Water Services Authority
Taumata Arowai

# Engagement on downstream suppliers

## Engagement document

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# Introduction

The Water Services Authority – Taumata Arowai (the Authority) works to ensure that everyone in New Zealand has access to safe and reliable drinking water every day.

To support this, we regulate drinking water suppliers, making rules and guidance about monitoring and treating water that drinking water suppliers must follow.

**In this engagement we want to better understand drinking water arrangements for 'linked' or what we now call 'downstream' supplies. This will help us develop guidance for determining what types of arrangements have to be registered as downstream supplies, and provide information about potential implications and requirements for suppliers.**

In general terms, a downstream supply is a drinking water supply that receives drinking water from another drinking water supply (the upstream supply) and then provides it to consumers or other suppliers.

We are seeking your feedback on proposed factors and scenarios to help inform a policy position on who might be a downstream supplier.

Please note, we are working separately with international ports and airports to determine whether they should be classified as downstream supplies, given their distinct regulatory regimes.

# What is a downstream supply?

The Water Services Act 2021 (the Act) anticipates situations where one drinking water supply connects to another, which then on-supplies drinking water to consumers or even other supplies.

Examples in the Act where one supplier provides water to another include:

- a 'drinking water supplier' includes a person who supplies drinking water through a drinking water supply to another drinking water supplier – s 8(d)
- a 'drinking water supply' means the 'infrastructure and processes used to abstract, store, treat, transmit or transport drinking water for supply to consumers or another drinking water supplier' – s 9(1)(a)
- 'point of supply' means where a consumer's or another drinking water supplier's own infrastructure connects to a drinking water supply – s 13
- a water carrier is a drinking water supplier that transports drinking water (other than by reticulation) to consumers or another drinking water supplier – s 5.

However, because the Act does not define a downstream supply, there is some uncertainty about what makes someone who connects to another drinking water supply and on-supplies water to others a downstream supplier, rather than just a large consumer. Clarifying what is a downstream supply is an operational issue for the Authority to address.

Under the Act, both suppliers and consumers can have their own infrastructure, which meets at a point of connection/point of supply. This means that ownership or control of relevant infrastructure can't always be used to distinguish suppliers from consumers. The distinction between suppliers and consumers can be unclear, particularly where someone who may be a consumer in their own right, also uses their infrastructure to provide drinking water to other people. This is especially the case for larger facilities and situations involving multiple buildings, properties or connections. For example, a retirement village operator may own or control their property and use their own infrastructure to provide drinking water to residents, who may have a licence to occupy. In this example, the question is whether:

- the retirement village operator is one consumer under the Act on behalf of all persons who drink the water; or
- individual residents are consumers and the retirement village operator is a supplier to them.

Similar examples include defence bases with onsite housing or barracks on one site, prison buildings, owners of large industrial sites and tenants who operate businesses, and housing developments with privately owned water infrastructure.

There are already some downstream supplies that have self-identified as drinking water suppliers and registered with us[1] (as linked supplies) where they are clearly in control of water supply infrastructure and where their duties under the Act are acknowledged.

We understand the difficulty determining when a downstream supply exists is generating inconsistent advice from third parties about whether people are suppliers or consumers and what their responsibilities are.

# Policy position: defining downstream supplies

It is important that we clarify who is a downstream supply so that organisations know:

- whether they are a drinking water supplier under the Act
- what their responsibilities are around the provision of safe drinking water
- where an upstream supplier's responsibilities end in situations where they provide a bulk supply to another network for distribution to consumers.

We therefore intend to publish a policy position to better define a downstream supply and explain how the policy position will be applied by the Authority. This will follow this engagement using the insights we gather. We will also produce guidance for consumers that are not downstream supplies but have, for example, large sites with more complex distribution systems.

The policy position and guidance would be able to be used by suppliers and others to make judgements about whether there is a downstream supply or not, and the consequences of that for the parties involved. It would also form the basis of our advice to those in the sector seeking a determination of the status of a supply, or if we encounter situations where the status of a supply or connected network is at issue.

[1] Currently these are called 'linked' supplies. We intend to change the name to 'downstream' as this better conveys the direction drinking water is going, and also likewise with 'upstream' supplies and suppliers.

# Objectives

The objectives of this work are to:

- manage public health risks effectively
- ensure regulatory interventions are proportionate and evidence-based
- minimise unnecessary compliance costs
- align all actions with the purpose and intent of the Act
- promote the practical and consistent application of interventions.

# Preferred approach to define a downstream supply

Our thinking around who is a downstream supply is based around factors we have derived from the legislation and scenarios where we think a downstream supply exists.

**Factors that have guided our thinking**

A downstream supply is likely to exist where the factors below apply and, depending on the situation, how they combine. The first and second factors are necessary for a downstream supply to exist, and the third needs to be applied to specific situations (i.e. the factual circumstances of supplies).

- *Provision of water:* The downstream supply receives drinking water, whether treated or untreated, from another supply (the upstream supply).
- *Ownership or operation of infrastructure*: The person who owns and/or operates the downstream supply infrastructure is different to the person who owns and/or operates the upstream supply.
- *Purpose of infrastructure or processes*: The downstream supply includes (one or more) infrastructure or processes that treat, store, or transmit drinking water. Transmission may be to others who have their own point of supply. Treatment may be included. Infrastructure that is just incidental to the person's own consumption is not likely to be considered supply infrastructure of a downstream supply.

**The following factors may also be relevant, but are not determinative**

- *Significant risk*: Any associated risk is sufficient to justify characterising the person as a downstream supplier, potentially if there is extensive storage or distribution systems.[2]
- *Regulatory framework*: Taking into account if the supply of water is already regulated by another appropriate legislative regime (e.g. the Building Act 2004 and the Building Code) that guards the provision of safe water, then the person is not likely to be a downstream supplier.

[2] Typical features that may increase the risk profile in a system include:

- a large number of people who could potentially be exposed to waterborne illness
- long, complex networks that may have dead ends where residual disinfection may become ineffective
- backflow risks
- supplies with significant standby storage or where water is treated.

**Illustrative scenarios**

The scenarios below are illustrative not exhaustive. We welcome your input on other situations where downstream supplies may exist or where uncertainties remain, guided by the factors above. Our aim is to reduce ambiguity as much as possible.

Under the Act, the upstream supplier must provide safe drinking water up to the point of supply.[3] In some situations, the upstream supplier may have met their duty to provide safe drinking water to the point of supply. However, additional risks in the downstream supply network (such as loss of residual disinfection or backflow) may mean additional treatment is needed.

In other situations, the downstream supplier may be receiving untreated or partially treated water, and additional treatment is needed to make the drinking water safe. In this case, the upstream supplier must have an exemption to avoid their requirement to provide safe drinking water to that supply.[4]

***Scenario one: Bulk supply to downstream consumers on separate properties***

Drinking water is supplied to a downstream supplier by an upstream supplier under a bulk supply agreement. A bulk supply agreement may indicate that both upstream and downstream parties should be treated as suppliers, rather than a regular consumer arrangement funded through rates or metering.

The downstream supplier then supplies water to others via a point of supply to consumers' infrastructure. The consumers then use the water on their own property.

This scenario ***excludes*** infrastructure or processes confined to a single property or multiple properties under common ownership connected to a drinking water supply. Examples of this exclusion may include urban schools, universities, health facilities, prisons, defence bases, industrial sites and retirement facilities[5].

A downstream supply with a distribution network may need to comply with the distribution rules in the Drinking Water Quality Assurance Rules, the relevant Rules modules are based on population size.

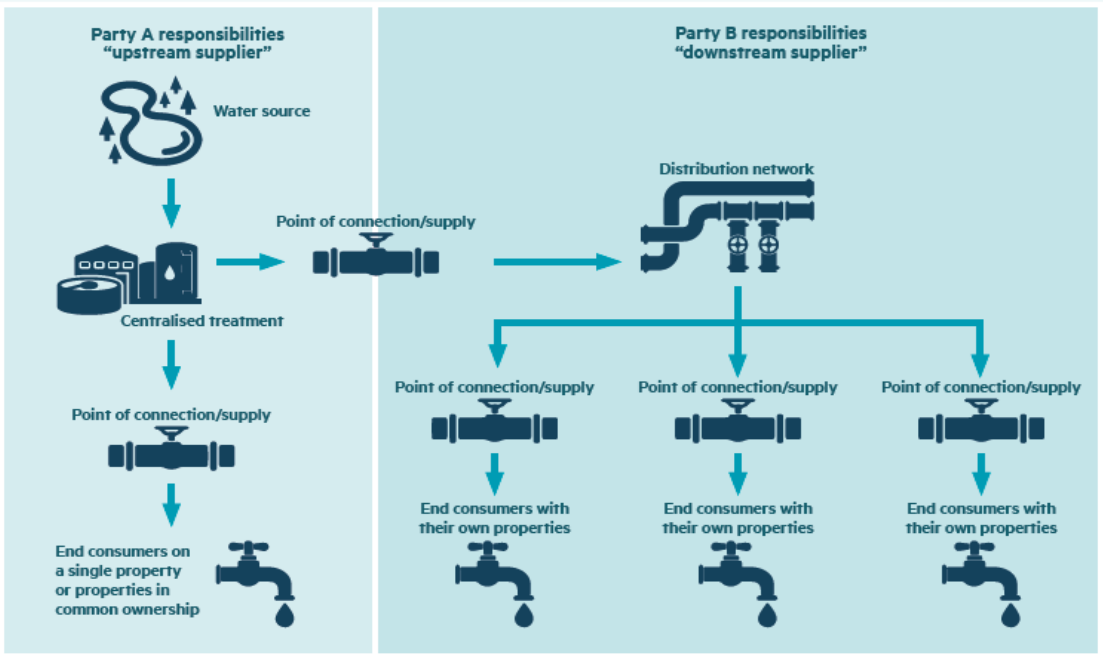
Figure one (below) is an illustration of this scenario where a bulk supply agreement is in place to a downstream supply where the water is on-supplied to consumers with their own properties and no further treatment is provided by the downstream supplier.

[3] The Act defines drinking water as 'safe' if it is unlikely to cause a serious risk of death, injury or illness either immediately or over time regardless of whether the serious risk arises solely from the consumption or use of drinking water, or in combination with other causes (see s 7 of the Act).

[4] An upstream supplier may be granted a general exemption in situations where it is not practicable for them to treat the water and it is more appropriate for the downstream supplier to be responsible for treatment.

[5] A downstream supply with a distribution network may need to comply with the distribution rules in the Drinking Water Quality Assurance Rules, the relevant Rules modules are based on population size.

**Figure 1: Example of a bulk supply arrangement**




***Scenario two: Downstream supply includes additional treatment***

Drinking water is supplied to a downstream supplier by an upstream supplier, and the downstream supply includes full or partial treatment.[6] This may be because the upstream supplier has an exemption that allows them to provide drinking water that is untreated. The downstream supply may include infrastructure for a single property, multiple properties under common ownership or for a network to properties not in common ownership).[7]

***Example*:** A town receives water from an upstream supplier, such as a council, under a bulk supply agreement, and then on-supplies to small communities or individual households.

Where additional treatment is either needed or installed, the downstream supplier has the responsibility to ensure drinking water supplied to its consumers is safe. Additional treatment may include:

- primary disinfection (such as UV treatment, chlorination)
- residual disinfection
- coagulation
- sedimentation
- filtration

[6] Whether treatment is required will depend on the supply. Factors that may indicate treatment is needed include: testing of water showing a lack of residual disinfection or the presence of *E. coli*, a very large network, consumers that may have a higher risk profile should they drink contaminated water and a lack of backflow protection in the network.

[7] Treatment may include such things as primary disinfection (e.g. UV treatment, chlorination), residual disinfection, coagulation, sedimentation or filtration, fluoridation or use of end-point treatment as part of an Acceptable Solution.

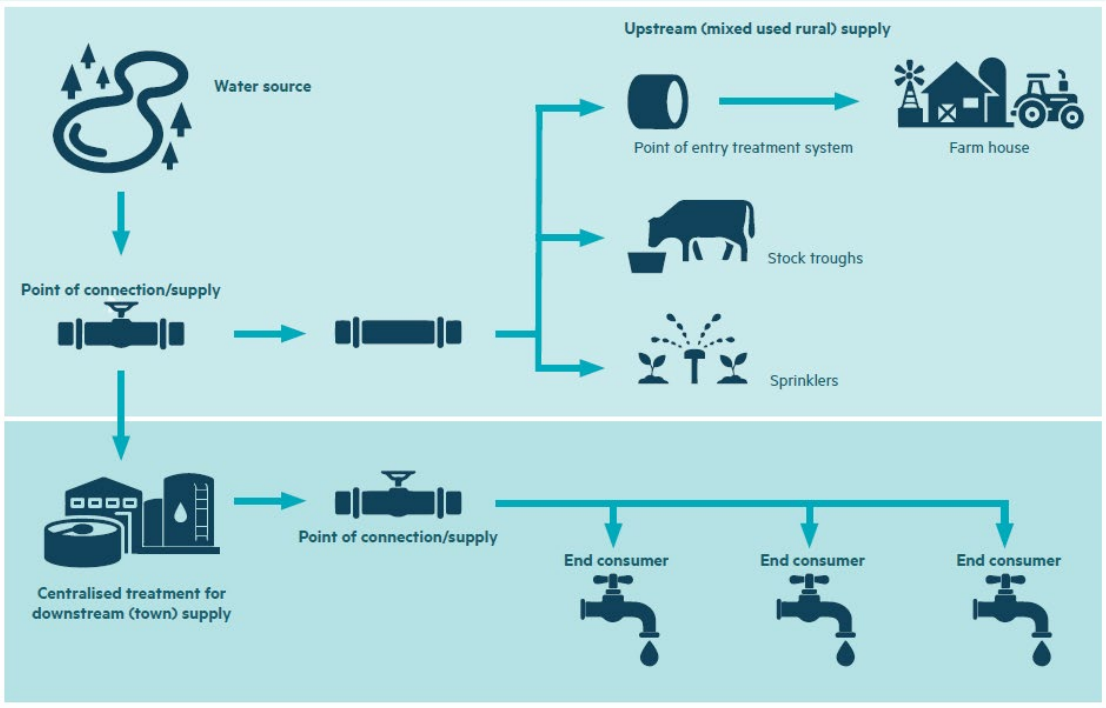
- fluoridation[8]
- end-point treatment at consumers' properties through an Acceptable Solution.[9]

We do not consider that a downstream supply exists when treatment, such as filters, is used by consumers for aesthetic reasons.

Any treatment system should be appropriate for the supply and adequately operated and maintained. Having a drinking water safety plan and following appropriate Drinking Water Quality Assurance Rules (the Rules) will manage any risks. In some situations, a downstream supplier may decide that an Acceptable Solution is an appropriate compliance pathway. [see: Acceptable Solutions | The Water Services Authority - Taumata Arowai]

Figure 2 (below) illustrates this scenario where the water is treated by the downstream supply in this example using centralised treatment for a town. This downstream supply is connected to a supply that is following an Acceptable Solution (in this case, a mixed-use rural supply Acceptable Solution).

**Figure 2: Downstream supply receiving untreated or partially treated water**

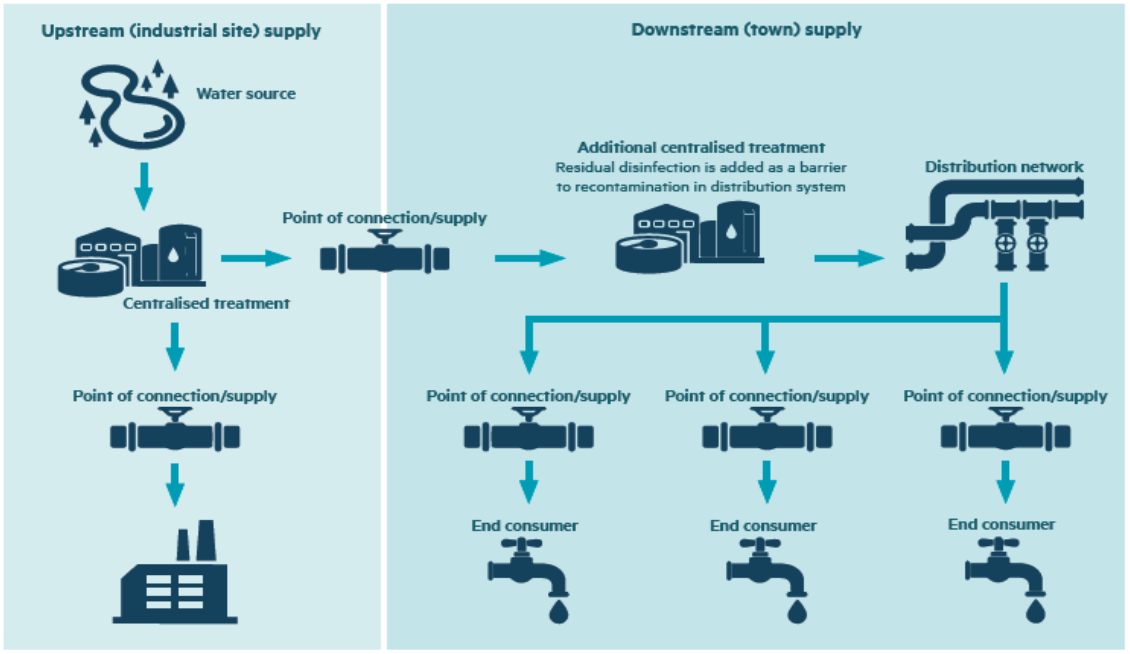



[8] While fluoridation is not treatment of the water for its safety and the Authority does not require water suppliers to fluoridate a supply, where fluoridation is installed we must ensure it is done safely and the Rules are met.

[9] End-point treatment devices disinfect water through filtration and UV treatment. They will be attached or close to the building(s) they service (hence the name). They can vary in size depending on the numbers of people the device is catering for. A consumer with end-point treatment at their property is not a drinking water supplier, the downstream supplier with responsibility for the supply is the owner/operator of the networked supply.

In Figure 3 (below), additional treatment is required, in this case centralised treatment is provided by the downstream supply which would follow the Rules. However, the downstream supply might also be able to follow an Acceptable Solution, if the criteria for an Acceptable Solution are met.

**Figure 3: Downstream supply receiving treated water, additional treatment required**




# Other approaches considered

We assessed several other approaches but consider that they did not meet the objectives. Further details are included in Appendix 2.

# Duties and consequences of becoming a water supplier

If we determine that someone is a downstream supplier, they will have the duties of a drinking water supplier and cannot transfer or contract out of them. These are duties such as:

- to provide safe drinking water that complies with drinking water standards
- register as a supply
- notify the Authority when drinking water is unsafe
- comply with rules
- prepare a drinking water safety plan.

Seeking an exemption may be an option under s 57 of the Act.

Becoming a drinking water supplier carries initial and ongoing costs. Requirements vary depending on the scale, complexity and risk of supplies, e.g. supplies with different numbers of consumers are subject to different compliance rules (small 26-100, medium 101-500, large >500).

Because of these potential costs and obligations, we want to hear from those who may be affected to ensure that our policy position on downstream supplies is proportionate to the associated risks and costs, and is practical to implement.

# Declaring supplier status

Section 9 of the Act gives the Authority powers to declare that the provision of water is, or is not, a drinking water supply.[10]

In making a declaration, the Authority would have to consider the main purpose of the Act to provide safe drinking water (s 3(1)) and may consider the extent of the infrastructure and level of risk to consumers in making the declaration.

There may be situations where we would use this power to remove ambiguity about whether there is a downstream supply or not.

# Upstream supplier duties

While the impact of our proposed policy position lies with downstream suppliers, upstream suppliers (e.g. councils) still have obligations and need to consider their relationship with the downstream supply. The upstream supplier would still be responsible for the supply of safe drinking water up to the point of connection/point of supply with the downstream supplier's own infrastructure.

This is consistent with section 15 of the Act which provides that duties imposed under the Act cannot be legally transferred to another person or "contracted out".

If you are an upstream supplier, we are interested to know whether you have agreements to supply drinking water, and any safety risks you have identified as part of your drinking water safety plan beyond the point of connection/supply that you have. There are two questions specifically for you to respond to in Appendix 1.

We may develop monitoring and reporting rules for upstream supplies of any size as part of our review of the Rules.

A general exemption under section 57 of the Act may provide an appropriate compliance pathway for some upstream suppliers where it is impracticable to provide safe drinking water directly to the point of supply with the downstream supplier. Any general exemption must align with the primary purpose of the Act and may include conditions.

# Submissions process and next steps

To better understand the nature of risks and protections in place, and the potential impacts for downstream suppliers, we have developed **a set of questions outlined in Appendix 1.** We would appreciate your response. Some questions may not be relevant to your situation. However, we encourage you to answer as many as possible to help us build a better understanding of the issues.

[10] Local Government (Water Services) (Repeals and Amendments) Bill 108-3A (2024), Government Bill 301 Section 9 amended (Meaning of drinking water supply) – New Zealand Legislation

# How to make a submission

This engagement is open from **Thursday 23 October 2025**. Please send us your submission on the proposals and questions raised in this document by **5:00pm, Friday 28 November 2025.**

You can send us your responses to the questions in this discussion document:

- via email: korero@taumataarowai.govt.nz
- by post: Level 2, 10 Brandon Street, PO Box 628, Wellington 6140, New Zealand.

As part of your submission, please include:

- your name, or the name of your organisation and contact details
- evidence, including any examples, references, facts, and figures.

We do not intend to publish submissions. However, your submission may be subject to a request made under the Official Information Act. If this happens, and your submission is part of material released, which would you prefer:

- the submission to be released including personal details
- the submission to be released with personal details removed?

We will take your views into account and may contact you before making a decision on any Official Information Act request.

**Appendix 3** explains how we will use any information you provide in your responses to this document.

# Questions about this engagement

If you have a question about this engagement, or the submission process, please email it to us: korero@taumataarowai.govt.nz

# Next steps

Following this engagement, we will consider all submissions and information we receive. We will then publish a policy position on our website.

We will also develop guidance material to explain downstream supplier obligations to:

- register with The Water Services Authority – Taumata Arowai
- notify us of any MAV exceedances
- produce a drinking water safety plan (but not a source water risk management plan)
- comply with Drinking Water Standards and comply with the relevant Rules when they are updated.

# Appendix 1: Questions, approaches, use of information

**Factors for defining downstream supplies**

**We would like your feedback on the following questions.**

**Clarifying the factors behind downstream supply classification**

- Do you agree with the factors that we have used to develop our approach set out below?
- Are there any additional factors we should consider using?

**Core conditions for identifying a downstream supply**

A downstream supply is likely to exist where the factors below apply, and depending on the situation, how they combine. The first and second factors are necessary for a downstream supply to exist, the third needs to be applied to specific situations (i.e. the factual circumstances of supplies).

- *Provision of water:* The downstream supply receives drinking water, whether treated or untreated, from another supply (the upstream supply).
- *Ownership or operation of infrastructure*: The person who owns and/or operates the downstream supply infrastructure is different to the person who owns and/or operates the upstream supply.
- *Purpose of infrastructure or processes*: The downstream supply includes (one or more) infrastructure or processes that treat, store, or transmit drinking water. Transmission may be to others who have their own point of supply. Infrastructure that is just incidental to the person's own consumption is not likely to be considered supply infrastructure of a downstream supply.

Additional factors that may influence classification

The following factors may also be relevant but are not determinative factors.

- *Significant risk*: The level of public health risk may justify recognising a person as a downstream supplier.
- *Regulatory coverage*: If the activity of supplying water is already regulated by another appropriate legislative regime (e.g. the Building Act 2004 and the Building Code) that safeguards the provision of safe water, then the person is not likely to be a downstream supplier.

**Supply arrangements and treatment practises**

Understanding how water is managed and treated between connected supplies

- Do you have a bulk supply agreement in place?
  – If yes, what areas does the agreement cover (e.g. treatment requirements, risk management requirements).
- Do you undertake any drinking water treatment after the point of connection?
  – If yes, what treatment processes are used?

- Do you provide advice or support to others who manage bulk supply agreements or post-connection treatment?
  – If yes, what insights could help us refine our thinking on these two scenarios?

**Testing scenarios for downstream supply**

Assessing how the proposed definition applies in practice.

- Do you agree that a downstream supply is likely to exist in the following scenarios?
  - *Bulk supply arrangements with on-supply to consumers*: Where a bulk supply agreement is in place and drinking water is supplied beyond the point of connection to consumers on properties not owned by the supplier.
  - *Downstream additional treatment*: Where drinking water is supplied beyond the point of connection and additional treatment is applied before being supplied, whether the supply serves a single site or multiple sites.
- Do you have any comments or examples related to these scenarios?
- Do you conduct any drinking water testing?
  – If yes, how often?
- Do you think there are other scenarios where a downstream supply should be recognised?
  – If yes, what are they?
- Would the proposed approach to defining a downstream supply create any challenges for you?
  – If yes, what are they?

## Upstream supplier duties

We would like your feedback on the following questions.

- Would the proposed approach to downstream suppliers create any challenges for your organisation?
- Do you have any general comments on the proposed position on downstream suppliers?

## Appendix 2: Other approaches considered

***Retain status quo***

| Option | Discussion |
|---|---|
| Potential downstream suppliers could register if they self-assess as being captured by the definition of drinking water supply in the Act without any guidance from the Authority, or if they come to our attention and we encourage or compel them to do so. | • May result in inconsistency in which types of situations are registered supplies. There would be limits in the level of guidance we could provide to individual queries.<br>• Would be difficult to enforce the Act where supplier status is unclear but this will also be an issue with any policy-based definition we adopt.<br>• Potential downstream suppliers may obtain advice from third party consultants in lieu of an official position. There is a risk that potential downstream suppliers will be over-classified as supplies and will incur unnecessary compliance and treatment costs.<br>• Could be flow-on effects in the assessment of any exemption applications that hinge on whether the drinking water arrangement is a drinking water supplier.<br>• This option is not preferred as it is not consistent with the original policy intent that rules and guidance would be developed on the application of the Act to large complex drinking water suppliers that are supplied by another supplier. |

***Potential scale-based threshold***

| Option | Discussion |
|---|---|
| A possible scale-based threshold, with possible factors to consider include: | • Any scale-based threshold runs the risk of being too blunt and could potentially capture a wide range of situations. |
| Number of buildings, e.g. supplied to 11 or more buildings. | (a) There is greater risk in networks serving more than 10 buildings and therefore networks under 10 buildings are not required to comply with distribution rules. This approach risks capturing townhouses and smaller residential complexes with shared driveways that will not be under a bulk supply agreement.<br>(b) The number 10 aligns with the self-supplied buildings category in the Rules. |
| Population size, e.g. a population of over 100 or 500. | (c) The greater the number of consumers the greater the exposure risk and therefore risk to public health. 500 aligns with the upper limit for Acceptable Solutions, and large networked supplies/ large self-supplied buildings in the Rules, and this is the level at which there is a significant step up in regulation. |

| | |
|---|---|
| | (d) 500 may be too high a threshold, particularly in situations where there is a high number of vulnerable consumers. It would also rely on sites managing risks such as backflow through their obligations under other regulatory regimes like the Building Code. Any calculation of population would also need to consider variable populations. |

***Limit to councils***

| Option | Discussion |
|---|---|
| Limit focus to councils/council-controlled organisations that connect to a registered supply and on-supply drinking water to others | • Aligns with consumer expectations around safety of council-supplied water and the capacity of a municipal operator to monitor a distribution network.<br>• Do not recommend this option as excluding non-council arrangements could lead to large unregulated private distribution networks that could carry significant risks. |

***Shared water supply pipes***

| Option | Discussion |
|---|---|
| • Drinking water arrangement receives drinking water from a 'shared water supply pipe'.<br>• A shared water supply pipe in this context is one pipe which feeds more than one property. This pipe provides water to a number of buildings from one single connection from the water main. The number of properties on a shared supply can vary. In a shared supply, all properties share responsibilities for the repair and maintenance of the shared pipework. | • Could exclude properties containing buildings that are in common ownership arrangements, e.g. occupants of a townhouse or unit complex where the water services infrastructure is owned and operated by a body corporate.<br>• Do not recommend this option as it would capture large numbers of additional small suppliers. |

# Appendix 3: Use of information

The information provided in submissions will be used to inform policy development and options analysis. The Authority may contact submitters directly if clarification of any matters in submissions or other feedback is needed.

### Release of responses

The Authority does not intend to publish any responses. However, responses may be the subject of requests under the Official Information Act 1982.

Please clearly indicate if you have any objection to the release of your response, or to any information contained within it. Identify the specific parts of your responses that you believe should be withheld and provide the reasons for withholding. If you raise an objection, the Authority will take your views into account and consult with you as appropriate before responding to any relevant request for official information.

### Personal information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies including the Authority. Any personal information you include in your submission will only be used for the purposes set out in the 'Use of information' section above, for contacting you about your submission, or to advise you of the outcome of the consultation including any next steps.

The Authority may also use personal information you include in your submission for other reasons permitted under the Privacy Act (e.g. with your consent, for a directly related purpose, or where the law permits or requires it). Please clearly indicate in your submission if you do not wish your name, or any other personal information to be released.

The Authority will only retain personal information as long as it is required for the purposes for which the information may lawfully be used. Where any information provided (which may include personal information) constitutes public records, it will be retained to the extent required by the Public Records Act 2005.

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