

ORDER PAPER

HUNTERVILLE RURAL WATER SUPPLY MANAGEMENT SUB-COMMITTEE MEETING

Date: Monday, 6 November 2023

Time: 4.00pm

Venue: Council Chamber
Rangitikei District Council
46 High Street
Marton

Chair: Mr Sam Weston

Membership: Mr Bob Crawford
Mr Mark Dawson
Mr Bernie Hughes
Mr John McManaway
Mr Sam Duncan
Mr Patrick Henderson
Cr Richard Lambert
Cr Fi Dalgety
HWTM Andy Watson

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Notice is hereby given that a Huntermville Rural Water Supply Management Sub-Committee Meeting of the Rangitikei District Council will be held in the Council Chamber, Rangitikei District Council, 46 High Street, Marton on Monday, 6 November 2023 at 4.00pm.

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AGENDA

1 Welcome

2 Apologies

3 Public Forum

4 Conflict of Interest Declarations

Members are reminded of their obligation to declare any conflicts of interest they might have in respect of items on this agenda.

5 Confirmation of Order of Business

That, taking into account the explanation provided why the item is not on the meeting agenda and why the discussion of the item cannot be delayed until a subsequent meeting, [enter item number](#) be dealt as a late item at this meeting.

6 Confirmation of Minutes

6.1 Confirmation of Minutes

Author: Kezia Spence, Governance Advisor

1. Reason for Report

- 1.1 The minutes from **Huntermville Rural Water Supply Management Sub-Committee Meeting held on 17 July 2023** are attached.

Attachments

1. **Huntermville Rural Water Supply Management Sub-Committee Meeting – 17 July 2023**

Recommendation

That the minutes of Huntermville Rural Water Supply Management Sub-Committee Meeting held on 17 July 2023 **[as amended/without amendment]** be taken as read and verified as an accurate and correct record of the meeting, and that the electronic signature of the Chair of this Committee be added to the official minutes document as a formal record.

MINUTES

UNCONFIRMED: HUNTERVILLE RURAL WATER SUPPLY MANAGEMENT SUB-COMMITTEE MEETING

Date: Monday, 17 July 2023

Time: 4.00pm

Venue: Council Chamber
Rangitikei District Council
46 High Street
Marton

Present Mr Sam Weston
Mr John McManaway
Cr Richard Lambert
HWTM Andy Watson
Cr Fi Dalgety (Zoom)

In attendance Mr Dave Tombs, Group Manager-Corporate Services
Mr Andrew Van Bussell, Operations Manager
Mr Ivan O'Reilly, Water Technician
Ms Kezia Spence, Governance Advisor

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Unconfirmed

1 Welcome

Mr Weston opened the meeting at 4.05pm.

2 Apologies

Resolved minute number 23/HRWS/012

Apologies received Bob Crawford, Mark Dawson, and Bernie Hughes.

Cr R Lambert/Mr J McManaway. Carried

3 Public Forum

4 Conflict of Interest Declarations

5 Confirmation of Order of Business

6 Confirmation of Minutes

Section 9.1

Makohine viaduct changed to Rathmoy tank.

Resolved minute number 23/HRWS/013

That the minutes of Huntermville Rural Water Supply Management Sub-Committee Meeting held on 15 May 2023 **as amended** be taken as read and verified as an accurate and correct record of the meeting, and that the electronic signature of the Chair of this Committee be added to the official minutes document as a formal record.

Mr J McManaway/Cr R Lambert. Carried

7.1 Follow-up Action Items from previous Huntermville Rural Water Supply Meetings

The report was taken as read.

7 Chair's Report

8.1 Chair's Report - July 2023

Mr Weston thanked Mr Beggs and wished him well in his new role.

Resolved minute number 23/HRWS/014

That the 'Chair's Report – July 2023' be received.

Mr S Weston/Mr J McManaway. Carried

8 Reports for Decision

9.1 Operations Report-July 2023

The committee discussed the Kiwi rail pipe replacement at Makohine viaduct. Mr Van Bussell and Kiwi rail are happy with the specifications of the pipeline on the bridge.

Mr O'Reilly answered questions regarding Charlie's property that previously the pipes had been taken out.

The committee discussed during a weather event that impacts the water supply to Hunterville, whether the water could come from Taihape. Mr Van Bussell responded that it depends on which reservoir in the district has the most water available.

Mr Van Bussell confirmed that the Horricks line and Webb will have GPS on the pipelines.

Resolved minute number 23/HRWS/015

That the 'Hunterville Rural Water Supply – Operations Report 1 July 2023' to the Hunterville Rural Water Supply Sub-Committee be received.

Cr F Dalgety/Cr R Lambert. Carried

9 Reports for Information

10.1 Hunterville RWS - 2022/23 Financial Summary

It was requested that the figures be labelled as GST exclusive.

Mr Tombs responded to questions that the unit price is in the rates resolution.

Mr Tombs will confirm and report back to the committee for the formula of interest paid.

Mr Tombs to confirm cash surplus from the previous financial year and provide further information on CAPEX.

Resolved minute number 23/HRWS/016

That the report 'Huntermville RWS – 2022/23 Financial Summary' be received.

Mr J McManaway/Cr R Lambert. Carried

10.2 Update on Rural Water Supply- Three Waters Briefing

His Worship the Mayor update:

Kevin Ross will be interim CE until a new CE is appointed. A new CE is unlikely to start until January or February 2024.

Council is now in entity E and transition will be 2025/26.

His Worship the Mayor has stressed during submissions to exempt rural water schemes but at this stage are still included in the transition. His Worship the Mayor noted that there is economic legislation still to come for Three Waters.

Discussion item:

That the minutes be completed and sent out within a week.

Committee members discussed the risk of the transition and the impacts on the financial accounts.

Committee had a further discussion on the scheme being separate from Huntermville township.

It was requested that staff provide clarity on the Council contribution into the scheme.

The meeting closed at 5.19pm.

The minutes of this meeting were confirmed at the Huntermville Rural Water Supply Management Sub-Committee held on 18 September 2023.

.....

Chairperson

7 Follow-up Action Items from Previous Meetings

7.1 Follow-up Action Items from previous Huntermville Rural Water Supply Meetings

Author: Kezia Spence, Governance Advisor

1. Reason for Report

- 1.1 On the list attached are items raised at previous Huntermville Rural Water Supply meetings. Items indicate who is responsible for follow up, and a brief status comment.

Attachments:

1. **Follow-up Actions Register** [↓](#)

Recommendation

That the report 'Follow-up Action Items from previous Huntermville Rural Water Supply Meetings' be received.

Current Follow-up Actions

Item	From Meeting Date	Details	Person Assigned	Status Comments	Status
1	17-Jul-23	Council contribution to scheme	Helpdesk	This has been lodged with helpdesk	In progress
2	20-Sep-21	HWTM and the CE offered their assistance with negotiations with KiwiRail, for the purpose of getting a water line installed on the viaduct. Mr Flintoff to provide the Chief Executive with an email summary of this issue.	Andrew Van Bussell/CE	Updated 17 July 2023 Andrew will provide an update at the meeting.	In progress

8 Reports for Decision

8.1 Operations Report-July 2023

Author: Andrew van Bussel, Operations Manager

1. Leaks and Repairs

1.1 There have been a number of repairs during this period:

- 30-06 Installed pipe work in top pump station.
- 04-07 Installed pipe work and fittings at new Rathmoy tank.
- 05-07 Leak at Mark Dawson's tank.
- 06-07 Cut over Rathmoy tank and services.
- 10-07 Set up and service new bermad valve at Rathmoy tank.
- 17-07 Leak on Sam Weston's.
- 18-07 Replace ball-cock at Mahoe Farm.
- 19-07 Building box for new Rathmoy tank.
- 26-07 Installed section of pipe work at top pump station.
- 01-08 Bob Crawford low flow, check break tank, tank full.
- 03-08 Comms fault, pump station.
- 06-08 Bore pump station PLC not communicating.
- 07-08 Top pump station comms not working.
- 08-08 Weld pipe work in top pump station.
- 09-08 Cut over pipe work in top pump station.
- 10-08 Bore pump low flow.
- 23-08 Richard McIntyre change ball-cock.
- 23-08 Look for leak in Cooks Road forest.
- 24-08 check Ohingaiti line for leaks.
- 24-08 Otiwhiti Low flow at top tank.
- 25-08 Comms fault at bore pump station.
- 29-08 Put restrictors in at Charlie Duncan's and looked for leak on north line.
- 01-09 fix tank overflow at Ongo Road, installed PRV for tank.

2. General

2.1 The following upgrades have taken place or are on the list to be completed:

2.1.1 Rathmoy break pressure tank is installed, and commissioned we will be undertaking a minor tidy up when the weather improves.

2.1.2 Lilburn's job has not been started as we are still waiting on the contractor, was programmed for second week in August.

2.1.3 Top pumps installed completed waiting on a pump part .

ITEM 8.1

2.1.4 Progress is being made with Kiwirail regarding pipe replacement on the Makohine viaduct. I will update you further at the meeting.

2.1.5 Operations manager will table project cost summary.

Recommendation

That the 'Huntermville Rural Water Supply – Operations Report September 2023' to the Huntermville Rural Water Supply Sub-Committee be received.

9 Reports for Information

9.1 Huntermville RWS - 2022/23 Financial Summary

Author: Dave Tombs, Group Manager - Corporate Services

Authoriser: Dave Tombs, Group Manager - Corporate Services

1. Reason for Report

1.1 This Report provides the draft Operating Statement for 2022/2023. Some of these figures may change as the financial year end adjustments are finalised.

2. Commentary

2.1 This shows:

- 2.1.1 Operating Cash Surplus of \$223k
- 2.1.2 Capital Expenditure of \$257k
- 2.1.3 Financial Year Cash Deficit of \$34k
- 2.1.4 Notional Cash Reserves of \$708k at 30 June 2023.

3. Capital Expenditure

3.1 Further information (taken from Council's ledger) regarding the Capital Expenditure is as follows:

Contractor Reticulation

Supply and install 95m ³ timber tank	\$48,600
Speed YE Accruals	\$14,370
Rathmoy Tank fittings, incl Hi hab	\$13,188
Fittings for Rathmoy	\$2,692
Pump vibration analysis	\$1,505
Measure and repair end tank	\$1,083
Other	\$305
Total	\$82,017

Horricks Pipe Upgrade

Pipe	\$33,035
Chain digger	\$3,140
Other parts (couplers, saddles etc)	\$1,238
MDC Staff Time	\$9,834
Total	\$47,247

ITEM 9.1

Webb Pipe Upgrade

Pipe	\$16,541
Other parts (couplers, saddles etc)	\$1,441
MDC Staff Time	\$9,792
Total	\$27,774

3.2 Officers suggest that members consider this Report and start considering a preferred rate increase for the Huntermville Rural targeted rate for 2024/25 and other years covered by the next LTP.

4. Other

4.1 Officers have added an extra attachment to this month's report – an excerpt from the 2013/14 Annual Plan. Officers consider that this provides some useful background to the financing of the Scheme's operations and propose including this at least annually as a useful reminder to all meeting attendees.

Attachments

1. **HRWS Draft June 2023 Financial Summary** [↓](#)
2. **RWS Financial Policy (2103)** [↓](#)

Recommendation 1

That the report 'Huntermville RWS – 2022/23 Financial Summary' be received.

Hunterville Rural Water Scheme
Operating Statement 2022/23

Amounts are GST Exclusive

		YTD Actual 12 Months Ended June 2023	Full Year Budget 2022/23	Full Year Actual 2021/22	Full Year Budget 2021/22
INCOME					
	Metered Charges	525,025	522,108	528,745	522,110
	Finance Revenue (per ledger)	7,483	0	0	0
	Kiwi Rail : for pipe realignment	10,445	0	0	0
	Penalty	3,678	2,064	8,356	2,004
		546,631	524,172	537,101	524,114
EXPENSES					
	Phone rentals	2,488	2,328	2,883	2,256
	Electricity	258,969	229,452	243,657	181,500
	Insurance	23,011	20,598	22,244	12,476
	Rates - Utility	24,979	20,124	22,569	19,500
	Member Remuneration	570	0	2,560	0
	MDC Professional Services	0	1,176	0	1,140
	Operational Costs - Contractor	0	1,236	0	1,200
	Reticulation Costs - staff	7,875	19,056	11,171	18,456
	Treatment Costs - staff	0	0	2,450	0
	External Contractors	7,559	14,316	31,930	13,872
	Resource Consents	0	2,588	1,556	0
	Chemicals/consumables	0	3,612	0	3,504
	Materials/Other	5,723	12,900	1,986	12,504
		331,174	327,386	343,006	266,408
less	Depreciation	191,000	161,160	204,835	153,600
	Internal Charges	140,563	143,582	0	0
	Accounting Surplus/(Deficit)	(116,106)	(107,956)	(10,740)	104,106
Add back	Depreciation	191,000	161,160	204,835	153,600
	Finance Costs	0	6,493	0	0
	Internal Charges	140,563	143,582	0	0
Plus	Notional Interest Income adj	7,247	0	11,760	0
	Operating Cash Surplus	222,704	203,279	205,855	257,706
Capital Expenditure					
	Contractor - Reticulation	82,018	26,000	3,272	24,996
	Contractor - Treatment	0	20,800	0	20,004
	Staff - Reticulation *	99,696	0	49,297	0
	Horricks Pipe Upgrade	47,247	0	0	0
	Webb Pipe Upgrade	27,774	0	0	0
		256,735	46,800	52,569	45,000
	Cash Surplus/(Deficit)	(34,031)	156,479	153,286	212,706
	Notional Bank bf	741,577		588,291	
	Notional Bank cf	707,546		741,577	
Note	Some year end accruals have not yet been processed As per the March 2022 meeting, Interest Income is adjusted to reflect 2% of Opening Bank Balance				

ITEM 9.1 ATTACHMENT 1

Results of Public Consultation on the Draft Plan

- ✓ Rural Water Schemes
- ✓ Huntermville Urban Water Supply
- ✓ 'Public good' charge for water, wastewater and stormwater
- ✓ Funding the Community Boards
- ✓ Assisting businesses to comply with new food handling requirements
- ✓ Community and leisure assets
- ✓ Proposed application to the Irrigation Acceleration Fund
- ✓ Increased length of season for the Council's swimming pools
- ✓ Speed calming measures in Taumaihi Street, Bulls
- ✓ Youth engagement
- ✓ Mt Stewart Reserve, Taihape

Rural Water Schemes

There is a need to adequately address the issue of the financial difficulties being faced by rural water schemes. In the past, these schemes have been sheltered from much of Council internal charging but with the re-vamp of the overhead allocation process for the last few years, none of the schemes was spared a realistic share of these costs. Consequently the level of revenue required increased, but the appropriate level of charging received only minor adjustments and could not achieve the budget for revenue. The necessary increases would have been such that the schemes could have lost participants and become unsustainable.

An added difficulty in managing these accounts is the fact that Council has determined not to "fund" depreciation for these schemes and those that have a steady programme of renewal work have no depreciation funds to fall back on. Consequently, the need for income varies from year to year, causing 'lumpiness'.

The Huntermville rural scheme in particular, has been operating at a deficit which has been increasing, and this matter was not addressed in the Long Term Plan.

As a means of alleviating the situation, the draft annual plan proposed that the internal charges for these rural schemes be met from the wider district through the general rate. This would mean that the Erewhon, Omatane and Putorino schemes would become once again financially viable. In addition, members of the Huntermville rural scheme have agreed to a substantial increase in their charges for 2013/14.

Council decided to implement this proposal.

Huntermville Urban Water Supply

This supply is linked to the Huntermville rural supply because the latter supplies the former with untreated water for distribution to users in Huntermville township. This means that if the rural supply has to increase its charges, then the costs of the urban scheme increase.

The urban supply was not included in the district wide approach to rates adopted in the long term plan as were all the other urban supplies in the district, because of the unique nature of the link to the rural scheme and the limited supply of water available. It has remained on meters and is charged on consumption only, rather than the fixed charge made in all other towns.¹

However, unlike all the other urban schemes, these ratepayers did not receive a 25% contribution from the district for the "public good" component of their costs. This is not considered equitable

¹ This different funding basis did not affect the liability by ratepayers in Huntermville for the 'public good' rate for water etc.

9.2 Huntermville RWS - 2023/24 Financial Summary

Author: Dave Tombs, Group Manager - Corporate Services

Authoriser: Dave Tombs, Group Manager - Corporate Services

1. Reason for Report

- 1.1 This Report provides the year-to-date (YTD) draft Operating Statement for the 3 months ended 30 September 2023.

2. Commentary

2.1 This shows:

- 2.1.1 YTD Operating Cash Deficit of \$71k
- 2.1.2 YTD Capital Expenditure of \$32k
- 2.1.3 YTD Cash Deficit of \$103k
- 2.1.4 Notional Cash Reserves of \$604k at 30 September 2023.

3. Capital Expenditure

- 3.1 Further information (taken from Council's ledger) regarding the Capital Expenditure is as follows:

Contractor Reticulation

Renewal upgrades	\$7.3k
Rathmoy Fittings	\$1.3k

Staff Reticulation

MDC	\$23.3k
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Attachments

1. **HRWS Financial Summary - September 2023** [↓](#)

Recommendation 1

That the report 'Huntermville RWS – 2023/24 Financial Summary' be received.

Huntermville Rural Water Scheme
Operating Statement 2023/24

Amounts are GST Exclusive

		YTD Actual			
		3 Months	Full Year		Full Year
		Ended	Budget 2023/24		Budget
		Sept 2023		Full Year	2022/23
				Actual 2022/23	
INCOME					
	Metered Charges	1,085	532,479	525,025	522,108
	Finance Revenue (per ledger)	0	0	7,483	0
	Kiwi Rail : for pipe realignment	0	0	10,445	0
	Penalty	2,557	2,124	3,678	2,064
		3,642	534,603	546,631	524,172
EXPENSES					
	Phone rentals	436	2,376	2,488	2,328
	Electricity	61,724	234,504	258,969	229,452
	Insurance	6,542	20,592	23,011	20,598
	Rates - Utility	0	20,592	24,979	20,124
	Member Remuneration	570	0	570	0
	MDC Professional Services	0	1,212	0	1,176
	Operational Costs - Contractor	0	1,260	0	1,236
	Reticulation Costs - staff	3,128	19,488	7,875	19,056
	Treatment Costs - staff	0	0	0	0
	External Contractors	874	15,972	7,559	14,316
	Resource Consents	0	2,688	0	2,588
	Chemicals/consumables	0	3,696	0	3,612
	Materials/Other	1,810	13,200	5,723	12,900
		75,084	335,580	331,174	327,386
less	Depreciation	47,750	161,160	191,000	161,160
	Internal Charges	37,894	143,582	140,563	143,582
	Accounting Surplus/(Deficit)	(157,086)	(105,719)	(116,106)	(107,956)
Add back	Depreciation	47,750	161,160	191,000	161,160
	Finance Costs	0	6,493	0	6,493
	Internal Charges	37,894	143,582	140,563	143,582
Plus	Notional Interest Income adj	0	0	7,247	0
	Operating Cash Surplus/(Deficit)	(71,442)	205,516	222,704	203,279
Capital Expenditure					
	Contractor - Reticulation	8,567	26,000	82,018	26,000
	Contractor - Treatment	0	20,800	0	20,800
	Staff - Reticulation	23,315	0	99,696	0
	Horricks Pipe Upgrade	0	0	47,247	0
	Webb Pipe Upgrade	0	0	27,774	0
		31,882	46,800	256,735	46,800
	Cash Surplus/(Deficit)	(103,324)	158,716	(34,031)	156,479
	Notional Bank bf	707,546		741,577	
	Notional Bank cf	604,222		707,546	

ITEM 9.2 ATTACHMENT 1

9.3 Formal Advice from Simpson Grierson re Huntermville Rural Water Supply

Author: Michael Hodder, Advisor to the Chief Executive

1. Reason for Report

- 1.1 Attached (Attachment 1) is formal advice received from Simpson Grierson on how section 131 of the Local Government Act 2002 (power to close down or transfer a small water service) could be applied to the Huntermville Rural Water Supply scheme.
- 1.2 In essence, the supply provided to Huntermville township (with its separate treatment) may be considered a supply distinct from that provided to farmers, despite that both supplies depend on the same source.

Attachments:

1. **Advice from Simpson Grierson - Section 131 LGA Huntermville Scheme** [↓](#)

Recommendation

That the 'Huntermville Rural Water Supply' be received.



To Michael Hodder, Rangitikei District Council **21 October 2023**
From Mike Wakefield, Matthew Hill
Subject Power to close down or transfer the Huntermville Water Supply Scheme

PRIVILEGED AND CONFIDENTIAL

Background

1. We provided advice to the Rangitikei District Council (**Council**) on 5 September 2023 which addressed the classification of the Huntermville Water Supply Scheme (**Huntermville Scheme**) for the purpose of the Government’s water reforms. That advice expressed the view that there was a strong argument the Huntermville Scheme would have to transfer to the new water entity.
2. Section 131 of the Local Government Act 2002 (**LGA**) provides the Council with a power to close down or transfer small water services, provided certain requirements are met. One of those requirements is that the relevant water service delivers water to 200 or fewer persons.¹
3. The Council accepts that, because the Huntermville Scheme as a whole services 400 residents in the Huntermville township (**township portion**) and 159 farm properties (**rural portion**), if it is considered as a singular “water service” it would not meet the requirements of section 131. This is because of the number of persons to whom the water service is delivered.
4. However, despite the water for the Huntermville Scheme coming from the same water source (via the same water take), the drinking water supplied to the township portion is treated (for drinking purposes) separately by the Council from the drinking water supplied to the rural portion. There is therefore some basis to consider the township and rural portions separately (and therefore a possibility that section 131 could apply in respect of the rural portion).

Advice sought

5. Could the rural portion of the Huntermville Scheme be considered a separate “water service” from the balance of the Huntermville Scheme, therefore enabling the Council to use the powers in section 131 of the LGA to close down or transfer the rural portion?

Summary of advice

6. While the position is not entirely clear, our view is that the rural portion can be considered a separate water service for the purpose of section 131. However, even if it can be defined as its own water service, the Council may not be able to use the powers in section 131 if there are more than 200 persons within the 159 farm households.

1 Section 131(2)(a) of the LGA.



Advice

Rural portion of the scheme likely to be a “water service” for the purposes of section 131

7. Section 131 of the LGA provides that “a local government organisation may, in relation to a water service that it is no longer appropriate to maintain: (a) close down the water service; or (b) transfer the water service to an entity representative of the community for which the service is operated.”²
8. There is a degree of uncertainty about what actually comprises a “water service”, especially in circumstances where a particular water scheme may involve two or more parts, as is the case for the Hunterville Scheme, or different types of water service (ie. water supply and waste water). The legislation is not entirely clear because:
 - (a) The term “water service” is not defined in section 131, anywhere else in the LGA or in other related / relevant legislation.³
 - (b) Section 124 of the LGA, prior to the enactment of the Water Services Act 2021, defined “water services” (plural) as “water supply and wastewater services” and then defined “water supply” as “the provision of drinking water to communities by network reticulation to the point of supply of each dwellinghouse and commercial premise to which drinking water is supplied.”
 - (c) Section 19 of the Legislation Act 2019 provides that words in the singular include the plural, and words in the plural include the singular, so this former definition would have been relevant to section 131.
 - (d) The Water Services Act 2021 added a definition of “drinking water services” to the LGA, but it does not particularly assist in interpreting the meaning of “water service” in section 131.
 - (e) Section 130, which establishes the obligation to maintain water services, is phrased as applying to local government organisations that provide water services (plural) “to communities”.
 - (f) For the purpose of closure or transfer, section 131(1) assumes that the relevant “water service” is singular/individual, with defined boundaries. Where the Council provides water services across a particular area in its district, the term “water service” does not indicate what amounts to an individual “water service”, or help separate one “water service” from another. The ability to transfer is limited to an

2 We note that the words “that it is no longer appropriate to maintain” that appear at the beginning of section 131 appear to provide some restriction on the Council’s power to close down or transfer small water services. It is not clear whether those words are intended to add anything to the other requirements in section 131. As your instructions to us were focused on the interpretation of “water service”, we have not reached a final view on how the question of “appropriateness” of maintaining the service should be resolved. We anticipate however that some form of consultation may be required. However, you will see in the advice below this consideration may be relevant to assessing whether the rural portion is a water service on its own.

3 The Water Services Entities Act 2022 defines “water services” (plural) as follows: “water services means services relating to water supply, wastewater, and stormwater”, which is unhelpful in this context.



entity representative “of the community” for which the service is operated, which again signals the significance of there being defined boundaries.

9. Turning to statutory interpretation principles, section 10(1) of the Legislation Act 2019 provides that “the meaning of legislation must be ascertained from its text and in the light of its purpose and its context”.
10. In this situation, the plain and ordinary meaning of the term “water service” will clearly encompass the Hunterville Scheme as a whole (including the township and rural portions). It could also refer to a part of the Hunterville Scheme (e.g. just the rural portion⁴) if there is some logical basis to consider the “water service” provided to that different area or place separately from the balance of the “water service”. That is, the rural portion of the Hunterville Scheme, and the associated rural community served by that portion, clearly receives a separate “water service” from the Council that is within the scope of section 131.
11. The purpose of section 131 is to provide a limited exception to the obligation in section 130 to continue to maintain water services, where there are valid reasons why the Council ought to be able to stop providing them.⁵ In *Metrowater Ltd v Ngati Whatua o Orakei Maori Trust Board* [2008] DCR 197 at [8], the Court considered that section 131 of the LGA did not allow the closure of a water supply where the supply was to part of one street in a very large water service. The Court found that this was not a small water service as contemplated by section 131, which was intended to cover an entirely different sort of situation: e.g. a small coastal settlement where supply pipes had become badly rusted and alternative means of supply (roof water or bore water) were available.
12. There could be a legitimate reason for considering the “water service” provided to the rural portion (and associated community) as a separate water service. This could include that, while the water is taken from the same place, the rural portion is supplied via a separate pipeline, and the water itself is not treated in the same way as the township portion.
13. Those features are different from the *Metrowater* case, where the same “service” was provided to all those connected, and there was no separate “community” that received a water supply. In the Council’s case it could be argued that the township portion serves a different community, and that it receives a different service because the water is treated differently.

Other requirements of section 131 are also important

14. In any event, and putting aside the question and decision re whether it is “no longer to appropriate to maintain” the service, section 131(2) of the LGA lists various criteria and process requirements that must be met before the Council is able to exercise the power to close down or transfer a water service.
15. The first of those requirements is that “there are 200 or fewer persons to whom the water service is delivered and who are ordinarily resident in the district, region, or other

⁴ Or, if the Scheme provided more than one type of water supply, one aspect of the scheme (e.g. wastewater only).
⁵ That is, where it is “no longer appropriate” to maintain the services.



subdivision”.⁶ We understand the Huntermville Scheme supplies drinking water to approximately 159 farm properties, as well as about 400 residents in the Huntermville township.

- 16. Assuming, on the basis of the above advice, we can disregard the 400 residents in the Huntermville township, it will be important to determine how many people receive the rural portion of the scheme.
- 17. If approximately 159 farms are served, and if the majority of the farms are essentially “households” (of 2 or more people), then this requirement would appear unlikely to be met.
- 18. As you are aware, there are various other requirements in section 131(2) that must be met before a water service can be closed down or transferred, including consultation with the Medical Officer of Health or Taumata Arowai, and undertaking a binding referendum. In addition, if closure is intended, section 134 sets out several other criteria, which include a requirement to: assess, in relation to each property that receives the water service, the likely capital cost and annual operating costs of providing an appropriate alternative service if the water service is closed down; and (c) compare the quality and adequacy of the existing water service with the likely quality and adequacy of the potential alternative service.

DIA oversight powers and general election

- 19. We expect that any decisions relating to closing down or transferring a water service using the procedure in section 131 would almost certainly be decisions caught by the oversight powers of the Department of Internal Affairs (DIA), under Schedule 1 of the Water Services Entities Act 2022.
- 20. Of course, given the preliminary results of the general election, it seems likely that the water reform programme will either change significantly or be repealed entirely, so the question of using section 131 may become irrelevant, or there may be alternative options available in relation to this type of water scheme.

⁶ Section 131(2)(a) of the LGA.

10 Meeting Closed.