

LOCAL WATER DONE WELL REFORM UPDATE

Additional Information

Strategy and Policy Committee Meeting Agenda

30 July 2024

Introduction

- This presentation summarises the key points about the Local Water Done Well legislation that are set out in the Report [5.1 Local Water Done Well Update](#) and provides an update on the changes to the Bill recommended by the Select Committee Report. **Changes are shown in blue.**
- The Select Committee Reported back on 18 July as scheduled.
- Second Reading of the Bill started on Thursday 25th July and was adjourned to resume in the afternoon of Tuesday 30th July.
- It is expected that the Bill will be passed in 'early August' and the 12 month deadline will then start to develop a Water Services Delivery Plan. Further guidance will be issued by the DIA shortly afterwards.

Select Committee Report – Key Takeaways

1. No extension to the 12 month deadline to produce a WSDP
2. Most significant changes relate to expansion of powers of Minister or Secretary, or expansion of requirements in relation to WSDP etc.
3. Nothing about ‘financial sustainability’ and ring-fencing; The Committee notes the DIA will be providing further guidance on Plans, which is expected to encompass this.
4. A lot of ‘clarification’ and ‘making explicit’ the intention of clauses, and changes to definitions.
5. Adopted change to Taumata Arowai hierarchy without any changes.

Key features of the Bill

- Legislates for the arrangements relating to Watercare
- Introduces a Water Services CCO (WS-CCO)
- Water Services Delivery Plans - content, process to develop, submit, and Gov approval
- More detail on when a 'Crown Facilitator' or 'Water Services Specialist' might be appointed and their powers
- Streamlined consultation process if proposing to establish a WS-CCO or enter joint arrangement under the Local Government Act.
- Information disclosures to inform development of Economic Regulations if the Minister believes the relevant council holds, can prepare, or can produce information.'
- Powers to make rules, particularly in relation to WSDP, but must be made within 3 months of the Bill's commencement
- Financial Sustainability is defined... insufficiently?
- Levy-making powers to recover the costs of the Commerce Commission from the providers of Water Services. (ie. Councils or whatever arrangement they enter.)

What's a Water Service Delivery Plan (WSDP)?

- **One off plan** – public demonstration of commitment to:
 - Financial sustainability
 - Meet relevant current **and anticipated future** regulatory quality standards for all 3 networks
 - Meet drinking water quality services
 - Supports TA's housing growth and urban development objectives.
- **Minimum life of ten years, can be up to 30 years if that helps identify future investment requirements or to support future housing growth and urban development.**
- A 'prompt' to consider service delivery options, especially joint options
- Not a section 17A service delivery review. Not an LTP.
- Adopted version submitted to the Secretary for Local Government (within 12 months of Bill's enactment) to consider if compliant with the requirement of the Bill.
- Secretary will have powers to make rules to specify addition info in WSDP **for three months after Bill passes.**
- Extensions available if meet certain criteria – related to joint arrangements
- **Amendments to submitted WSDP can be required by Secretary, or TA's can amend and re-submit an accepted plan if there are significant changes to the proposed model or arrangements for delivering water services; this must be done with 18 months of the Bill passing.**

What's in a WSDP? – 1/2

- a) a description of the current state of the water services network:
- b) a description of the current levels of service relating to water services provided:
- c) a description of:
 - i. (i) the areas in the district that receive water services (including a description of any areas in the district that do not receive water services); and
 - ii.(ii) the water services infrastructure associated with providing for population growth and development capacity:
- d) whether and to what extent water services
 - i. comply with current regulatory requirements:
 - ii. will comply with any anticipated future regulatory requirements:
 - (da) if any water services do not comply with current regulatory requirements or will not comply with any anticipated future regulatory requirements:
- (i) a description of the non-compliance; and
- (ii) a description of how the anticipated or proposed model or arrangements provided under paragraph (j) will assist to ensure water services will comply:
- e) details of the capital and operational expenditure required—
 - i. to deliver the water services; and
 - ii. to ensure that water services comply with regulatory requirements:
- f) financial projections for delivering water services over the period covered by the plan, including—
 - i. the operating costs and revenue required to deliver water services; and
 - ii. projected capital expenditure on water services infrastructure; and
 - iii. projected borrowing to deliver water services:
- g) an assessment of the current condition, lifespan, and value of the water services networks:

What's in a WSDP? – 2/2

- h) a description of the asset management approach being used, including capital, maintenance, and operational programmes for delivering water services:
 - i) a description of any issues, constraints, and risks that impact on delivering water services:
 - j) the **anticipated** or **proposed** model or arrangements for delivering water services (including whether the territorial authority is **likely** to enter into a joint arrangement under section 9 or will continue to deliver water services in its district alone):
 - k) an explanation of how the revenue from, and delivery of, water services will be separated from the territorial authority's other functions and activities:
 - l) a summary of any consultation undertaken as part of developing the information required to be included in the plan under paragraphs (j) and (k):
 - m) an explanation of what the authority proposes to do to ensure that the delivery of water services will be financially sustainable by 30 June 2028:
 - (ma) an implementation plan—
 - i. for delivering the proposed model or arrangements described under paragraph (j); and
 - ii. if a territorial authority is proposing to deliver water services itself and not as part of a joint arrangement for delivering water services, that sets out the action that the territorial authority will take to ensure its delivery of water services will be financially sustainable by 30 June 2028:
 - n) any other information prescribed in rules made by the Secretary under section 14.

WSDP must have an Implementation Plan:

- must include:
 - a process for delivering the proposed model or arrangements
 - a commitment to give effect to the proposed model or arrangements once the plan is accepted
 - the name of each territorial authority that commits to delivering the proposed model or arrangements (if joint)
 - the time frames and milestones for delivering the proposed model or arrangements.
- Both Individual and Joint WSDP's must have an Implementation Plan
- The Secretary can request information that allows them to monitor compliance with the implementation of the WSDP.

Joint Water Service Delivery Plans

- Two or more LAs may ~~enter into a joint arrangement~~ submit a joint plan if they anticipate or propose delivering water services through a joint arrangement
- Can include all water services, or exclude some or all stormwater services
- A joint SDP must:
 - Identify the territorial authorities that are party to the arrangement
 - The type of arrangement proposed or intended (WSSCO, joint local government arrangement, or joint arrangement under 37 LGA, or some other type)
 - Set out the arrangements for all three waters for each council, even if stormwater is not part of the joint arrangement
- A joint SDP may include more info about the ownership structure, governance structure and control and financial rights of each territorial authority. **But doesn't have to.**

Crown Facilitator and Water Services Specialist

Crown Facilitator

- The Minister can appoint a Crown facilitator if:
 - Requested by a TA or group of TA's
 - a TA or group of TA's is **unlikely** to submit a WSDP
 - **A TA or group of TA's has not implemented its WSDP**
- Role of Crown Facilitator is to:
 - Advise on how to prepare a plan
 - Assist in preparation or amendment of a plan
 - Direct on how to prepare or amend a plan
 - Coordinate negotiations or determine terms of a joint arrangement (requires agreement of TA's to that role)
 - Otherwise assist with compliance with the Act
 - Make a recommendation to the Minister to appoint a Crown Water Services Specialist or take further action under LGA 2002
 - **assist, advise or direct councils in relation to giving effect to the a WSDP**

Water Services Specialist

- The Minister can appoint a Crown Water Services Specialist if:
 - Requested by a TA or group of TA's
 - a TA or group of TA's has **failed** to submit a WSDP, or:
 - has **failed to amend** a WSDP to be compliant
 - **A TA or group of TA's has not implemented its WSDP**
- Role of Crown Water Services Specialist is to:
 - Prepare a plan
 - Direct adoption of a specific plan
 - Direct submission of a specific plan to the Secretary
 - **assist, advise or direct councils in relation to giving effect to the a WSDP**
 - Anything else included in their terms of reference.

The cost will be recovered from the relevant local authorities
Would have to co-operate with Facilitator or Specialist, and
comply with reasonable information requests and reasonable directions.

Engagement

- No new requirements to engage on a WSDP, but do have to consult in line with our Significance and Engagement policy
- Streamlined WSDP consultation provisions if you propose setting up a WS-CCO or a joint arrangement under LGA.
 - Only have to consider two options (Status Quo and WS-CCO)
 - Can do joint consultation if **proposing** joint arrangements

Financial Sustainability and “Ring-fencing”

- Financial sustainability must be achieved by 30 June 2028
- Financial sustainability:
 - “revenue is sufficient to ensure long-term investment in delivering water services” and “financial ability to meet all regulatory standards and requirements”
- WSDP must set out:
 - “an explanation of how the revenue from, and delivery of, water services will be separated from the territorial authority’s other functions and activities**
- As currently drafted: we would only be able to borrow for water against the revenue from water. Currently we borrow against ALL of council’s revenue, including the services that don’t require (much) long-term capital investment.
- No further clarification in Select Committee Report; DIA guidance expected to clarify this.