

Think Piece 39: *Three Waters: New body corporate model reduces government accountability*

Front Page References:

Reference 1: The distinction between a Body Corporate and a Corporate Body

Body Corporate (BC) Governance

Body corporate is a legal entity that is designed to meet the needs of all unit holders that share an interest in a common asset (e.g. have interests in a specific common apartment building). The common property could be the swimming pool, lifts, gym, gardens, and other shared amenities. When you become a unit owner in an apartment, you often automatically become a member of the apartment's body corporate. A body corporate usually writes its own constitution and develops and polices its own rules and regulations. It does not consider the interests of the wider public other than obeying the Rule of Law.

Corporate Body (CB) Governance

Corporate body governance is a system of checks and balances that aims to minimize conflicts of interest and ensure that shareholders are treated equally. It relies on a triangular relationship that consists of shareholders, management, and the board of directors. Each has its own responsibilities, but they need to work together for the system to be balanced and effective. All three relationships depend on mutual accountability and a free-flowing exchange of information. Other stakeholders include management, employees, suppliers, and customers, as well as external forces such as creditors, regulators and the community. See for example the Companies Act 1993.

Reference 2: There are currently over 68 Ministerial Portfolios.

There is a wide assortment, including a Minister for Energy and Resources (but not Water) and some more unusual such as a Minister for Racing.

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Reference 3: The Public Sector Map

This is an old and well sought out map that helps shape the dialogue on the institutions available to shape public policy. See Public Service Commission. (20 April 2018). *What is the 'public sector'?*. Retrieved 2 September 2022 from <https://www.publicservice.govt.nz/resources/what-is-the-public-sector>

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Note: Section 3: Purpose of this Act

The main purpose of this Act is to ensure that drinking water suppliers provide safe drinking water to consumers by—

(a) providing a drinking water regulatory framework that is consistent with internationally accepted best practice, including a duty on drinking water suppliers to—

(i) have a drinking water safety plan; and

(ii) comply with legislative requirements (such as drinking water standards) on a consistent basis; and

(b) providing a source water risk management framework that, together with the Resource Management Act 1991, regulations made under that Act, and the National Policy Statement for Freshwater Management, enables risks to source water to be properly identified, managed, and monitored; and

(c) providing mechanisms that enable the regulation of drinking water to be proportionate to the scale, complexity, and risk profile of each drinking water supply.

(2) This Act has the following additional purposes:

(a) to establish a framework to provide transparency about the performance of drinking water, wastewater, and stormwater networks and network operators; and

- (b) to provide mechanisms that build and maintain capability among drinking water suppliers and across the wider water services sector; and
- (c) to establish a framework for the continuous and progressive improvement of the quality of water services in New Zealand.

2 Jun 2022: Water Services Entities Bill

Note 1: Section 3: Purpose

The purpose of this Act is to—

- (a) establish 4 water services entities to provide water services in New Zealand; and
- (b) provide for their objectives, functions, service delivery areas, and governance arrangements.

Note 2: More legislation to come, see excerpt from explanatory note to the Bill:

Relationship to other proposed legislation

This Bill is just 1 component of a comprehensive package to reform water services that are currently provided by local authorities. The Bill will need to be followed by further legislation to provide for—

- additional, detailed implementation arrangements for the entities and service delivery, including provisions relating to the transfer of assets, liabilities, and other matters from local authorities to new water services entities:
- specific powers, functions, and responsibilities of the new water services entities, and pricing and charging arrangements:
- economic regulation and consumer protection regimes relating to the new water services system:
- any changes to Treaty settlement legislation that are required to ensure that settlement obligations are carried forward from territorial authorities to the new water services entities:
- detailed changes to the Local Government Act 2002, the Water Services Act 2021, and other legislation to transfer service delivery arrangements to the new water services entities.

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