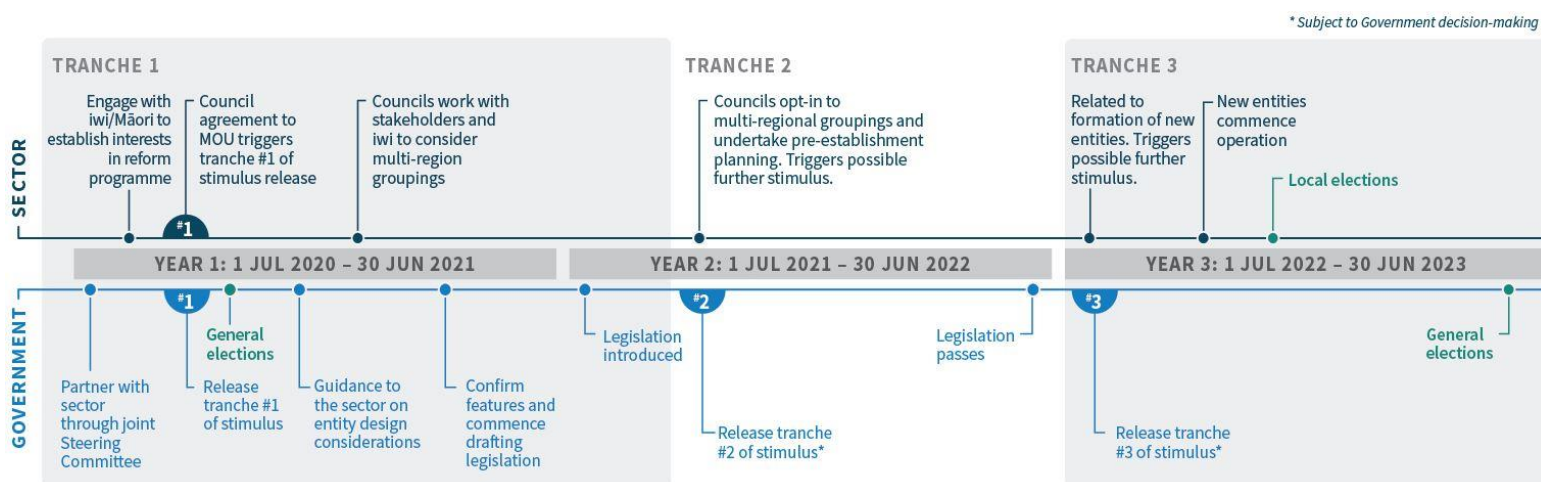
- The reform programme is an opt-in programme designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector, through a combination of:
  - stimulating investment, to assist economic recovery through job creation, and maintain/accelerate/increase investment in water infrastructure renewals and maintenance; and
  - reforming current water service delivery to realise significant economic, public health, environmental, and other benefits over the medium to long term. The Government's starting intention is for new service delivery arrangements, such as multi-regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest.
- Alongside the above, the reform programme also has the following objectives:
  - significantly improving the safety and quality of drinking water services, and the environmental performance of wastewater and stormwater systems;
  - ensuring all New Zealanders have equitable access to affordable three waters services;

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- improving the coordination of resources and unlocking strategic opportunities to consider New Zealand's infrastructure needs at a larger scale;
  - increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards;
  - moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced across the sector and particularly by some small suppliers and councils;
  - improving transparency about, and accountability for, the delivery and costs of three waters services, including the ability to benchmark the performance of service providers; and
  - undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader “wellbeing mandates” as set out in the Local Government Act 2002.
- The reform is expected to proceed in phases, enabling councils to determine at each point in the process whether they will participate in future phases on a voluntary, opt-in basis.
  - The first phase of the programme includes a Memorandum of Understanding (MoU) between central and local government to progress the reform in partnership and targeted infrastructure stimulus to enable improvements to water service delivery and ensure economic recovery following COVID-19.
  - The subsequent phases of the reform programme will be guided by the process undertaken in partnership throughout phase one. However, the Government’s starting intention is to reform current water service delivery arrangements into larger scale providers. These phases will also be on an opt-in basis for local government.

### 3. What is the timeframe for the reform programme?

- Below is an indicative timetable for the full reform programme. While this is subject to change as the reform progresses, this provides an overview of the longer-term reform pathway.





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**4. Why are central and local government working together on this programme and why is this the best approach to take?**

- A partnership approach between central and local government enables the expertise and aspirations of both parties to guide the proposed reform programme.
- An initial allocation of funding will be made available upon signing of a MoU that commits parties to work together on the reform programme. This stimulus investment will support three waters projects, creating and maintaining jobs and investment in water infrastructure renewals in the context of COVID-19 pressures.
- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives. The amount, timing, conditions and any other information relating to future funding will be advised at the appropriate time.

**5. What are the key features the Government is expecting from future reformed service delivery arrangements?**

- The first phase of the programme will involve central and local government working in partnership to design and develop the proposed new service delivery arrangements and operating models.
- The initial focus of phase one is on drinking water and wastewater assets and services; however, we will work through the inclusion of stormwater, where appropriate, as part of the reform programme.
- However, the Government is expecting new service delivery arrangements, such as multi regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest. The new water entities would also likely be governed by competency-based boards.
- There are also a number of features that central government expects to be included/retained in new water service delivery entities including:
  - The new water entities must be able to borrow independently of councils;
  - The new entities must be publicly owned – with a preference for collective council ownership – and there need to be mechanisms to protect against privatisation in the future;
  - Consumer interests must be protected, and the model must allow for consideration of the needs and well-being of local communities;
  - At a minimum, drinking water and wastewater must be included in the new water entities. Stormwater services may be included where efficient and effective to do so; and
  - The new entities will be statutory entities (i.e. designed and established by legislation).

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- The reform of water service delivery is likely to present a range of Treaty interests which will need to be identified and explored as part of the reform programme through targeted engagement with iwi/Māori.

#### **6. Can councils choose to participate in the reform?**

- This reform of service delivery arrangements is an opt-in reform programme. However, the initial stimulus funding to invest in critical water services and infrastructure is contingent upon councils participating in the reform programme. This will entail working with neighbouring councils over the course of the reform period to consider the creation of multi-regional entities.
- There will be subsequent phases of the reform at which councils can choose to opt-in. Later phases are likely to require councils to opt-in by signing a binding contract committing to the reform of their water services.
- Regardless of participation in this process, all water service providers will be required to meet drinking water and wastewater regulatory requirements, including complying with the proposed new drinking water regulatory system that will be overseen by Taumata Arowai (the new Water Services Regulator).

#### **7. What will happen to the voluntary service delivery reform programmes that some councils have already embarked on?**

- Those councils that have already begun discussions about three waters reform will be well placed to engage with the reform design.
- It is a decision for councils as to whether they continue their voluntary programmes or sign the MoU and commit to working to get alignment with the reform objectives.
- We will work with these councils on whether their current programmes are likely to meet the objectives of the benefits of scale, and reflect neighbouring catchments and communities of interest as we work through the reform process.

### ***FAQs Part 2: Councils' role in the reform programme***

#### **1. How can local government play a role shaping the reforms?**

- To ensure reformed water service delivery entities have longevity they need to be shaped and influenced by both central and local government.
- Central and local government have created a Three Waters Steering Committee with representatives from central and local government to oversee and provide input into the design of the proposed service delivery entities.
- The Steering Committee comprises elected members and chief executives from local government along with LGNZ, SOLGM and central government officials.
- Councils signing the MoU will be committing to engage in the reform programme and to work with their neighbouring councils to consider the creation of multi-regional entities.



*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- Initial sector engagement is planned for July and August 2020 to provide an initial forum for raising issues and areas for the Steering Committee to work through and consider in the detailed design and policy work.
- As we progress beyond this date, we will provide you with updates, and hold workshops or webinars on specific topics to explain options and trade-offs and hear your views.

## **2. What would my council actually be committing to?**

- Councils signing the MoU are committing to the principles and objectives of working together with central government through the first stage of the reform programme.
- This will entail working with neighbouring councils over the course of the reform period to consider the creation of multi-regional entities for the improvement of three waters service delivery for communities. This will include:
  - Open communication and a no-surprises approach to matters related to the reform programme;
  - Working with neighbouring councils over the course of the reform period with a view to creating multi-regional entities; and
  - Openly sharing information and analysis undertaken to date on the state of the system for delivering three waters services and the quality of the asset base.
- The initial funding allocation will be provided as soon as practicable following agreement to the MoU and associated Funding Agreement and Delivery Plan.
- The Delivery Plan and associated reporting arrangements will need to show that the funding is to be applied to operating or capital expenditure on three waters service delivery that:
  - supports economic recovery through job creation; and
  - maintains, increases or accelerates investment in core water infrastructure renewals and maintenance.
- This funding will not need to be repaid if the council does not ultimately commit to subsequent stages of the reform programme provided you meet the terms of the Funding Agreement and Delivery Plan.
- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives.

## **3. Is the stimulus a grant or a loan?**

- The stimulus is a grant.
- The initial funding will be made available following the signing of the MoU and associated Funding Agreement and Delivery Plan and can be applied to three water services as described in those documents.
- It is important that this funding is spent effectively and efficiently as soon as possible to support the economic recovery following COVID-19.

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives. We anticipate this will include signing a binding contract to commit to water reform (and any associated funding agreements).

#### **4. What does my council need to decide and when?**

- As part of the voluntary opt-in process, councils need to consider and sign the MoU and associated Funding Agreement and provide a Delivery Plan by the end of August 2020.
- This MoU covers the first phase of the programme and commits central and local government to partner and work towards the reform of three waters service delivery.
- Councils should approach the MoU in good faith. However, if they initially support the MoU and reform programme and subsequently opt-out, they can do so.
- If a council opts-out, it will not be able to access future funding associated with future phases of the programme.

#### **5. Why does the MoU need to be signed by the August deadline?**

- The first phase of the reform programme is in part designed to support economic recovery relating to COVID-19 through urgent funding stimulus. To achieve this, the investment needs to be made and actioned very promptly.
- The initial allocation of funding will be released immediately upon signing the MoU and associated Funding Agreement and Delivery Plan.
- This will help create and maintain jobs, investment in infrastructure renewals and maintenance, and protect the safety and sustainability of this essential infrastructure and its associated services.

#### **6. What role will iwi/Māori have throughout the reform programme?**

- It is important that the rights and interests of the Crown's Treaty partners are well understood and that our work is informed by this relationship.
- We acknowledge the range of relationships councils have with tangata whenua that will need to be considered alongside the reform programme.
- We will be formally engaging with iwi/Māori throughout the reform programme to understand the Treaty rights and interests as they relate to the reform. However, we encourage councils to remain engaged with their iwi partners throughout the journey as well.

#### **7. Will councils need to consult with their communities before signing the MoU?**

- While each council will have their own significance and engagement policy, our best advice is that you will not have to consult your communities to sign up to the MoU and participate in phase one of the reform programme.
- Signing the MoU, and committing to participate in the reform programme, does not commit the council to change the way it currently delivers three waters services.

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- However, you will need to consider your own significance and engagement policy when considering investment to be made through the Funding Agreement and Delivery Plan.
- The decision to commit to the transition to new water entities will not occur until the second phase of the reform programme which is likely to be mid-2021 at the earliest.
- Commitment to subsequent stages of the reform programme may require changes to your LTP which would require public consultation at that stage in the process.

**8. How does participating in the reform programme impact my council planning process?**

- Participating in this initial stage of the reform programme does not impact your LTP process.
- However, subsequent stages of the reform programme may require changes to your LTP to reflect commitment to future changes as part of this phase of the reform.
- We will work with councils to understand the implications of future stages of the reform, how to undertake public consultation to reflect future commitment to the reform, and how we might reduce the burden of this as the reform programme progresses.

**FAQs Part 3: Potential forms of new water service delivery entities**

**1. What sort of model (ownership/financial) is envisaged?**

- The first phase of the reform will work through this question in partnership with central and local government. However, the Government's starting intention is for the entities to meet the objectives of the reform, as above, including to be financially self-sufficient and sustainable.
- The Government's preferred model is that the entities remain in public ownership and that they should be statutory entities.
- Statutory entities are created in legislation and are different from Crown entities.. They can have non-commercial functions or commercial imperatives.
- Each statutory entity usually has its own establishing legislation that contains entity-specific objectives that could be a mix of social, cultural, public policy, and commercial. There will be opportunities for local government to help shape the key features of this legislation through the reform programme.
- The entities will need to be legally separate from councils to ensure balance sheet separation for both the water entity and councils to drive improved access to capital and funding instruments.

**2. Will this be a set model for each entity or will there be flexibility?**

- The Government is expecting new service delivery arrangements, such as multi-regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest. We anticipate that the entities will have many features in common, as provided for in legislation.

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- However, the exact make up of each entity may differ to allow some flexibility at a local level in terms of operations, management, governance, and funding and financing, while ensuring the long-term success and sustainability of these entities.

### **3. Why does the Government prefer a multi-regional entity?**

- A multi-regional entity implies an entity or organisation that is not limited to or constrained by regional boundaries and is likely to include councils in more than one neighbouring region.
- Ministers have indicated a preference for a small number of entities, with at least one large urban centre within each entity. The exact numbers and boundaries of these would be finalised following discussions with local government through the reform programme. However, these decisions are likely to be based on factors such as benefits of scale, communities of interest, and catchments.
- A multi-regional approach is preferred by the Government as it is more likely to achieve the size (population and customer density) over which scale efficiencies are likely to be necessary to meet the objectives of the reform programme.
- The aim of the first phase of the reform programme will be to identify configurations that best meet the objectives of the reform in partnership with central and local government.

### **4. Looking after water services is a large part of what my council does – if this is being done by other entities what will my council do instead?**

- This is an important consideration and will be discussed through the reform programme in partnership with local government.
- Councils provide a wide range of services to communities, and play an essential role in supporting community wellbeing. These roles and potential new roles will be fully explored alongside the reform programme.

### **5. How will community interests be maintained under the new entity?**

- We understand that councils will want to ensure that your ratepayers are protected. The reform process and subsequent design of the water entities will provide mechanisms to ensure this happens.
- New governance and management structures will be put in the place for the new entities with an appropriate establishment phase. These entities will be independently and commercially run and separate from council.
- Councils may no longer have direct control over the assets or water provision in your area. However, there will be mechanisms put in place to ensure local service delivery considerations and influence are maintained.

## ***FAQs Part 4: Potential forms of new water service delivery entity ownership and governance***

### **1. Is this privatisation by stealth and how will public ownership be protected?**

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- No. The Government has been clear that, if service delivery arrangements are reformed, water infrastructure must remain in public ownership.
- Most water infrastructure is already publicly owned – by communities through their council.
- The preference is for multi-regional water entities to be collectively owned by councils – on behalf of their communities – as shareholders.
- However, the new water entities will need sufficient legal separation to ensure they can borrow, independently of councils and without impacting councils' balance sheets.
- The basis for shareholding will need careful consideration and financial and commercial analysis through the first phase of the reform programme. This analysis will also investigate ways to ensure protections against any future impulse towards privatisation.

## **2. Will there be Crown ownership?**

- The possibility of some form of Crown shareholding has also been raised, but these matters require further consideration and will be worked through as the design process proceeds.
- There are several reasons why the Crown may consider having an ownership interest, including to reflect its level of investment through the economic stimulus packages, and to support the reform objectives. However, these matters require thorough analysis through the early phases of the reform programme.

## **3. What is the iwi/Māori role in entity ownership and governance?**

- It is important that the rights and interests of the Crown's Treaty partners are well understood and that our work is informed by this relationship.
- At a minimum, the entities will be set up in legislation and this may require the relationship to the Treaty to be clearly expressed.
- A programme of targeted engagement will be undertaken with appropriate parties to canvass matters of mutual interest as the programme proceeds.

## **FAQs Part 5: Asset ownership and transfers**

### **1. Will my council still have control over our assets and service conditions?**

- It is proposed that the assets related to provision of water services will be transferred to the new water entities. This would be to ensure that they are owned, maintained and operated independently by the new entities.
- The transfer of assets enables the water entities to take a strategic approach to infrastructure planning and development and funding and financing arrangements.
- We will work to ensure councils and the communities they represent will be able to have their say on service conditions and expectations through mechanisms set up in the design of the statutory entities.

### **2. If water assets and liabilities are taken out of my council, what will this do to its ability to borrow?**

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- We will be asking councils for information on assets and liabilities to assess this and determine the impact, on balance sheets, revenue, liabilities and on the ability to borrow. This will vary from council to council.
- We will work through this with participating councils as part of the reform programme.

**3. What will happen with my internal resource/staff allocated to water services? Will they transfer too?**

- Ultimately this will be a matter to be worked through between employers and employees.
- Consideration will need to be given to the overall level of resource and capability required at an aggregated entity level. However, an objective of the reform is to see efficiencies through shared service delivery at scale.
- Efficiencies mentioned above may not necessarily mean a reduction in staff, but will instead help address current capability and capacity issues, as staff will be used more efficiently across the entity area.
- Once groupings are determined associated resourcing will also need to be worked through and we anticipate an appropriate establishment phase.
- Where your staff operate across water and other council assets, decisions will need to be made as to the best place for this skilled resource to remain.

**4. Should I continue with my three waters investment programme now?**

- For now, carry on as planned. We are asking councils to not let this process stop you from making planned investment in water assets.
- The additional investment provided by the Government as part of this reform programme is designed to enable you to undertake this planned investment despite the significant impact of COVID-19 on all councils and address existing investment gaps.
- We don't want to stop investment at this key time when improvements and change are needed nationwide, and economic benefits of investment and the associated impact of improved water services are needed.
- When we ask for information to help us shape the reform programme, we will also be interested in your planned capital investment in water and any debt you are planning on raising to fund this.

**FAQs Part 6: Water related revenue**

**1. Will councils retain their water-related revenue?**

- Revenue relating to these assets would need to be available to the new entities to ensure that they have the funding (or are able to raise debt against this funding) to maintain, replace and invest in future water assets.
- Different models for revenue collection are applied across the country and we will work with you to understand this and consider whether this will need to evolve over time.

**2. How will my ratepayers be charged for water under this model?**

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- We are looking to minimise the change to consumers.

**3. How do I get comfort that ratepayers will not be cross-subsidising other regions and/or face increased costs?**

- An aggregated model of service delivery will always involve some degree of cost sharing across the region. However, the extent and scale of this will be worked through in partnership with councils as part of the policy development through the reform programme.
- The intention of this reform is to address the significant ongoing under-investment in three water services in some areas and the capability, capacity and affordability issues that are facing some councils, particularly in light of the expected impact of COVID-19.
- From a national perspective, any increased costs due to cross-subsidisation in the short-term are likely to be offset in the medium-term by benefits of the changes to create sustainable larger scale entities.
- In the medium- to long-term, this includes the operational and efficiency advantages and cost benefits of operating at scale.

**FAQs Part 7: Other considerations**

**1. I am a small council - will I get a say in shaping the solution or just have to follow suit? Will design be dominated by larger councils?**

- The intention is that the reform is to ensure that the needs and interests of all communities are identified and understood.
- The views of all councils that sign the MoU will be heard and considered in the final design of the reform.

**2. What happens if no neighbouring councils want to join up with my council?**

- Once the MoUs have been signed, we will work with those councils that are interested in considering reform.
- The ability to join the reform programme is open to all councils at any stage so more councils may choose to join at subsequent phases.
- However, once the deadline for opting into funding has past, there is no further opportunity for councils to access that funding.

**3. What is the process for submitting questions and continued engagement in the reform programme?**

- We expect questions to arise throughout the process and will be updating FAQs and distributing these to our webpage as we progress.
- Beyond our proposed initial period of engagement, we will continue to meet and discuss pressing issues with the Steering Committee. We will also provide your council with regular update emails, and opportunities to join webinars and formal information-sharing sessions.
- If there are questions you would like to discuss prior to MoU signing, we will do our best to accommodate this. Please send an email to [3WatersSteeringGroup@dia.govt.nz](mailto:3WatersSteeringGroup@dia.govt.nz) with your query.

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

- Please make it as specific as possible so we can do our best to answer it in the short timeframe available. Given the short timeframes and work to be done as part of the programme, we may not be in a position to answer your question fully.



MODEL

# Memorandum of Understanding Three Waters Services Reform

Between the [Sovereign in right of New  
Zealand acting by and through the Minister of  
Local Government] and

[Territorial Authority]

Date

## PURPOSE

This Memorandum of Understanding (Memorandum) sets out the principles and objectives that the Parties agree will underpin their ongoing relationship to support the improvement in three waters service delivery for communities with the aim of realising significant public health, environmental, economic, and other benefits over the medium to long term. It describes, in general terms, the key features of the proposed reform programme and the Government funding arrangements that will support investment in three waters infrastructure as part of the COVID 19 economic recovery.

## BACKGROUND

Over the past three years central and local government have been considering solutions to challenges facing the regulation and delivery of three water services. This has seen the development of new legislation to create Taumata Arowai, the new Water Services Regulator, to oversee and enforce a new drinking water regulatory framework, with an additional oversight role for wastewater and stormwater networks.

While addressing the regulatory issues, both central and local government acknowledge that there are broader challenges facing the delivery of water services and infrastructure, and the communities that fund and rely on these services. There has been regulatory failure, underinvestment in three waters infrastructure in parts of the country, and persistent affordability challenges, and additional investment is required to increase public confidence in the safety of drinking water and to improve freshwater outcomes. Furthermore, investment in water service delivery infrastructure is a critical component of a collective response to climate change and increasing resilience of local communities.

The Parties to this Memorandum consider it is timely to apply targeted infrastructure stimulus investment to enable improvements to water service delivery, progress reform in partnership, and ensure the period of economic recovery following COVID-19 supports a transition to a productive, sustainable economy. Additional funding will be subject to Government decision-making and reliant on the Parties demonstrating substantive progress against the reform objectives. The quantum, timing, conditions, and any other information relating to future funding will be advised at the appropriate time but will likely comprise additional tranches of funding and more specific agreement to key reform milestones.

The reform process and stimulus funding, proposed by Government, is designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector, through a combination of:

- stimulating investment, to assist economic recovery through job creation, and maintain investment in water infrastructure renewals and maintenance; and
- reforming current water service delivery, into larger scale providers, to realise significant economic, public health, environmental, and other benefits over the medium to long term.

There is a shared understanding that a partnership approach will best support the wider community and ensure that the transition to any eventual new arrangements is well managed and as smooth as possible. This requires undertaking the reform in a manner that enables local government to continue and, where possible, enhance delivery of its broad “wellbeing mandates” under the Local Government Act 2002, while recognising the potential impacts that changes to three waters service delivery may have on the role and functions of territorial authorities.

## PRINCIPLES FOR WORKING TOGETHER

The Parties shall promote a relationship in their dealings with each other, and other Parties related to the three waters services reform, based on:

- mutual trust and respect; and
- openness, promptness, consistency and fairness in all dealings and communication including through adopting a no-surprises approach to any matters or dealings related to the reform programme; and
- non-adversarial dealings and constructive problem-solving approaches; and
- working co-operatively and helpfully to facilitate the other Parties perform their roles; and
- openly sharing information and analysis undertaken to date on the state of the system for delivering three waters services and the quality of the asset base.

This Memorandum is intended to be non-binding in so far as it does not give rise to legally enforceable obligations between the Parties.

## REFORM OBJECTIVES AND CORE DESIGN FEATURES

By agreeing to this Memorandum, the Parties agree to work constructively together to support the objectives of the three waters service delivery reform programme.

The Parties agree that the following objectives will underpin the reform programme and inform the development of reform options/proposals:

- significantly improving the safety and quality of drinking water services, and the environmental performance of drinking water and wastewater systems (which are crucial to good public health and wellbeing, and achieving good environmental outcomes);
- ensuring all New Zealanders have equitable access to affordable three waters services;
- improving the coordination of resources, planning, and unlocking strategic opportunities to consider New Zealand's infrastructure and environmental needs at a larger scale;
- increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards;
- moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and councils;
- improving transparency about, and accountability for, the delivery and costs of three waters services, including the ability to benchmark the performance of service providers; and
- undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader "wellbeing mandates" as set out in the Local Government Act 2002.

In addition to these objectives, the Parties recognise that any consideration of changes to, or new models for, water service delivery arrangements must include the following fundamental requirements and safeguards:

- mechanisms that provide for continued public ownership of water service delivery infrastructure, and protect against privatisation; and
- mechanisms that provide for the exercise of ownership rights in water services entities that consider the interests and wellbeing of local communities, and which provide for local service delivery.

The Parties also recognise the reform programme will give rise to rights and interests under the Treaty of Waitangi and both Parties acknowledge the role of the Treaty partner. This includes maintaining Treaty settlement obligations and other statutory rights including under the Resource Management Act 1991 and the Local Government Act 2002. The outcome of discussions with iwi/Māori will inform design of appropriate mechanisms to reflect Treaty interests. This will include clarity of roles and responsibilities.

The Parties agree to work together to identify an approach to service delivery reform that incorporates the objectives and safeguards noted above, and considers the following design features as a minimum:

- water service delivery entities, that are:
  - of significant scale (most likely multi-regional) to enable benefits from aggregation to be achieved over the medium to long-term;
  - asset owning entities, with balance sheet separation to support improved access to capital, alternative funding instruments and improved balance sheet strength; and
  - structured as statutory entities with appropriate and relevant commercial disciplines and competency-based boards;
- delivery of drinking water and wastewater services as a priority, with the ability to extend to stormwater service provision only where effective and efficient to do so; and
- publicly owned entities, with a preference for collective council ownership;
- mechanisms for enabling communities to provide input in relation to the new entities.

The Parties acknowledge that work will also be undertaken to develop a regulatory framework, including mechanisms to protect the interests of consumers.

## FUNDING ARRANGEMENTS

The Government has indicated its intention to provide funding to stimulate investment to enable improvements in water service delivery, support economic recovery and progress Three Waters Services Reform. The quantum of funding available for the Council (and each participating Council) will be notified by Government prior to signing this Memorandum.

Funding will be provided as soon as practicable following agreement to this Memorandum and the associated Funding Agreement and Delivery Plan. The Delivery Plan will need to show that the funding is to be applied to operating or capital expenditure on three waters service delivery (with the mix to be determined by the Council) that:

- supports economic recovery through job creation; and
- maintains, increases and/or accelerates investment in core water infrastructure renewals and maintenance.<sup>1</sup>

The Delivery Plan will be based on a simple template and will include a summary of projects, relevant milestones, costs, location of physical works, number of people employed in works, reporting milestones and an assessment of how it supports the reform objectives set out in this Memorandum.

The Delivery Plan will be supplied to Crown Infrastructure Partners, and other organisations as agreed between the Parties, who will monitor progress of application of funding against the Delivery Plan to ensure spending has been undertaken consistent with public sector financial management requirements.

Agreement to this Memorandum and associated Funding Agreement and Delivery Plan are required prior to the release of Government funding. The Council will have the right to choose whether or not they wish to continue to participate in the reform programme beyond the term of the Memorandum.

## FUTURE AGREEMENTS

The Parties may choose to enter other agreements that support the reform programme. These agreements will be expected to set out the terms on which the Council will partner with other councils to deliver on the reform objectives and core design features, and will include key reform milestones and detailed plans for transition to and establishment of new three waters service delivery entities.

## PROGRAMME MANAGEMENT

The Government will establish a programme management office and the Council will be able to access funding support to participate in the reform process.

The Government will provide further guidance on the approach to programme support, central and regional support functions and activities and criteria for determining eligibility for funding support. This guidance will also include the specifics of any information required to progress the reform that may be related to asset quality, asset value, costs, and funding arrangements.

## TERM

This Memorandum is effective from the date of agreement until 30 June 2021 unless terminated by agreement or by replacement with another agreement related to the reform programme.

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<sup>1</sup> Maintains previously planned investment that may have otherwise deferred as a result of COVID-19.

INTERACTIONS, MONITORING, INFORMATION AND RECORDS

The Parties nominate the following representatives to act as the primary point of communication for the purposes of this Memorandum and any other purpose related to the reform programme.

Government’s representative	Council
[As delegated]	[Chief Executive of the Council]

It is the responsibility of these representatives to:

- work collaboratively to support the reform objectives;
- keep both Parties fully informed;
- act as a first point of reference between Parties and as liaison persons for external contacts; and
- communicate between Parties on matters that arise that may be of interest to either party.

If the contact person changes in either organisation, the other party’s contact person must be informed of the new contact person immediately and there should be an efficient transition to ensure the momentum of the reform process is not undermined.

CONFIDENTIALITY

Neither of the Parties is to disclose, directly or indirectly, any confidential information received from the other party to any third party without written consent from the other party, unless required by processes under the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987 (whichever applies), or under a Parliamentary process- such as following a Parliamentary question, in which case the relevant party is to inform the other party prior to disclosure. Protocols will be established to enable exchange information between Councils where that is consistent with progressing reform objectives.

DISPUTE RESOLUTION

Any dispute concerning the subject matter of this document is to be settled by full and frank discussion and negotiation between the Parties.

.....

SIGNED on behalf of the Crown

by [insert name - DELETE TEXT]

[Sovereign in right of New Zealand acting by  
and through the Minister of Local  
Government]:

.....

SIGNED by [insert name of the Mayor of the  
Territorial Authority signing - DELETE TEXT] on  
behalf of [Territorial Authority]

.....

SIGNED by [insert name of the Chief Executive  
of the Territorial Authority signing - DELETE  
TEXT] on behalf of [Territorial Authority]

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Witness signature

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# Three Waters Reform Programme

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A proposal to transform the delivery  
of three waters services

Webpage: <https://www.dia.govt.nz/Three-Waters-Reform-Programme>

Email: [3waterssteeringgroup@dia.govt.nz](mailto:3waterssteeringgroup@dia.govt.nz)

# Quick overview

## 1 An opt-in reform programme

With an initial **\$761 million funding package** from central government, and designed to support economic recovery post COVID-19 and address persistent systemic issues facing three waters, by:

- stimulating investment and job creation to assist with **economic recovery**;
- reforming water service delivery, **into larger scale providers**, to realise significant economic, public health, environmental, and other benefits over the medium to long term.

## 2 Phased delivery

The reform programme will be undertaken in phases, each informed by the previous stage.

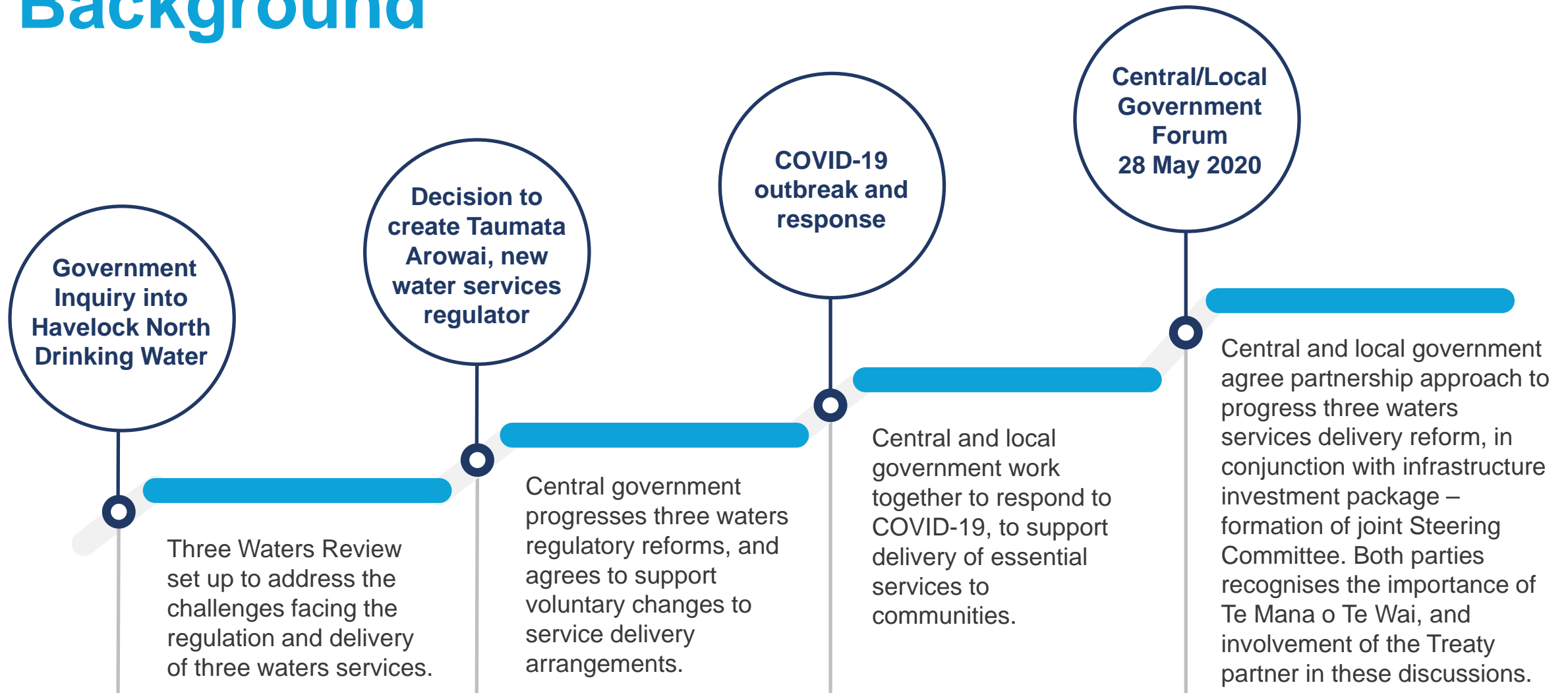
The first phase requires Councils to consider a **non-binding MOU** to share information and participate in reform programme and **does not require asset transfers**.

This is a **good faith** agreement to work together.

## 3 3-year horizon

Subsequent phases will occur over the **next 3 years** and will require close collaboration, including with input from iwi/Māori.

# Background

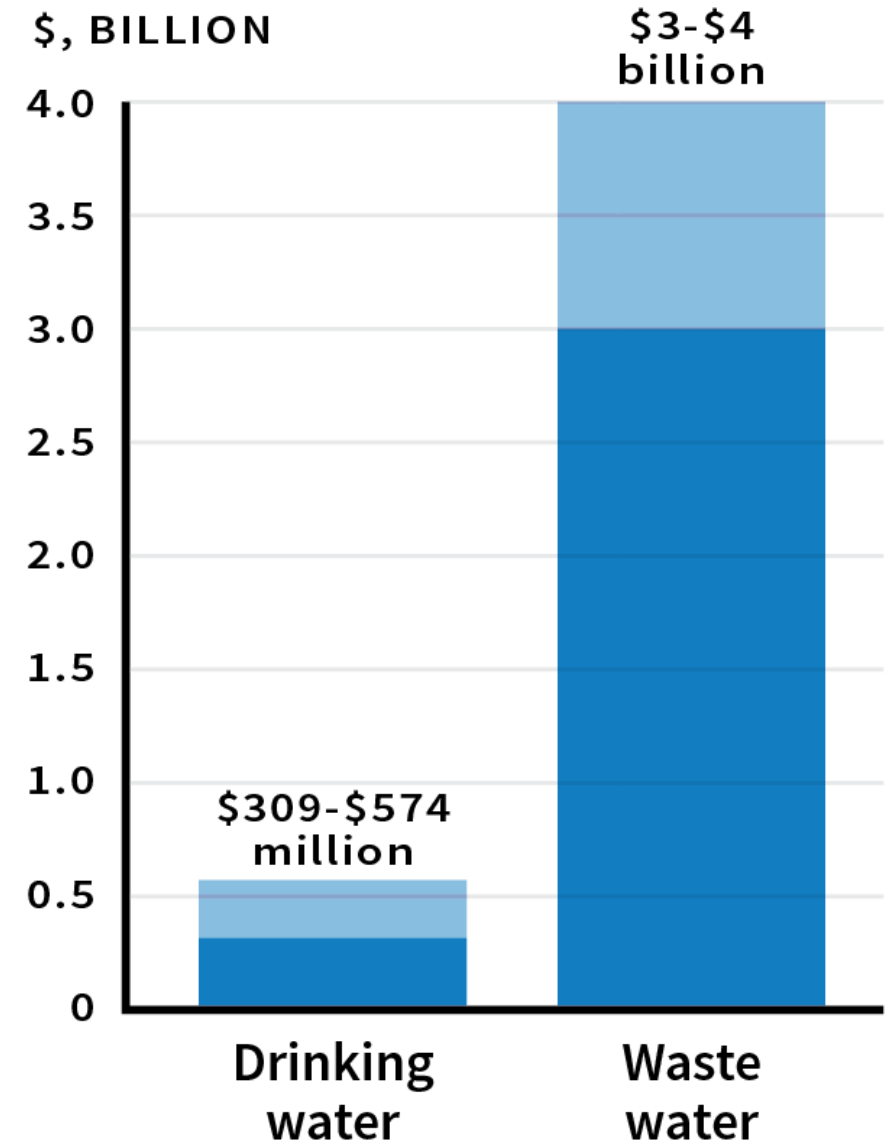


# Regulation

- Taumata Arowai, new drinking water regulator, with a focus on compliance, monitoring and enforcement of new drinking water regime.
- Water Services Bill to give effect to Cabinet decisions to significantly strengthen the regulatory framework.
- Potential economic regulation to:
  - Improve transparency about infrastructure and investment
  - Protect interests of customers
  - Support efficiency

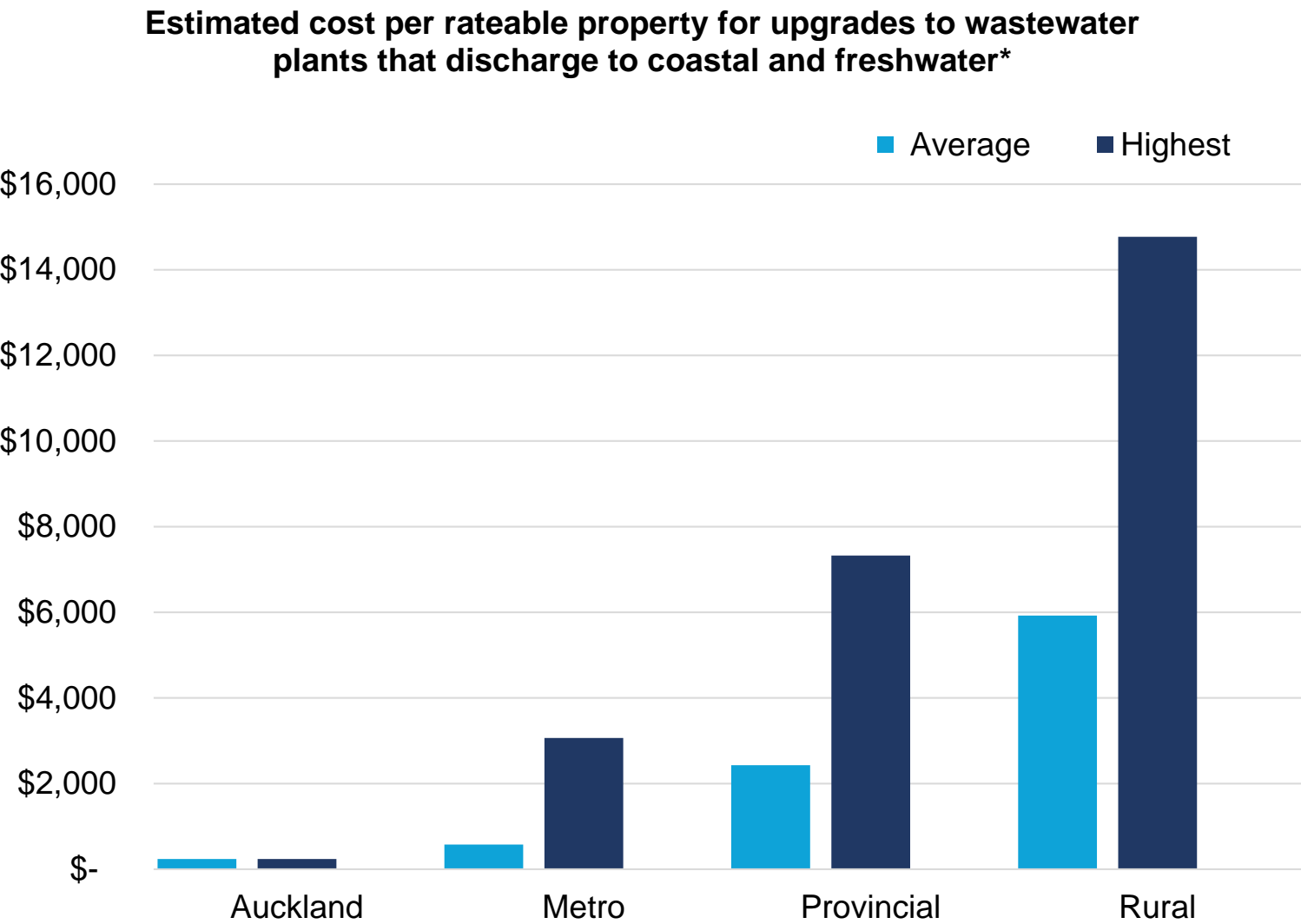
# Investment challenges

1. Staying ahead of the significant reinvestment and renewals has been a challenge.
2. The cost of meeting drinking water and waste water standards will be high.
3. Funding, financing and affordability issues are only going to be exacerbated by the revenue challenges following COVID-19.
4. Pipes are 80% of the asset base, and are in addition to this.



# Funding and affordability challenges

The challenge is greatest for small councils with fewer ratepayers to share costs.



\* Wastewater costs are driven by existing RMA consent requirements, not three waters changes

# Parallel Conversation

**There is a parallel opportunity for the local government sector to partner with the Government to ensure the sector is better positioned to expand their role in delivering community wellbeing.**

- The Government is acutely aware of the significance of the proposed reform programme for the roles and functions of local government in supporting community wellbeing.
- Over the last year DIA has engaged with local government on how to better promote community wellbeing. We have heard:
  - All parties would need to operate in a different, more seamless and sustainable way;
  - Needs a partnership between local government and central government, iwi, NGOs, and industry to better deliver community-led priorities.

# Proposal

The Government is proposing a programme for reforming three waters service delivery arrangements, which would be delivered in parallel with an economic stimulus package of Crown investment in water infrastructure.

## Economic stimulus package

- \$761m in FY 2020/21.
- Funding provided to territorial authorities who opt-in to a partnership process, before the end of August.
- Funding to be invested in three waters infrastructure that support economic recovery.
- Further tranches will depend on Government decisions and progress against reform objectives.

## Service delivery reform Programme

- A phased, three-year programme to reform three waters services delivery arrangements.
- Supported by joint central/local government steering committee.
- Engagement with sector, Iwi/Māori and stakeholders throughout the programme.



# Reform objectives

**A** Significantly improving safety and quality of drinking water services, and the environmental performance of wastewater and stormwater systems.

**B** Ensuring all New Zealanders have equitable access to affordable three waters services.

**C** Improving resource coordination and unlocking strategic opportunities to consider national infrastructure needs at a larger scale.

**D** Increasing resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards.

**E** Moving three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced by small suppliers and councils.

**F** Improving transparency and accountability in cost and delivery of three waters services, including the ability to benchmark performance of service providers.

# Reform design features

Design features that the **proposed** reform programme should examine, as a minimum:

- A** **Water service delivery entities** that are:
  - **of significant scale** (most likely multi-regional) to enable benefits from aggregation to be achieved over the medium- to long-term;
  - **asset-owning entities** with balance sheet separation, to support improved access to capital, alternative funding instruments and improved balance sheet strength; and
  - **structured as statutory entities** with appropriate and relevant commercial disciplines and competency-based boards.
- B** **Delivery of drinking water and wastewater services as a priority**, with the ability to extend to stormwater service provision only where effective and efficient to do so.
- C** **Publicly owned entities**, with a preference for collective council ownership.
- D** **Mechanisms for enabling iwi /Māori and communities** to provide input in relation to the new entities.

# Approach to aggregation

The potential size of the entities will need to be considered against three principles:

## Scale benefits

Potential to achieve scale benefits from the greater scale of water service delivery to consumers at a multi-regional level to ensure full benefits of scale are achieved through a population/customer base.

## Communities of interest

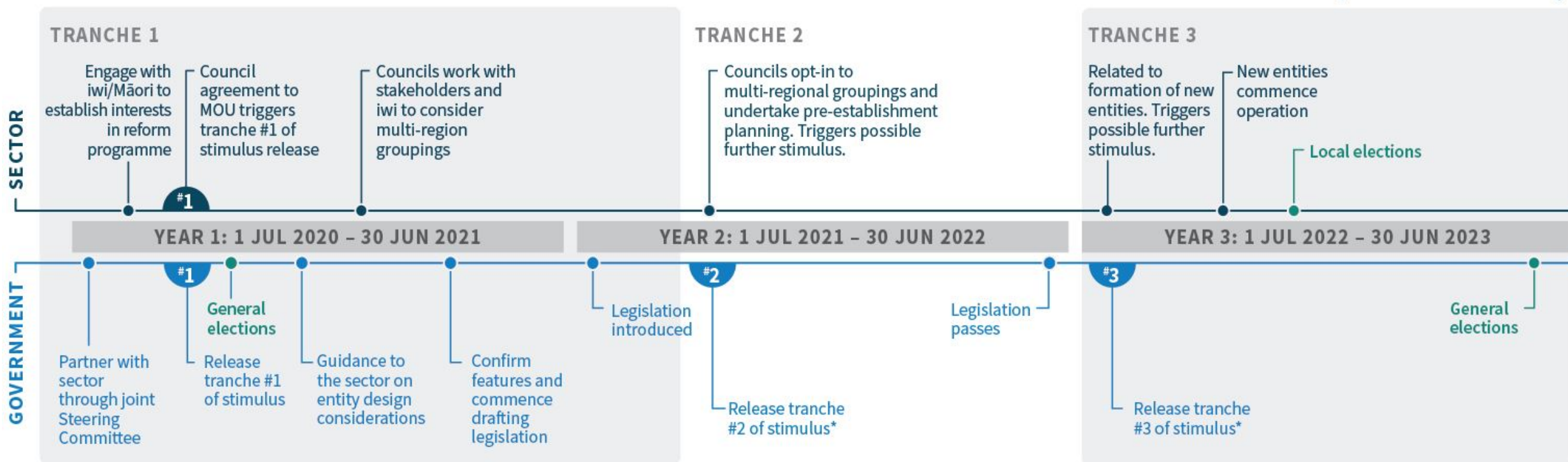
Alignment of geographical boundaries to encompass **natural communities of interest**, belonging and identity including rohe/takiwā.

## Relevant regulatory boundaries

Relationship with **relevant regulatory boundaries** particularly to enable water to be managed from source to the sea.

# Indicative timeline

\* Subject to Government decision-making



# Questions?

# Breakout session

**Let's break into small groups and discuss:**

- 1** What are your thoughts on the proposed minimum design features and reform process?
- 2** What factors do you think the Steering Committee should consider as the reform programme progresses?
- 3** What guidance or support do you think would be helpful?

# Next steps

What **mechanisms and support** will be made available to local authorities to participate in this process?

# Memorandum of understanding

A model agreement developed by the Steering Group for each Council to enter into with the Government:

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Legal opinion commissioned by SOLGM on behalf of the Steering Committee was provided by Simpson Grierson that the MoU **does not** contain any explicit triggers for consultation under the Local Government Act 2002.

## Committed to...

- Engage in the first phase of the reform programme.
- Work with neighbouring councils to consider the creation of large scale entities.
- Principles and objectives of working together with central government.
- Openly share information and analysis undertaken on the state of the three waters asset base and delivery system.

## Does not...

- Legally commit Councils to future phases of the reform programme.
- Require Councils to transfer assets or establish new water entities.
- Exclude participation in later phases – Councils that choose to opt-in later can still do so but will not have access to the initial funding package.



# Funding

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Decision to opt-in to tranche one required no later than the end of August to access initial stimulus funding

1

## **Funding provided to maintain and accelerate three waters infrastructure investment**

- Funding provided as a grant.
- Can be used for Capex and/or Opex.
- Drinking water and wastewater priority.

2

## **Funding allocation to be determined shortly**

- Ministers working to confirm this shortly.

3

## **Planning implications**

- Likely focus on renewals and bringing forward of BAU capital works programme.

# Funding Agreement

Mechanisms for accessing the Government funding package:

## Funding Agreement

- Standard-form agreement between Crown and local authorities.
- Guides the release and use of funding.
- Grant funding.
- Sets out:
  - Funding amount.
  - Funding conditions.
  - Public Finance Act/ public accountability requirements.
  - Reporting obligations.

# Delivery Plan

**Potential**  
mechanism for  
accessing the  
Government  
funding package:

## Potential Delivery Plan

- Short-form template submitted to Crown Infrastructure Partners for review and monitoring.
- Show that funding is applied to operating or capital expenditure that supports economic recovery and maintains/increases investment in core water infrastructure.
- Sets out:
  - A summary of works.
  - Estimated cost.
  - Location of the physical works.
  - Number of people employed in the works.
  - Reporting arrangements.
  - Assessment of how it supports the stimulus objectives.
  - Expected benefits/outcomes.

# What are we inviting local authorities to do before August?

**Consider whether you will opt-in to a partnership process with the Government to:**

- Explore and design a pathway for reforming three waters service delivery arrangements in a way that will be beneficial for your communities.
- Secure an initial release of funding to stimulate economic recovery and maintain, increase or accelerate planned investment in three waters infrastructure.

**NOTE: Decisions required no later than the 31 August to access initial stimulus funding.**

# Next Steps

## Upcoming Future Engagement

- Updated FAQs and guidance material following workshops (ongoing)
- Webinar with CEs and Water Managers (early August)
- Webinar for Legal and CFOs (early August)
- Iwi/Māori engagement, in conjunction with Taumata Arowai (September/October)
- Steering Committee communications and updates (ongoing)
- Policy and Commercial discussions (post August)

# Questions?

# Breakout session

**Let's break into small groups and discuss:**

- 1** What are your thoughts about the proposed MoU/Funding Agreement and Delivery Plan?
- 2** What further advice or information would your Council require to consider opting in to tranche one?
- 3** What guidance or support do you think would be helpful?

# Ngā mihi Thank you

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Webpage: <https://www.dia.govt.nz/Three-Waters-Reform-Programme>

Email: [3waterssteeringgroup@dia.govt.nz](mailto:3waterssteeringgroup@dia.govt.nz)



**Te Tari Taiwhenua**  
**Internal Affairs**

**We are.**  
**LGNZ.**  
Te Kāhui Kaunihera o Aotearoa.

 **SOLGM**  
New Zealand Society of  
Local Government Managers



# **Isovist demonstration**

**Meeting:** Council Briefing  
**Date of meeting:** 05 August 2020  
**Reporting officer:** Michael Juer, Digital Services Project Manager

## **Purpose/Ngā whāinga**

To demonstrate the new Online District Plan system. This is an output of the Isovist IT project.

## **Discussion/Ngā kōrerorero**

This is an update following the December 2019 Council Briefing when a report was provided on the IT project programme and in particular the Isovist project.

## **Next steps/E whaiake nei**

The next steps are to promote this online tool on the Council website for use by our ratepayers and planning professionals.



# Northland to Auckland Urban Growth Partnership

**Meeting:** Council Briefing  
**Date of meeting:** 05 August 2020  
**Reporting officer:** Jim Sephton, GM Infrastructure Services

## Purpose/Ngā whāinga

To provide Elected Members with an understanding of the proposed Urban Growth Partnership for the Northland to Auckland Corridor and gauge their support for this initiative.

## Context/Horopaki

The Government's Urban Growth Partnership programme aims to build enduring growth management partnerships between local government, central government and iwi. The partnerships would typically align themselves around a joint high-level spatial plan and a small programme of key transformative programmes.

The purpose of the partnerships is to appropriately align, integrate and coordinate the respective services and investments between the parties; to address urban growth challenges together; and to seize opportunities as they may arise. Ministers represent central government on the partnership governance level.

Working closely with key agencies such as NZTA/Waka Kotahi, Kāinga Ora, Treasury, DIA and Ministry of Transport, the Ministry of Housing and Urban Development (MHUD) has played a pivotal role in the creation of five programmes to date:

- Auckland-Hamilton Corridor, including the Hamilton-Waikato metropolitan area
- Auckland
- Tauranga – Western Bay of Plenty metropolitan area
- Wellington – Horowhenua region
- Queenstown Lakes area.

The Northland – Auckland Corridor has been identified as an area which would benefit from this partnership approach.

Whilst both KDC and WDC are in the process of completing spatial plans, the opportunity is to aggregate the work and create a partnership with Iwi and Crown to oversee the development and implementation of a joint plan.

## Discussion/Ngā kōrerorero

Ernst Zollner (Kaiaki, Place-based Policy & Programmes) will present an overview of the proposed approach and feedback from Elected Members on their support will be sought.

## Attachment/Ngā tapiritanga

	Title
A	MHUD Presentation



# URBAN GROWTH PARTNERSHIPS

Kaipara District Council, 5 August 2020

## **A. Background**

1. The national Urban Growth Agenda (UGA)
2. The national Urban Growth Partnership programme
3. The 3P (Partnership-Plan-Programme) approach

## **B. Northland-Auckland Corridor: possible options and relevant examples**

4. Growth Management Partnership
5. Joint Spatial Planning – *building on existing spatial planning*
6. Joint Urban Growth Programme

# Background

# 1. The Government's Urban Growth Agenda

Designed to create the conditions for the market to respond to growth, bring down the high cost of urban land to improve housing affordability and support thriving communities.

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To increase **protection** of what we value most

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To **improve access** to jobs, study, recreation - and create opportunities for businesses to grow

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To **increase housing choice and affordability** (relative to incomes) of renting and buying

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To **improve the resilience** of communities to natural hazards and changes in technology

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The five pillars of work:

Infrastructure  
funding and  
financing

Urban  
planning

Legislative  
reform

Transport  
pricing

Urban growth  
partnerships  
incl. **Spatial  
Planning**

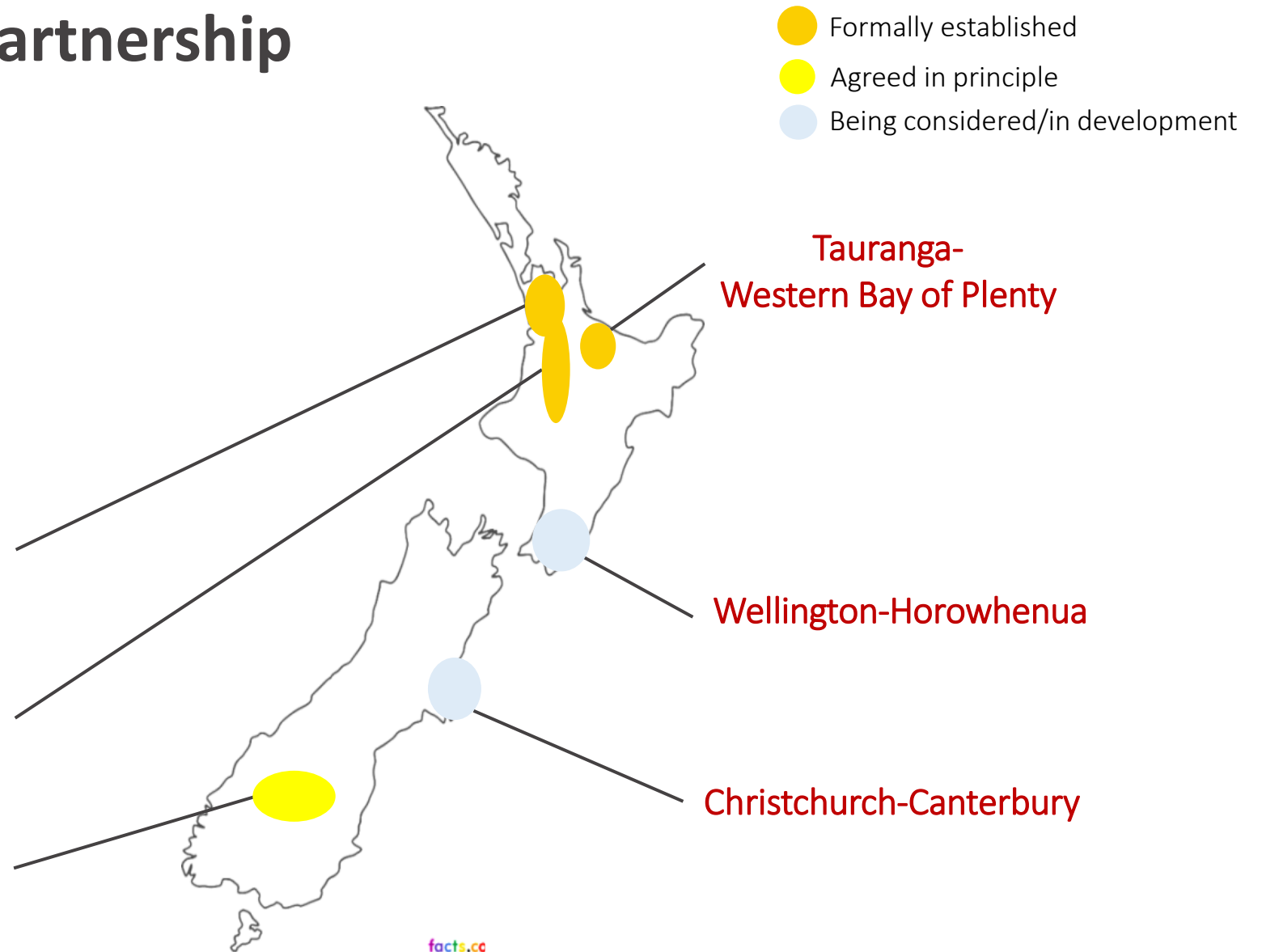
## 2. The Urban Growth Partnership programme

We are initially focusing on partnering with the six larger regions that are experiencing significant growth pressures and who want to work alongside central government in helping address the challenges and opportunities from that growth.

**Auckland**  
(Crown, Auckland Council)

**Hamilton-Auckland Corridor**  
(Crown, Iwi, Waipa District, Hamilton City, Waikato District, Auckland Council, Franklin Local Board, Waikato Regional Council)

**Queenstown Lakes-Central Otago**





### 3. The approach

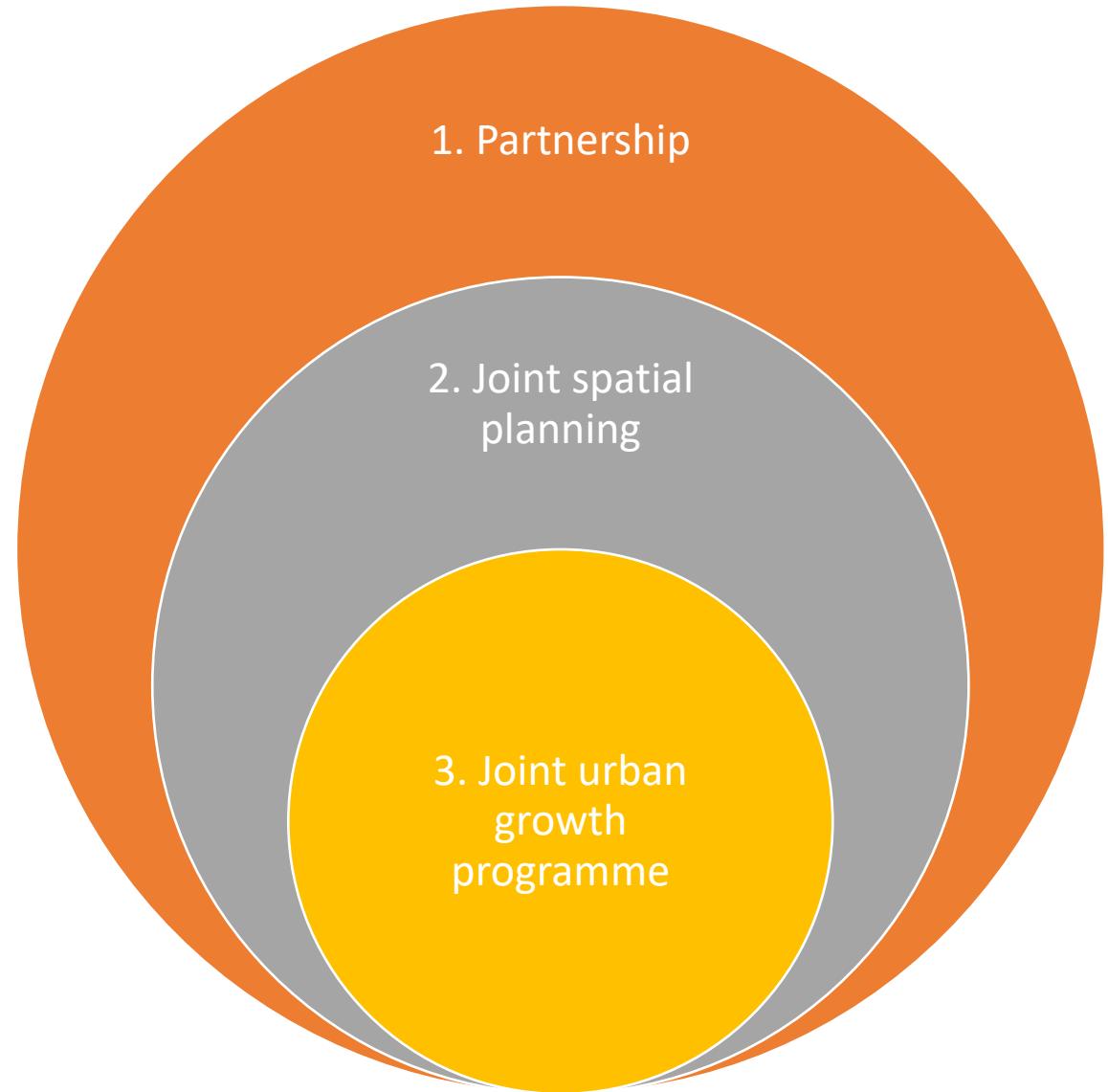
#### *The three-part structure*

Each partnership has three core components:

1. The enduring growth management **partnership** which develops plans and programmes and also respond to issues and opportunities as they arise
2. A joint spatial **plan** - signed off by all - which outlines how and where the region will grow over 50+ years
3. A “rolling” 30-year **programme** of key short medium and long-term transformational initiatives that are not BAU - and require new ways of working together

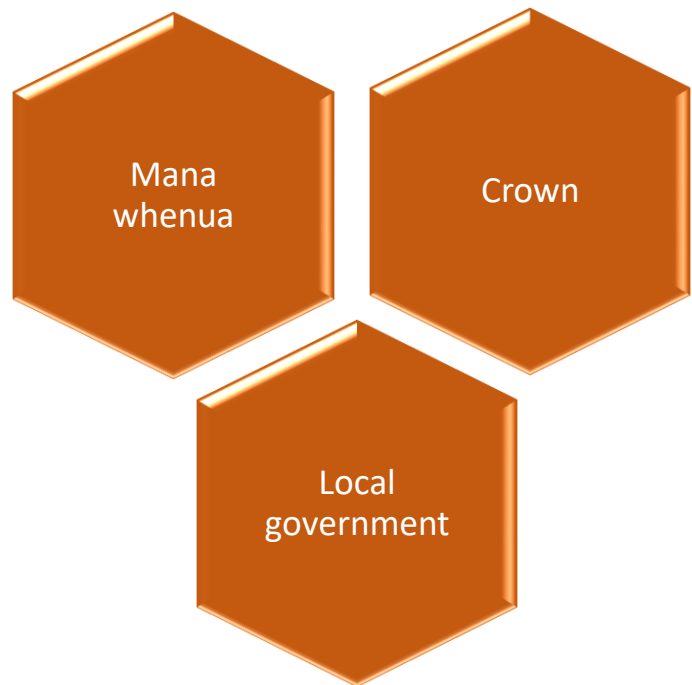


# Options for going forward

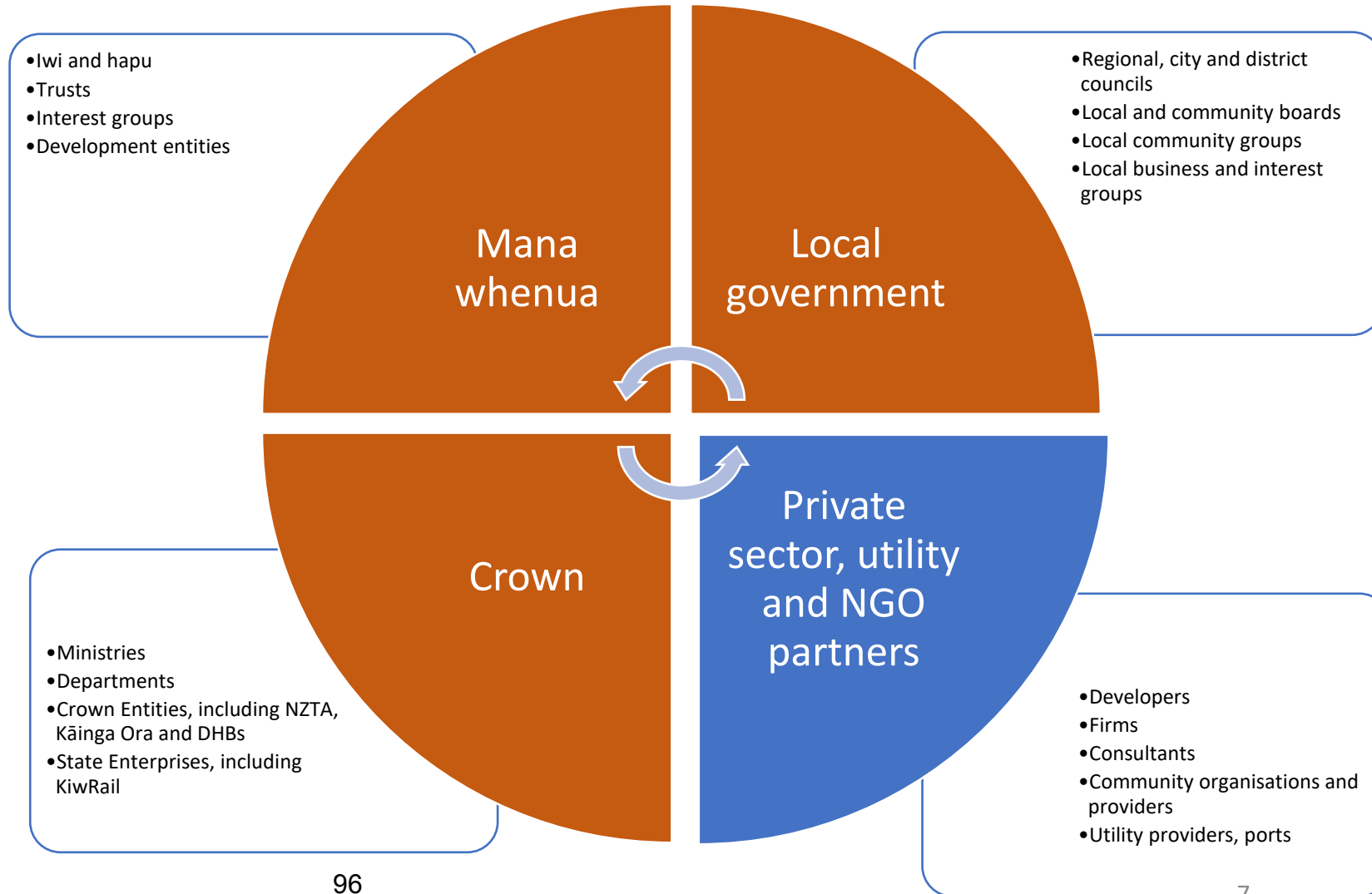


## 4. Growth Management Partnership

### *The national approach*



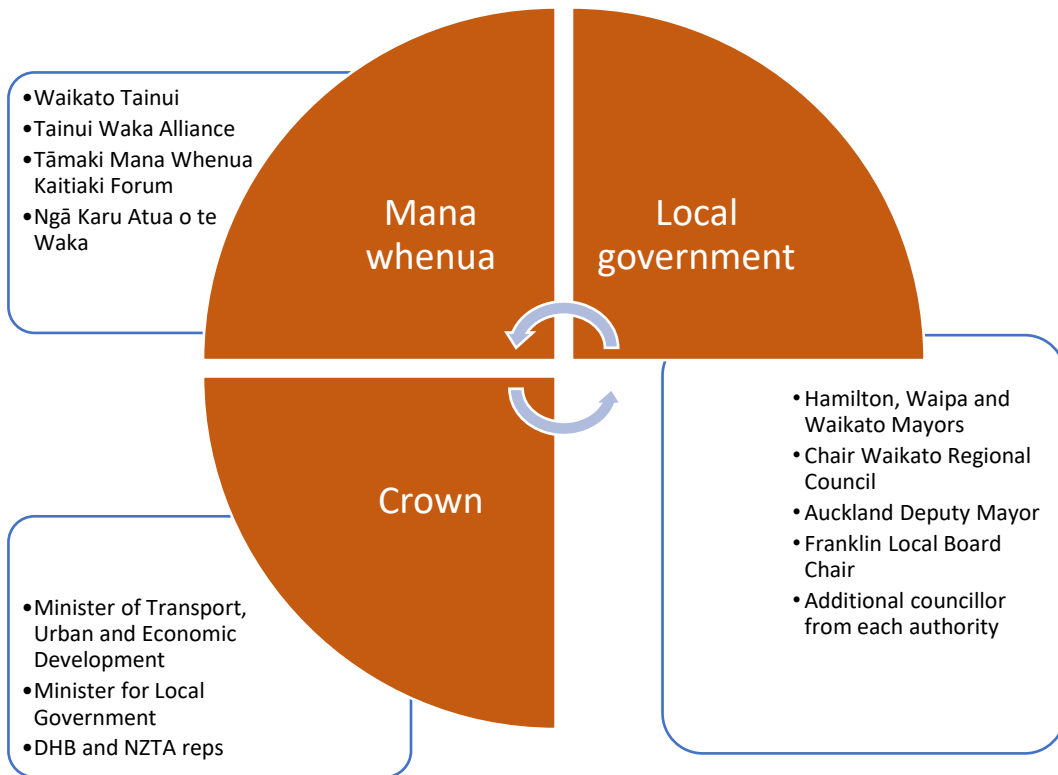
Ministerial expectation of the core structure of each partnership



## 4. Growth Management Partnership

### *Relevant example*

#### Hamilton-Auckland Corridor



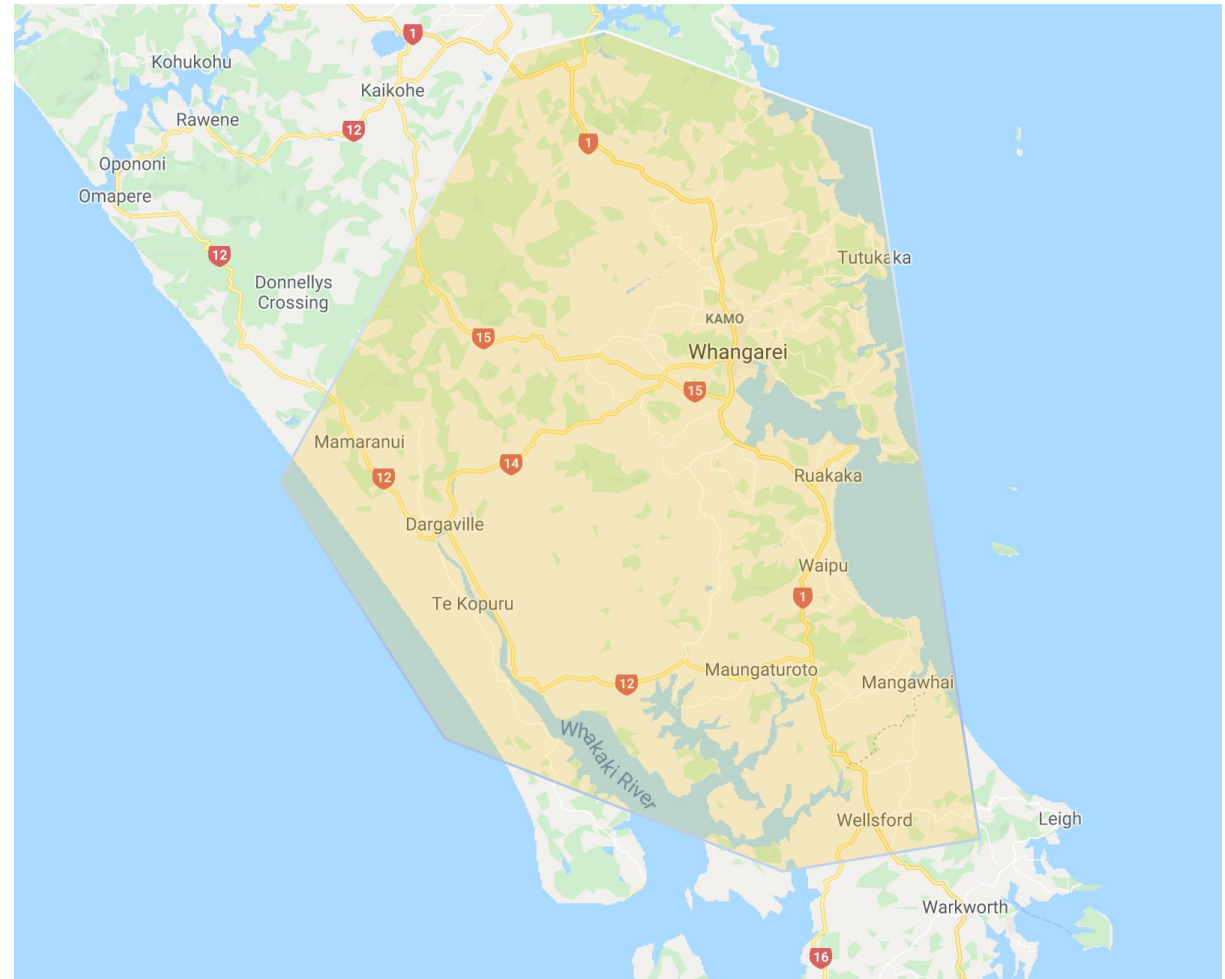
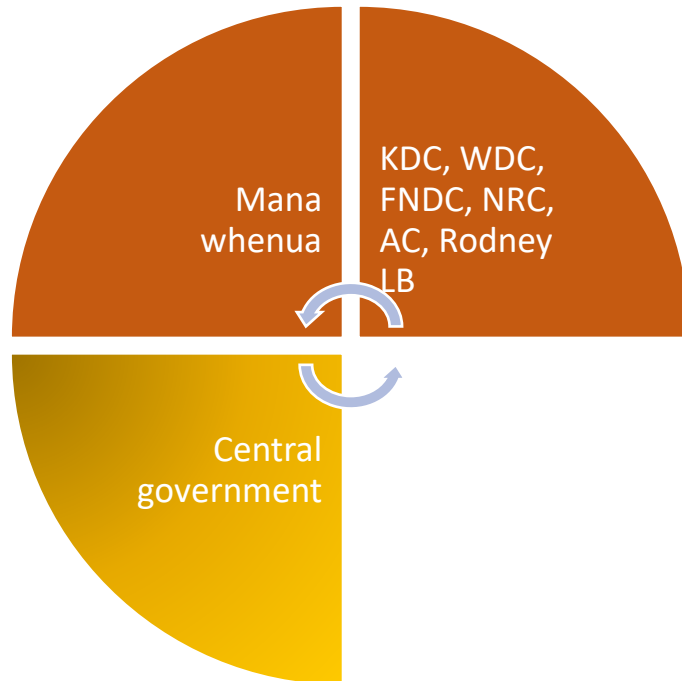
Practical implications of the Crown formally joining a possible new partnership (building on NZTA and other engagement to date)...

1. The Crown would contribute to relevant admin costs
  2. Ministerial participation in governance meetings
  3. Central government officials participating in the regular executive and technical meetings - with the core group likely to be drawn from NZTA, HUD, Kāinga Ora, Treasury, MoT and DIA [TBC]
  4. Central government agencies contributing staff and budget resources to agreed joint initiatives.
- (Its not about \$ in the furst instance)

## 4. Growth Management Partnership

### *The Northland-Auckland Corridor option?*

Who could be involved?



# 5. Joint Spatial Plan

*The emerging national approach*

**What  
is the current  
context &  
performance?**

## Why continue to grow and develop?

**Where  
to  
successfully  
grow and  
develop?**

## How to successfully grow and develop?

## 1. Context, Challenges & Opportunities

- Existing context, including urban form and quality
- Key growth management challenges and opportunities
- The need for a spatial plan and the NPS UD requirements

## 2. The Desired Future State

- The assumed growth scenario
- Desired outcomes, objectives and KPIs

### 3. The Spatial Plan

The five core elements, with work-in-progress examples of each shown on the following slides:

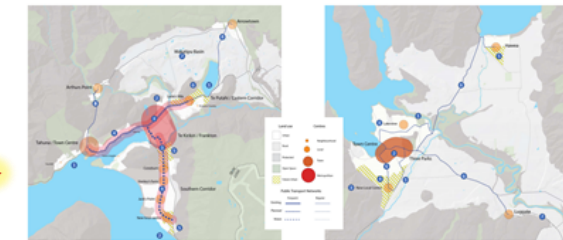
1. Areas to protect in perpetuity (wāhi toitū)
2. Public transport, active mode, road and rail freight networks
3. Blue-green, transport and infrastructure corridors
4. Future urban areas
5. Centres and other key locations

#### 4. The Urban Growth Implementation Programme

- Growth management **principles** e.g. quality place making
- **Priority initiatives** including priority development areas; transport and mode shift; land use policy and planning; funding and financing tools; housing; utility, environmental and social infrastructure and services; and urban growth-related economic development



Summaries of Parts 1 & 2 were provided to UGA Ministers at April 2020 meeting



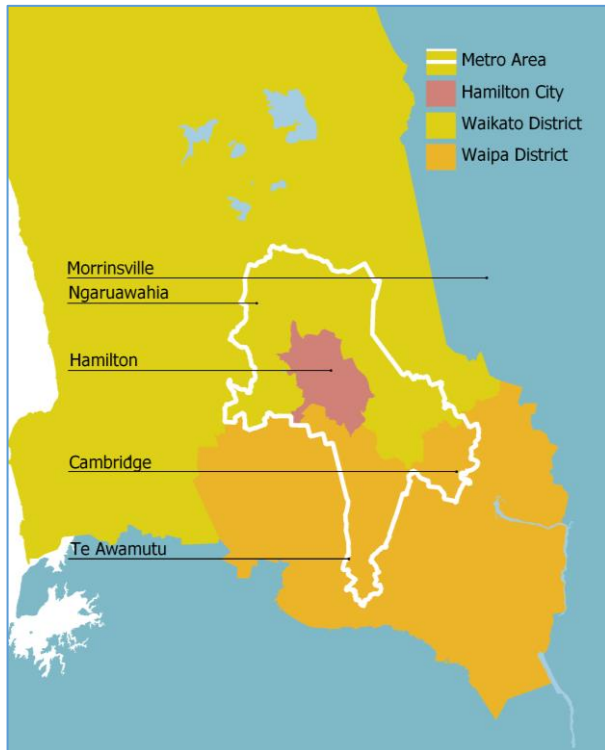
Summaries to be provided to the June  
2020 UGA Ministers meeting



Summaries to be provided to the June  
2020 UGA Ministers meeting



# Hamilton- Waikato Metropolitan Area



[newzealand.govt.nz](http://newzealand.govt.nz)

The new **metropolitan spatial plan** is a revision of the existing non-statutory 30-year Future Proof integrated land use and transport strategy for this metropolitan sub-region. It applies the new UGA framework and longer term (30+ years) outlook and draws on other key documents like RLTP and Waikato Plan. This is the first spatial plan for this area that is jointly developed with the Crown (other than NZTA and the DHB) and builds on well-established Future Proof planning alliances between the four councils and iwi.

## URBAN GROWTH CONTEXT

Size (hectares)	<b>76,515</b>
Population (2018)	<b>212,949</b>
% Māori	<b>23.69%</b>
% 65+	<b>11.75%</b>
Median age	<b>32.2</b>
GDP/capita (2018)	<b>\$64,059</b>
Deprivation index (10 highest)	<b>6.1</b>
Median dwelling price (2019)	<b>\$542,000</b>
Population growth (average last 5 years)	<b>2.44%</b>
Population growth (average last 20 years)	<b>1.84%</b>

## GROWTH MANAGEMENT PERFORMANCE

<b>Housing affordability</b>	Mean dwelling price / Mean household income...	<b>5.2</b>
<b>Housing choice</b>	% 1 and 2-bedroom dwellings...	<b>22%</b>
<b>Transport choice</b>	Public transport's share of trips (2014-18)...	<b>1%</b>
<b>Access to opportunities</b>	Estimated % of HH <30 mins travel to work or study...	<b>70%</b>
<b>Climate change</b>	Transport's estimated share of CO2 emissions...	<b>53%</b>

The Plan will show how a possible future population of **500,000** can be **successfully** accommodated...

... which is slightly more than **double** the current population. If the metro area keeps growing at the average of the last 20 years, then this scenario could become reality in around **45-50 years**.

## SPATIAL PLAN OBJECTIVES

- To improve housing affordability, underpinned by affordable urban land**
- To improve choices for the location and type of housing
- To improve access to employment, education and services**
- To assist emission reductions and build climate resilience
- To enable quality-built environments, while avoiding unnecessary urban sprawl.**

## KEY CHALLENGES

SET BY THE PARTNERSHIP FOR THE SPATIAL PLAN TO ADDRESS

**The metro area is the third least affordable housing market in NZ and infrastructure is limiting future land supply capacity**

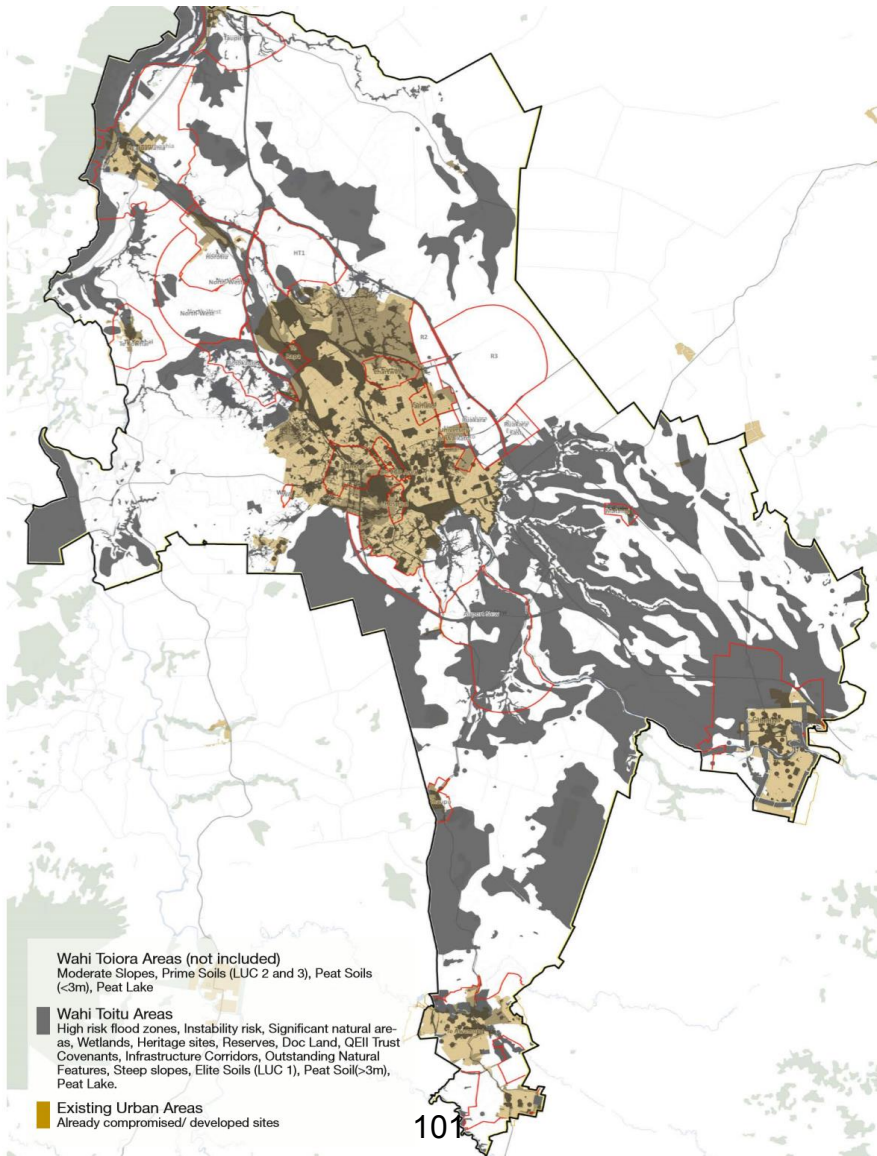
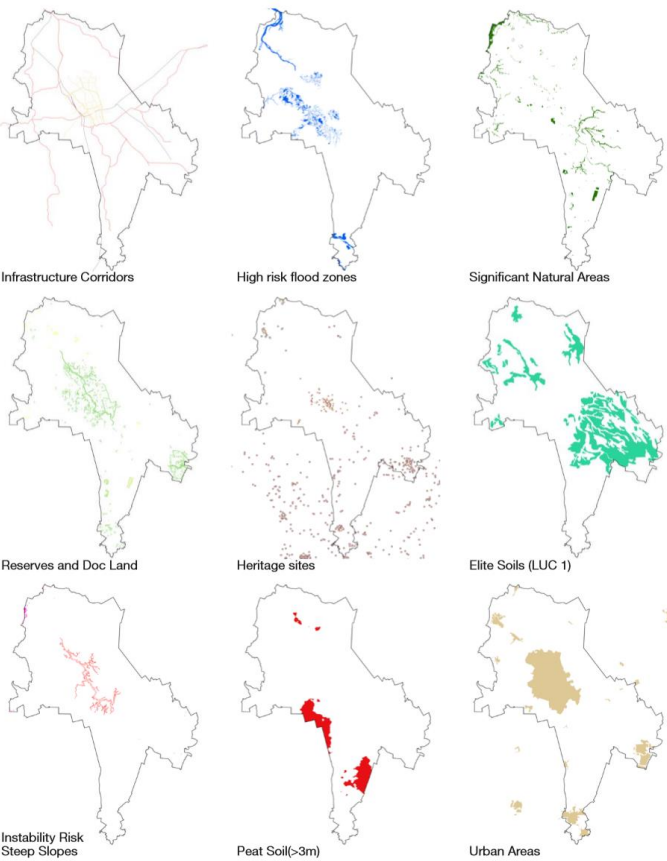
The transport system is not performing as it needs to be with NZ's highest private vehicle dependency and poor safety outcomes for cyclists and pedestrians

**The economy is underperforming with lagging GDP per capita growth, high income disparities and low labour productivity levels**

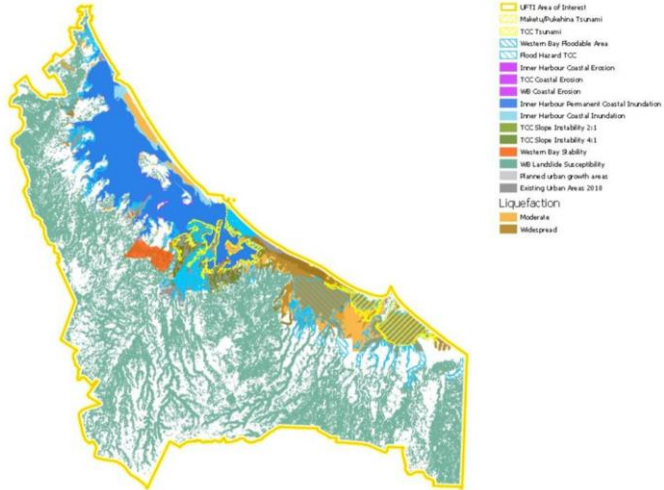
The Waikato River is significantly degraded and valued ecological resources are being depleted.

To ensure we protect what we value most each plan rigorously identifies spatial constraints and hazards and seeks to avoid or moderate any future development in relation to these

**EXAMPLE:**  
**Hamilton-Waikato metropolitan area**  
Constraints and hazards maps (refer examples below) are overlaid to define the *wāhi toitū* or ‘no go’ areas (refer to the map on the right) that will be signalled for long term protection from urban development



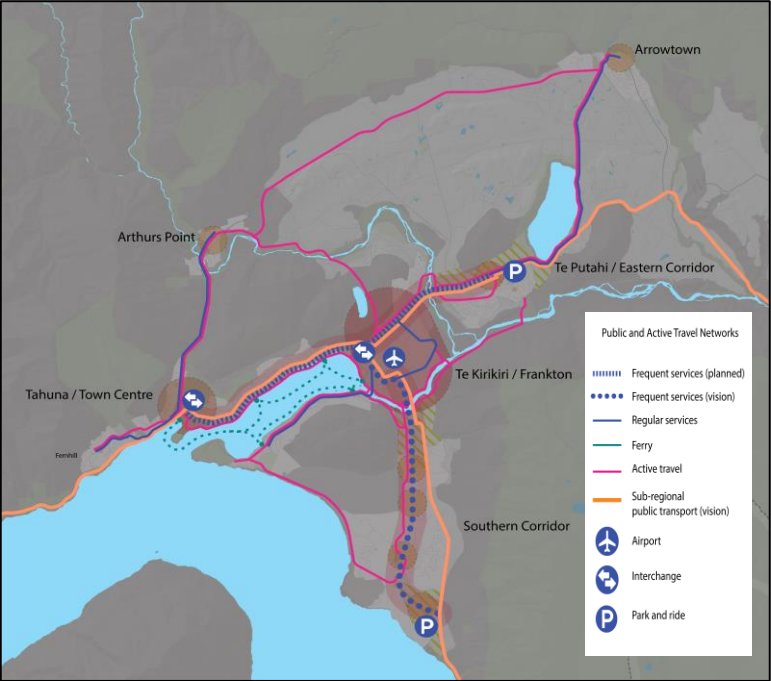
**EXAMPLE:**  
**Tauranga-Western Bay metro area**  
As in Hamilton-Waikato, GIS analysis was used to define constraints and higher risk areas; below is an example of the key natural hazard assessment





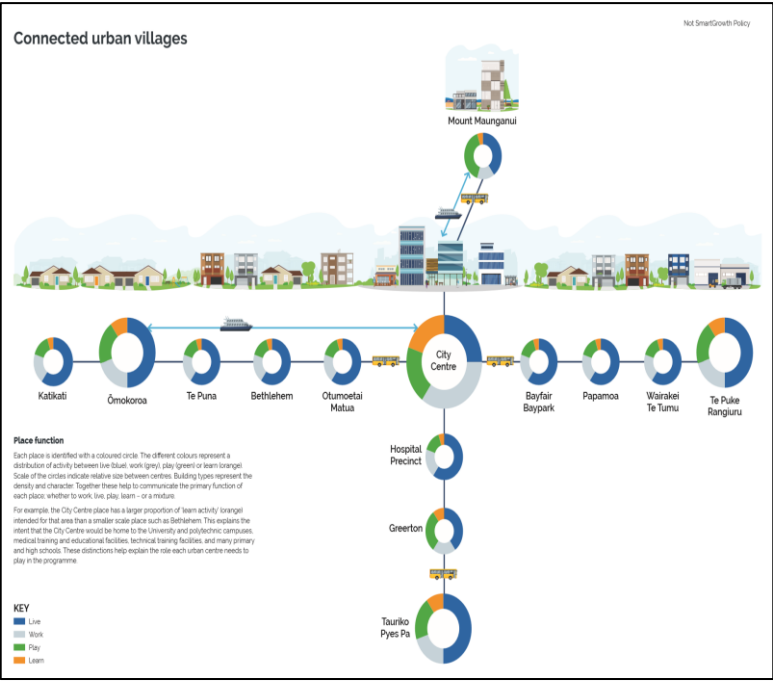
To achieve the required transformational change each plan has at its core a new or strengthened transport networks

**EXAMPLE:**  
**Queenstown Lakes area**  
*A proposed new frequent public transport ‘spine’ will connect the key current and future planned urban areas*



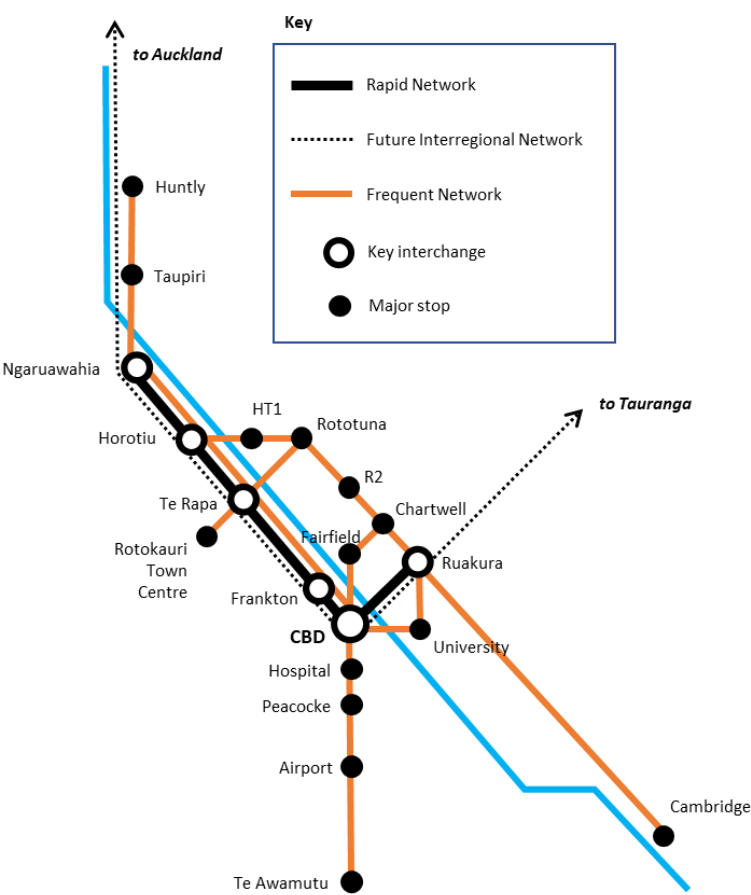
**KEY PRINCIPLE: Transit-orientated development only**  
In the four emerging spatial plans future employment and housing *at scale* - and key tertiary facilities and other high trip generating activities - are located on significantly enhanced rapid and/or frequent public transport ‘spines’.

**EXAMPLE:**  
**Tauranga-Western Bay metro area**  
*A proposed new X-shaped frequent public transport network will connect all major existing and planned future growth areas*



**KEY PRINCIPLE: Fully integrated networks**  
In each area the proposed public transport networks are supplemented and fully integrated with the strategic active mode, roading and rail freight networks (where present).

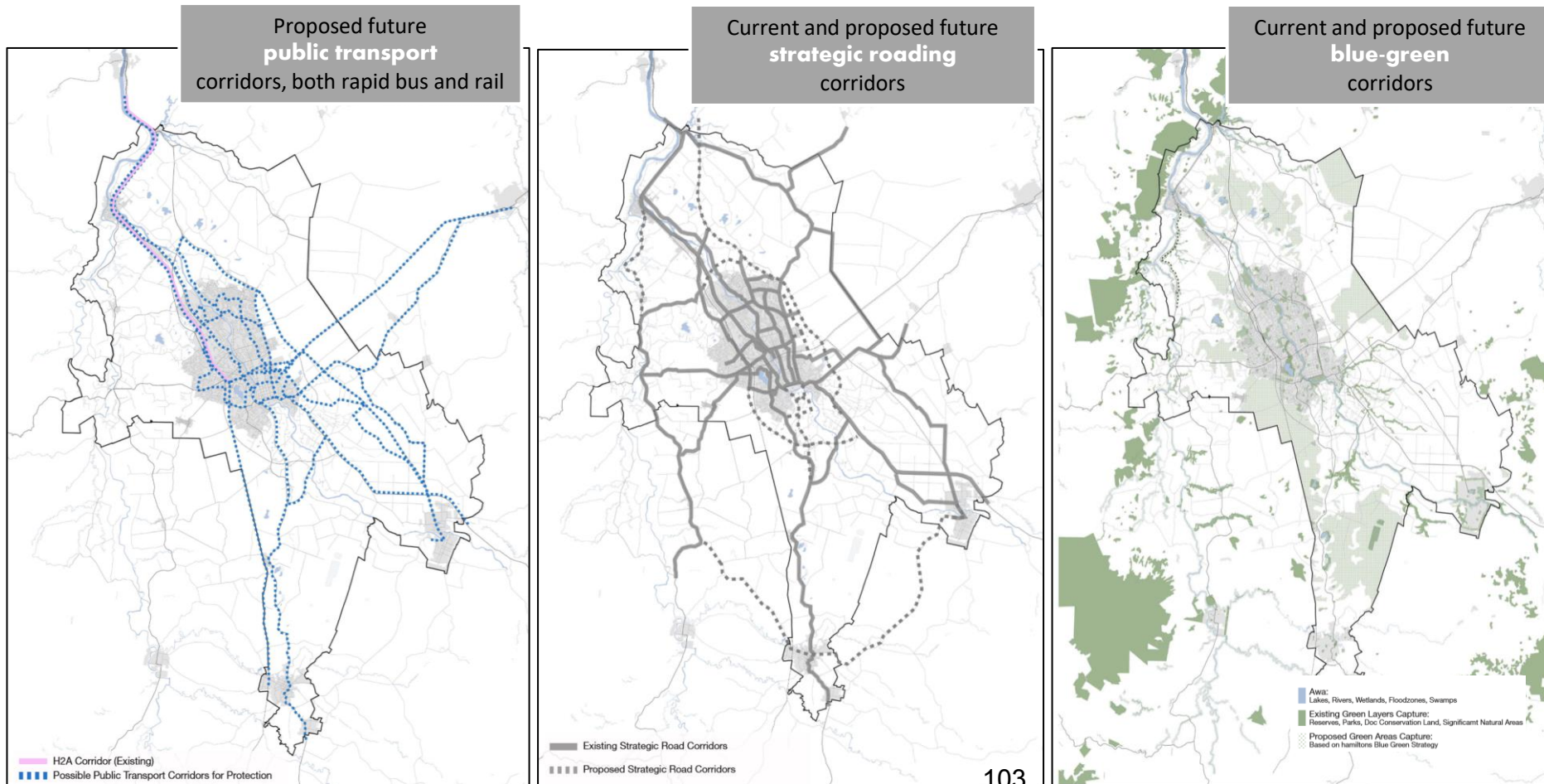
**EXAMPLE:**  
**Hamilton-Waikato metro area**  
*An extensive proposed new rapid and frequent public transport network will connect all current centres and planned future urban growth areas*



# To successfully grow *well-structured and cost-effective areas* each plan identifies and seeks to protect the critical transport and blue-green corridors that may be required over the long term

## EXAMPLES:

Hamilton-Waikato Metropolitan area



## KEY PRINCIPLE:

***Take a (very) long view - and protect it***

The need to identify and protect future urban transport and green corridors that are likely - or might be - required over the long term is a key lesson from our urban planning history.

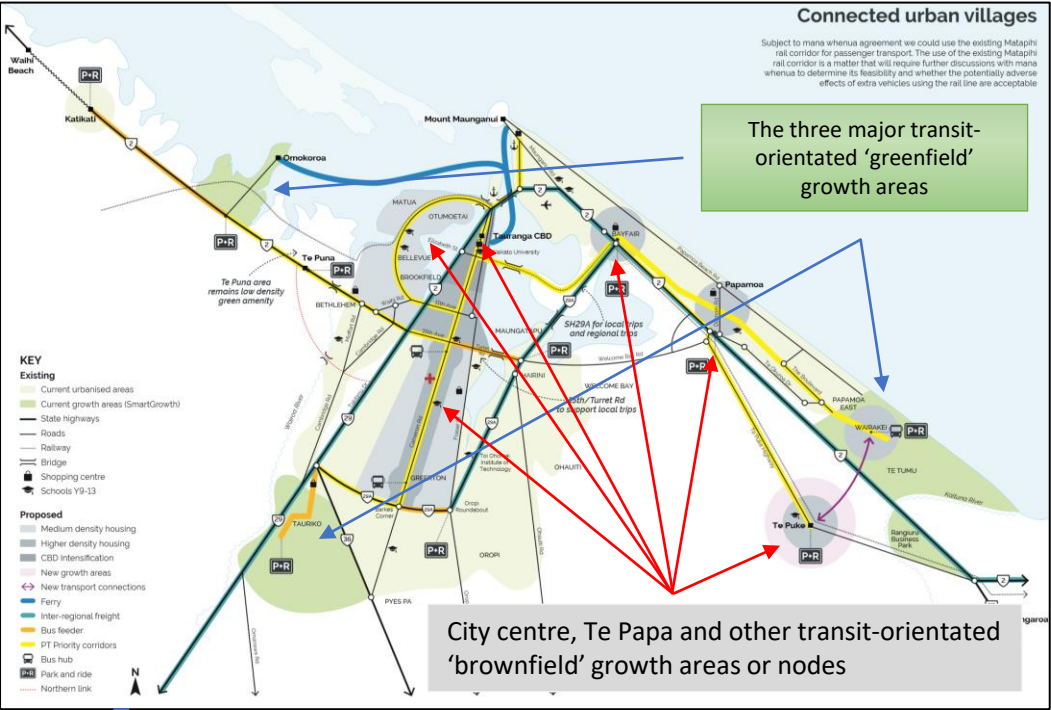
## COMMON CHALLENGE:

***Protecting corridors and sites that may be required in the longer term***

Under current legislation and funding requirements the protection of corridors and sites that may be required to successfully guide and support urban development in the future remains a slow, cumbersome and expensive undertaking. More agile and cost-effective options will be explored to ensure that longer term options are not forfeited.

To enable competitive land markets each plan sets out a range of appropriate future growth opportunities through both urban intensification and expansion

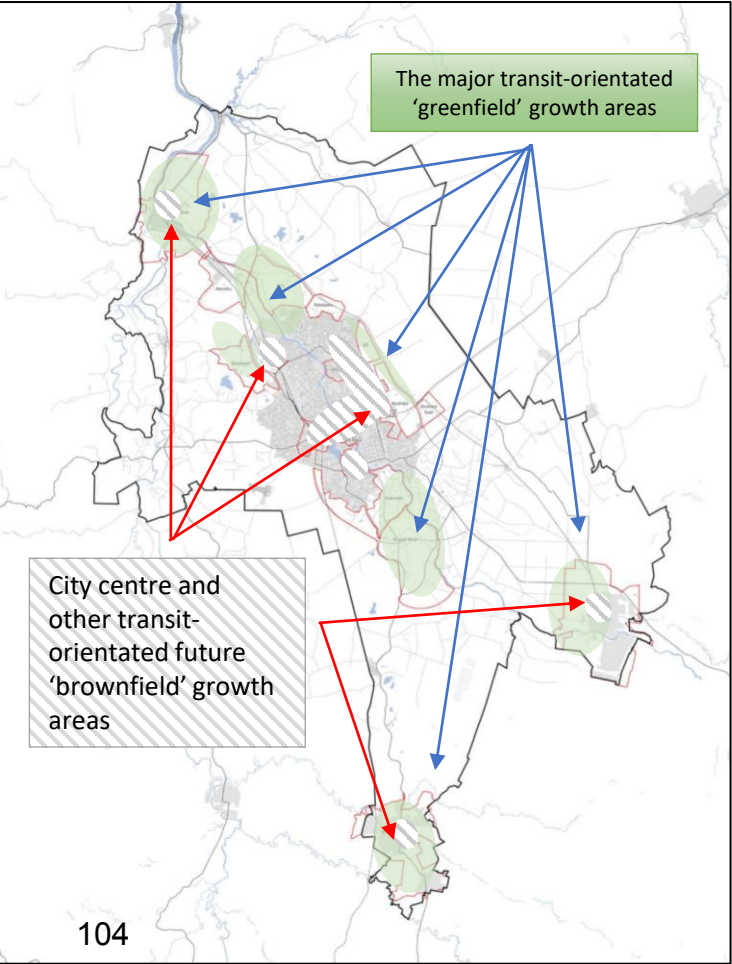
EXAMPLE:  
Tauranga-Western Bay Metropolitan area



The Tauranga-Western Bay metro plan will set out where and how a possible future population of **400,000** could be successfully accommodated, which at the average growth rate of the last 20 years would be in around 30-35 years.

The Hamilton-Waikato metro plan will set out where and how a possible future population of **500,000** could be successfully accommodated, which at the average growth rate of the last 20 years would be in 45-50 years.

EXAMPLE:  
Hamilton-Waikato Metropolitan area



KEY PRINCIPLE:  
OFFERING A WIDE RANGE OF  
HOUSING AND BUSINESS  
CHOICES IS CRITICAL

Each spatial plan identifies a wide range of housing and commercial development opportunities, both in terms of location and type.

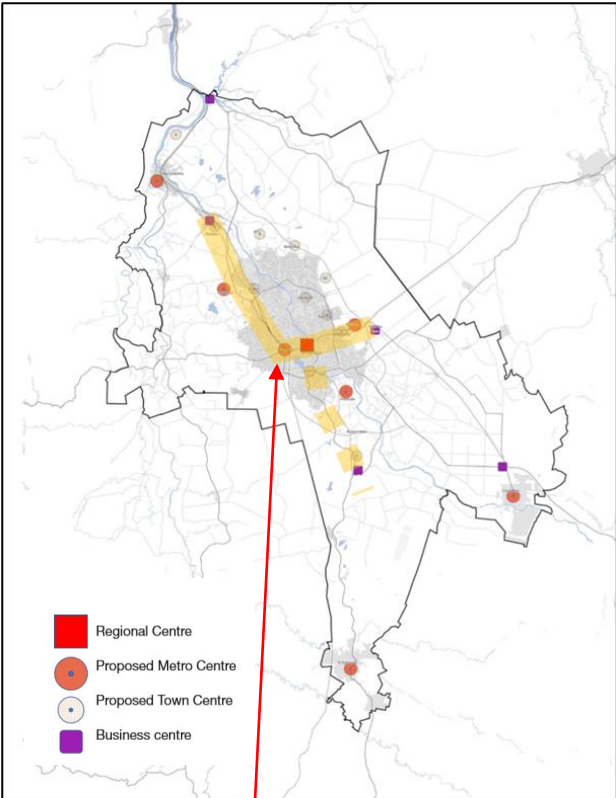
Each of the proposed future growth areas is transit-orientated and 'master planned' to ensure high urban design and environmental standards, including highly connected communities. The proposed 'greenfield' opportunities are typically mixed-used neighbourhoods with compact centres.

To create competitive land markets, these planned-for growth opportunities will be enabled at the required pace and scale through lead investment in priority areas, or by allowing the private sector to provide the required infrastructure through alternative funding and financing tools, if and where appropriate.

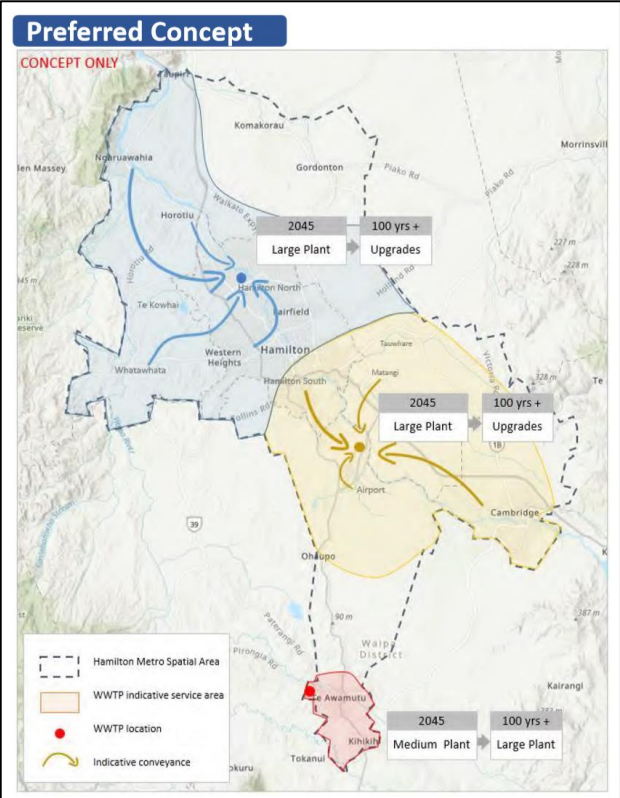


To successfully manage future growth at the required pace and scale each plan is underpinned by a proposed programme of key lead and enabling initiatives including economic development

EXAMPLES:  
Hamilton-Waikato Metropolitan area



In addition to **key centres**, the plan identifies and promotes a core metropolitan **economic corridor** that ties the three ports together and aims to intensify employment, business and tertiary activities along the proposed rapid transit 'spine'.



One of the critical enablers for future growth is **improved and additional wastewater treatment capacity**. A strategic case for a preferred option has been completed to both inform urban growth option evaluation and business case development.

EXAMPLE:  
Tauranga-Western Bay metro area



The plan sets out the core functions of each centre, as shown here for the Mt Manganui-Tauriko corridor. In addition to advanced business services the City Centre is the envisaged 'home' for the region's tertiary educational, recreation and cultural facilities - as well as a sizeable residential population.

KEY PRINCIPLE:  
**DRAW ALL THE SPATIAL 'KEY MOVES' TOGETHER**

The plans spatially integrate all planned or envisaged the large-scale housing, business land, transport, open space and tertiary (or large trip-generating) facility developments.

SHARED PURPOSE:  
**SUCCESSFULLY 'GIVING EFFECT' TO SPATIAL PLANS**

Successful implementation of each plan will typically require strong partnerships, regulatory changes, 'lead' transport investments and mode shift plans, three waters capacity improvements, economic development initiatives and new funding and delivery models, including incentives such as IFF.

These are all key elements of the respective urban growth programmes that will be presented at the June UGA Ministers meeting.

## 6. Joint Urban Growth Programmes

### *The emerging national approach*

The existing Auckland, Tauranga-Western Bay and the Hamilton-Auckland Corridor urban growth partnerships are progressing joint transport, land use and associated infrastructure initiatives that were signed off by Cabinet, Councils and iwi.

These joint programmes are not a replacement for the LTPs, RTP etc. but instead a rolling 'executive summary' of key **transformative** urban growth initiatives that are...

1. Critical to give effect to the spatial plan
2. Particularly complex and/or challenging i.e. not BAU
3. Not possible for any partner to deliver on their own

Core elements	Possible inclusions
Priority development areas	Key housing and utility infrastructure initiatives
Key transport initiatives	Urban growth-related environmental & blue-green initiatives
Land use planning & financing initiatives	Urban growth-related jobs and skills initiatives

# 6. Joint Urban Growth Programmes

## Examples to date

### Auckland Joint Housing & Urban Growth Programme



### Hamilton-Auckland Corridor Programme

