

# Memorandum

To: Sheridan George, Communications Manager, NP District Ratepayers Alliance

From: Marcus Ganley; Max Pakinga-Barber

Client: New Plymouth Ratepayers Alliance

Date: 5 May 2026

Subject: New Plymouth water organisation – Statement of Expectations

## NEW PLYMOUTH WATER ORGANISATION – STATEMENT OF EXPECTATIONS

1. In March 2026, the New Plymouth District Council circulated a draft statement of expectations (“SOE”) for the New Plymouth water organisation.<sup>1</sup> The SOE includes several high-level obligations in respect of community and consumer engagement,<sup>2</sup> but no specific or operational requirements relating to community or consumer engagement.
2. You have asked us
  - a) whether it would be legally permissible for the Council to include more specific or operational community and consumer engagement requirements; and
  - b) If so, how the Council could implement these requirements in the SOE.

## A MORE DIRECTIVE PROVISION IS PERMISSIBLE

3. There is nothing in the statutory framework to prevent the Council from adopting a more directive policy for consumer and community engagement in the SOE.
4. Section 227 of the Local Government (Water Services) Act 2025 (“Act”) sets out content requirements for statements of expectations for water organisations. Subsection (2) relevantly states:

(2) A statement of expectations may include any other matters the shareholders decide, including, for example,—

- (a) how the shareholders require the water organisation to conduct its relationships with—
  - (i) the shareholders;
  - (ii) the shareholders’ communities or any specified stakeholders within those communities;
  - (iii) hapū, iwi, and other Māori organisations;
  - (iv) consumers in the water organisation’s service area;

---

<sup>1</sup> Wai Hononga Water Services Limited, referred to the SOE as “the company”.

<sup>2</sup> SOE cll 7, 19(b), and 21(b).

5. Subsection (2) allows (but does not require) shareholding councils to include anything they choose in a statement of expectations, including requirements and expectations relating to the water organisation’s relationships with the stakeholders listed in paragraph (a). This is subject only to the implied limit that inclusions cannot be inconsistent with the text and purpose of the Act. For example, it could not include requirements or expectations that compromise the financial independence of a financially independent water organisation.<sup>3</sup>
6. Paragraphs (2)(a)(ii) and (iv) directly contemplate provisions in a statement of expectations around consumer and community engagement. The text of paragraph (a) contemplates operational directives – “how the shareholders *require* the water organisation to *conduct* its relationships”. There is no suggestion that this would be inconsistent with the Act.
7. While detailed provision for engagement can be expected in the significance and engagement policy adopted by the water organisation, that policy must comply with shareholder directives.<sup>4</sup> The statement of expectations provides the mechanism by which shareholders can direct the organisation in that regard.
8. The water organisation’s significance and engagement policy is an important document. It is expected to set out a relatively detailed approach to community engagement.<sup>5</sup> While not legally enforceable, the water organisation is required to identify and give reasons for significant departures from the policy in its decision-making.<sup>6</sup> In the context of local government, these policies are often relevant to judicial review of local authority decision-making under the Local Government Act 2002.<sup>7</sup>
9. It is clear that the Council already regards a more directive approach as permissible in the context of relationships with shareholding councils and with Māori. Clause 21(a) and 21(c) are significantly more directive than cl 21(b) (which governs relationship with the community). Clause 21(a) provides for council observers to attend water organisation board meetings. Meanwhile, cl 21(c) sets out a checklist for engagement with Māori, from identifying relevant stakeholder groups through to reporting on how engagement has informed decision-making.
10. Other water organisations have adopted a more directive approach to consumer engagement. For example, the Tiaki Wai (the new water organisation for the metropolitan Wellington area) statement of expectations requires:

*8.2 It is expected that:*

*(c) Tiaki Wai will establish and maintain a customer reference group that includes representatives from communities across the service area.*

*(d) Tiaki Wai will engage in open, collaborative consultation on significant issues or projects with directly affected or interested communities (in line with its Significance and Engagement Policy).*

---

<sup>3</sup> Section 228(2).

<sup>4</sup> Section 35(4).

<sup>5</sup> Section 36.

<sup>6</sup> Section 38.

<sup>7</sup> For example, *Thorndon Quay Collective Inc v Wellington City Council* [2024] NZCA 316.

*(e) Tiaki Wai will communicate with customers in an open and timely way, and in a manner that is appropriate for the audience, about intended activities that may affect them, with clear explanations about key issues and drivers for activities, and opportunities for engagement with Tiaki Wai.*

11. The Tiaki Wai SOE, confirmed on 18 December 2025, can serve as a useful precedent for other water services CCOs throughout the country.

## **OPTIONS FOR STRENGTHENING CONSUMER AND COMMUNITY ENGAGEMENT**

12. There are several means by which consumer and community engagement obligations could be strengthened in the SOE. We set these out below. Options (1) and (2) can be pursued individually or in combination. Option (3) is predicated on option (2) being adopted.

### **1) Replicating requirements of cl 21(c)**

13. This option replicates Clause 21(c) of the draft SOE, which provides for consultation with Māori. Aside from references to the Treaty of Waitangi, there is no reason the same obligations cannot be transposed to consumer and community groups as follows:

#### ***21. Relationships and engagement***

##### *b. Relationship with New Plymouth District Community:*

*i. The Council expects the Company to maintain effective relationships with water consumers and the broader community (including representative groups), including through regular engagement with a view to supporting the effective design, delivery and operation of water networks and systems.*

*ii. the Company is to engage with consumers and the community in accordance with the following principles:*

*a. Identifying and establishing meaningful relationships with key stakeholders that have an interest in the company's activities.*

*b. Ensuring timely and transparent sharing of information that may impact on consumer and community interests.*

*c. Seeking advice and input from groups representing consumers and the community on strategic initiatives, projects, and decisions that affect water consumers and the community.*

*d. the Company is expected to report annually on its engagement activities and outcomes with consumers, community, and representative groups including how those perspectives or input have influenced the company's decision-making.*

## 2) Establishing a consumer reference group

14. The Tiaki Wai statement of expectations provides for a consumer reference group. The text of this provision is taken from that statement of intent. It could be added either instead of or in addition to the revised cl 21(b) proposed above.

### **21. Relationships and engagement**

#### *b. Relationship with New Plymouth District Community:*

*iii. The Company will establish and maintain a customer reference group that includes representatives from community organisations across the service area. The Company will proactively engage with the consumer reference group in accordance with its Significance and Engagement Policy*

## 3) Explicitly requiring consultation on significant decisions

15. The draft provision below is an enhancement of the concept of the consumer reference group, but provides for greater detail about how consultation would be undertaken. The principles are drawn from other early consultation regimes, including that which applies in certain consultation processes under the Resource Management Act 1991.<sup>8</sup> The water organisation would be required to incorporate these expectations into its significance and engagement policy when one is produced.
16. This explicitly builds on the proposed consumer reference group.

### **21. Relationships and engagement**

#### *b. Relationship with New Plymouth District Community:*

*iv. The Council expects that the Company to provide for consultation with the customer reference group on significant decisions relating to debt levels, significant investments or expenditure, or use/divestment of profits, in accordance with the following principles:*

*a. Consultation should occur early in the decision-making cycle*

*b. Key information should be provided in a timely manner and in sufficient detail to enable informed engagement;*

*c. The Company should allow adequate time and opportunity for the consumer reference group to consider the decision and provide advice.*

*d. The Company should indicate how it has responded in its decision-making to issues identified by the group*

---

<sup>8</sup> See Resource Management Act 1991, Sch 1 cl 3, 3B, and 4A.