



# REPORT

**SUBJECT:** Options for management of the Hunterville Rural Water Supply Scheme

**TO:** Hunterville Rural Water Supply Subcommittee

**FROM:** Michael Hodder, Community & Regulatory Services Group Manager

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**FILE:** 6-WS-3-4

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## 1 Background

- 1.1 Section 17A(1) of the Local Government Act 2002 requires a local authority to review the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions. The first round of reviews is due by 8 August 2017 and every six years thereafter.
- 1.2 The review is required to consider (at least) the following options:
- a. The local authority exercising responsibility over governance, funding and delivery
  - b. The local authority exercising responsibility over governance and funding with responsibility for delivery being delegated to a council controlled organisation, and other local authority, or another person or agency.
- 1.3 For the second option, delegating delivery to another local authority does not appear feasible. It is possible that, taking the District's rural water supplies as a collective, the formation of a Rangitikei-specific council controlled organisation could be viable. However, this overlooks the origins of each rural water scheme and the very substantial input from the properties served by each scheme into establishing and maintaining the infrastructure. So the practical options are the status quo, divestment or a joint arrangement.

## 2 Legal issues

- 2.1 Part 7 Sub-part 2 of the Local Government Act 2002 specifies the Council's obligations and restrictions relating to water services. Before closing down or transferring a small water service, Council must get the views of the Medical Officer of Health, prepare a management plan (including the capability of the Scheme committee to manage the supply), and undertake a binding referendum of scheme members. Alternatively, Council may enter into a joint arrangement with another entity for the delivery of the service. In this case, consultation must be done in accordance with Part 6 of the Act

(i.e. having regard for Council’s significance and engagement policy as well as the consultation principles in section 82)

- 2.2 No distinction is drawn between potable and non-potable supplies. The restrictions on divestment are couched in terms of “ownership” and also “or other interest
- 2.3 As a scheme servicing more than 200 people, Council is unable to use the provisions of sections 131-137 to transfer the scheme wholly or partly to the Committee. The only alternative is a local act of Parliament, as was done for the Cold Creek Rural Water Supply Scheme in South Taranaki.
- 2.4 Following considerable consultation, on 27 March 2015, the Ministry of Health issued its *Rural agricultural drinking-water supply guideline*. This applies to all stock-water schemes servicing more than 25 people. The guideline is based on the assumption that rural water supplies used for commercial agriculture will also be used for household purposes. However, only water used for human consumption, domestic and food preparation needs to meet the drinking-water standards. Monitoring and backflow prevention will be required. These obligations may be placed on the scheme users; otherwise, Council is the default position.<sup>1</sup>

### **3 Current status**

- 3.1 The scheme is managed by the Hunterville Rural Water Supply Management Subcommittee, comprising representatives of scheme users plus a nominated Councillor and Council support. Typically the Subcommittee meets once a year.
- 3.2 Depreciation on all Rangitikei’s rural water supplies (including Hunterville) is a book entry only: there is no funding for depreciation; any capital renewals or upgrades must be loan-funded by scheme users.
- 3.3 Council overheads for rural water supply schemes, while showing in each scheme’s accounts, are funded District-wide within the uniform annual general charge.
- 3.4 The scheme infrastructure (including below ground assets) is covered by Council’s insurance policy and the Local Authorities Protection Programme for below-ground assets.

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<sup>1</sup> The provisions of the Health Act 1956 relating to water supplies are currently being phased in and, when fully in force will require all water suppliers to take all practicable steps to comply with the Drinking-water Standards for New Zealand 2005 (Revised 2008). The drinking-water provisions of the Act include a new category of water supply; a Rural Agricultural Drinking-water Supply. The Ministry has developed the Guideline to give water suppliers flexibility in demonstrating compliance with the requirements of the drinking-water provisions of the Act. By following the Guideline and implementing a water safety plan, a rural agricultural water supplier would be able to demonstrate that they had taken all practicable steps to comply with the Health Act 1956, even if not fully complying with the Drinking-water Standards for New Zealand 2005 (Revised 2008).

## 4 Options

### a. Status quo

- 4.1 The current arrangements remain, including attendance by Council staff at the scheme Subcommittee meetings, liaison with Horizons over compliance with the conditions of consent, provision of technical and financial advice, insurance cover, and rating for ongoing maintenance of the scheme
- 4.2 No statutory formalities are required to continue the current arrangements, other than noting that the decision has been made in the context of section 17A of the Local Government Act 2002.

### b. Divestment

- 4.3 This would end Council's formal relationship with the scheme. As noted above, this could be achieved only by a local Act of Parliament because of the number of people serviced by the scheme. It would mean establishing a new legal entity which represented the community currently serviced by the Hunterville scheme.<sup>2</sup> It would mean writing out the scheme's assets from the Council's asset register. The scheme would assume responsibility for securing financial and technical advice and for ensuring insurance cover. As a private scheme, alternative arrangements would be needed to control access to the pipes running across the various farms.
- 4.4 It would also mean transferring the resource consent to the new legal entity (Horizons has a procedure for this, which is currently not charged for). The new legal entity would be responsible for monitoring the scheme's performance (i.e. water use) and liaising with Horizons. Renegotiation of the consent would not be undertaken by Council. It would be feasible – if scheme members desired it – for Council to continue rating members of the scheme.
- 4.5 Divestment does not look a feasible option for the time being, given the present joint study with MPI about the configuration of the scheme and the considerations over the Hunterville town supply.

### c. Joint arrangement

- 4.6 This option would broadly mirror the approach taken by Manawatu District Council with the Kiwitea rural water supply scheme, which is a forerunner of the joint arrangement as provided for by section 137. The specific terms of a lease with Hunterville might be different, but will need to comply with the requirement of section 137(4) that the Council:
- continues to be legally responsible for providing the water services;
  - retains control over the pricing of water services and the development of policy relating to them; and

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<sup>2</sup> Whether establishing the Committee as an incorporated society would suffice for this purpose has not been tested.

- retains ownership of the infrastructure (whether or not in place at the beginning of the joint arrangement or developed or purchased during its term)

What both parties are likely to look for is the appropriate balance between independence (for the Scheme) and accountability (for the Council).

- 4.7 This option would require Council to follow a consultative process which aligns with its Significance and Engagement Policy and the consultation principles of section 82 of the Local Government Act 2002 – no referendum is required.

## **5 Conclusions**

- 5.1 From the outset, the Scheme committee has had the lead role in determining how the scheme operates, with Council providing support through a bylaw, liaison with Horizons, and technical and financial advice. The costs for these administrative services are shown as internal charges to the Scheme but since 2013/14 have been funded through a uniform targeted rate across all District ratepayers. Insurance cover is separately charged, but benefits from Council’s overall arrangements with its insurer and the Local Authorities Protection Programme. It seems unlikely that these costs would reduce if the Scheme were to assume direct responsibility for these arrangements.
- 5.2 Irrespective of who controls and manages the scheme, it will be subject to conditions of the water take set by Horizons. Since it cannot be demonstrated that fewer than 25 people are supplied from the scheme, it will be subject to the Ministry of Health’s Rural Agricultural Drinking water Supply Guideline.
- 5.3 Council has no statutory obligation to transfer the scheme to its members, or to enter into a joint arrangement, apart from its general obligation to review delivery of services before August 2017 and thereafter at least once every six years. It seems preferable to have certainty about the configuration of the scheme before giving detailed consideration to a joint arrangement or divestment.
- 5.4 Irrespective of what option is preferred and implemented, Council is able to continue rating members for the costs of the scheme.

## **6 Recommendations**

- 6.1 That the report ‘Options for management of the Hunterville Rural Water Supply Scheme’ be received and noted as (for the Council) constituting a review of delivery of services under section 17A of the Local Government Act 2002.
- 6.2 That the Hunterville Rural Water Supply Subcommittee recommends to Council that it  
EITHER
- 6.3 continues the present arrangements to support the Scheme;  
OR

- 6.4 develops in more detail a proposal for a joint arrangement which gives the Scheme committee or some other body authorised by a majority of the owners of properties connected to the Scheme the responsibility for managing the Scheme subject to conditions agreed between the Scheme members and the Council.

Michael Hodder  
Community & Regulatory Services Group Manager