# Wellington Water Limited

## The Company

Wellington Water Limited is a company registered with the Companies Office and was incorporated on 9 July 2003.

Wellington Water is governed by a board of independent directors and managed by a Chief Executive and Senior Leadership Team.

## Senior Leadership Team

The Chief Executive and Senior Leadership Team are responsible for allocating resources and overseeing the day-to-day operations of Wellington Water in a manner that supports and implements the goals and values of the Board of Directors.

This includes developing and making recommendations to the Board on company strategies and specific strategy initiatives, management and implementation of the strategies adopted by the Board, implementing Board-approved policies and reporting procedures, and the day-to-day management of the company.

## Board of Directors

The Board of Directors consists of between four and eight independent directors jointly appointed by the Class A Shareholders.[[1]](#footnote-1) Directors can be appointed for a maximum of 2x three-year terms.[[2]](#footnote-2) The Board elects one of its members as the Chair.[[3]](#footnote-3)

The role of the directors is to assist Wellington Water to meet its objectives and the requirements set out in the statement of intent.[[4]](#footnote-4) The business and affairs of Wellington Water are managed by or under the direction of the Board.[[5]](#footnote-5) Decisions relating to the operation of WWL are made by the Board in accordance with the statement of intent and the constitution.[[6]](#footnote-6)

The Board exercises all the powers of the company, which are not required, either by the Companies Act 1993 or the WWL constitution, to be exercised by the shareholders.[[7]](#footnote-7)

The Board can delegate its powers, unless it is a power set out in the Second Schedule to the Companies Act 1993.[[8]](#footnote-8)

The Board generally meets 6-8 times per year.

## Wellington Water Company Constitution

Wellington Water has a company constitution is accordance with the Companies Act. It’s constitution[[9]](#footnote-9) contains the rules that govern the company. The council-owners are required to comply with the WWL constitution[[10]](#footnote-10) and the obligations under the Local Government Act and Companies Act.[[11]](#footnote-11)

Wellington Water’s constitution sets out:

* the appointment and removal of directors[[12]](#footnote-12)
* how directors and shareholders make decisions and hold meetings[[13]](#footnote-13)
* Matters relating to shares[[14]](#footnote-14)

The Wellington Water constitution,[[15]](#footnote-15) in accordance with the Local Government Act 2002,[[16]](#footnote-16) sets out the principal objectives of the company. These are to:

* Manage drinking water, wastewater and storm water services in the greater Wellington region for local authority Shareholders
* Achieve the objectives of its Shareholders as specified in the Statement of Intent
* Be a good employer
* Exhibit a sense of social and environmental responsibility by having regard to the interests of the community in which the Company operates and by endeavouring to accommodate or encourage these when able to do so
* Conduct its affairs in accordance with sound business practices

## Council-Owned Organisation

Wellington Water is a council-owned organisation[[17]](#footnote-17) that provides drinking water, wastewater and storm water services in the greater Wellington region on behalf of its shareholding councils.[[18]](#footnote-18)

The shareholders of Wellington Water are Hutt City, Porirua City, South Wairarapa District, Upper Hutt City, Wellington City and Greater Wellington Regional Councils.

Each council owns its own water services assets (pipes, pump stations, reservoirs and treatment plants), and decides on the level of service it will provide, the policies it will adopt, and the investments it will make, in consultation with its communities.

## Types of Shares

The shareholding councils hold two types of shares – class A shares and class B shares.

Class A shares confer the right to one vote on a poll at a meeting of the company on resolutions relating to its directors and the constitution on the shareholders.[[19]](#footnote-19) These shares are shared equally between the shareholders, conferring one vote to each shareholders on a poll at any meeting.

Class B shares confers the right to an equal share in dividends authorised by the board and in the distribution of the surplus assets of the company.[[20]](#footnote-20) These shares are not shared equally between the shareholders. Below is a table showing the type and number of shares held per shareholder.

| **Name of Shareholder** | **Number of Class A Shares held** | **Number of Class B Shares held** | **Value of Class B Shares held ($'000)** |
| --- | --- | --- | --- |
| Wellington City Council | 150 | 200 | 400 |
| Hutt City Council | 150 | 100 | 200 |
| Upper Hutt City Council | 150 | 40 | 80 |
| Porirua City Council | 150 | 60 | 120 |
| Wellington Regional Council | 150 | 75 | 150 |
| South Wairarapa District Council | 150 | 25 | 50 |

The Shareholders are required to hold an annual general meeting, unless the board resolves in writing not to, and that resolution is signed by the class A Shareholders.[[21]](#footnote-21)

## Wellington Water Committee

The shareholding councils are required[[22]](#footnote-22) to jointly establish, maintain and operate the Wellington Water Committee (a joint committee) in accordance with its Terms of Reference and the provisions of the Shareholders Agreement.[[23]](#footnote-23)

Each shareholding council appoints one elected member and an alternate as its representative on the committee, and each MWPE nominates one member and alternate, for unanimous appointment by the Shareholders.

The committee elects a Chair using the procedure outlined in the Local Government Act 2002, and the Chair or their nominee is authorised to make public announcements or media releases in connection with or on behalf of the Committee in relation to the Company or any Water Services.

The Wellington Water Committee strives to make all decisions by consensus.[[24]](#footnote-24)

### Shareholders Agreement

The Shareholders are required have an agreement (the Shareholders Agreement) that governs how the Wellington Water Committee operates.[[25]](#footnote-25) This agreement also sets out how the shareholders will manage their shareholdings, including the composition of the board and requirement or a letter of expectation to Wellington Water. It also sets out the terms of reference for the Wellington Water Committee.

### Terms of Reference

The Shareholders are required to have a Terms of Reference of the Wellington Water Committee,[[26]](#footnote-26) which sets out its purpose as:[[27]](#footnote-27)

* Provide governance and leadership across issues which are related to the planning, delivery and management of water services to communities serviced by Wellington Water Limited
* Provide governance oversight of Wellington Water Limited, including by exhibiting good governance practice
* Provide a forum for the representatives of Wellington Water Limited's shareholders and mana whenua to meet, discuss and co-ordinate on relevant issues and, through their representatives, to exercise their powers, and
* Strive for consistency across all client councils so all customers receive a similar level of service.

### Te Tiriti o Waitangi

The Shareholders Agreement provides for mana whenua representation on the committee as a Mana Whenua Partner Entity (MWPE).[[28]](#footnote-28)

The Shareholders Agreement[[29]](#footnote-29) provides that the *“Shareholders acknowledge the importance of Te Tiriti o Waitangi as a founding document of Aotearoa New Zealand and are committed to the principles it contains. In giving effect to Te Tiriti o Waitangi principles, the Shareholders agree that mana whenua will have an important role in the governance of the Company.”*

Before Wellington Water makes any significant decision that affects land or a body of water, it must take into account the relationship of Maori with their ancestral land and water.[[30]](#footnote-30)

### Service Level Agreement between WWL and WCC

The Shareholders Agreement requires each of the Shareholders to have a Service-Level Agreement with WWL as customers of the service the company provides to each of its shareholding councils.[[31]](#footnote-31)

Each of the Service Level Agreements between Wellington Water and the individual councils sets out what level of service the company will provide to the council, as its customer.

It establishes performance measures and KPIs and sets out provisions managing the failure of those performance measures or KPIs. It appoints WWL as the principal representative for WCC in contracts. It sets out the type and frequency of reporting as well as provisions for budget charges,

late payments and disputed invoices. It also has provisions governing liability, warranties and insurance.

### Statement of Intent and additional plans

As a council-controlled organization, Wellington Water must prepare and adopt a statement of intent.[[32]](#footnote-32)All decisions relating to the operation of WWL must be made by the board in accordance with the WWL statement of intent and the WWL Constitution.[[33]](#footnote-33)

Shareholding councils may require additional plans like an asset management plan, long-term plan or thematic plans (like a climate mitigation plan). [[34]](#footnote-34) The WWL board must deliver the plans and any reports against those plans.

### Statement of Expectations

The shareholders prepare a statement of expectations, which specifies how Wellington Water will conduct its relationships and requires WWL to act consistently with any statutory obligations of the councils and any shareholders obligations arising from any agreements with third parties (e.g. iwi).[[35]](#footnote-35) The Statement of Expectations is published on the council-owners websites.[[36]](#footnote-36)

### Performance Monitoring

Each of the councils regularly monitors Wellington Water’s performance to evaluate its contribution to the achievement of:[[37]](#footnote-37)

* the council’s objectives for WWL
* the desired results (as set out in the statement of intent)
* the overall aims and outcomes of the council

### Half yearly and quarterly reports

During each financial year, the board reports on its operations to its council-owners, which includes information required to be included by the statement of intent. The Councils publish these reports on their websites.[[38]](#footnote-38)

### Annual Reports

Within 3 months after the end of the financial year, the board must complete an annual report, deliver it to its shareholders and make it available to the public.[[39]](#footnote-39) The Annual report must include audited consolidated financial statements and an auditor’s report on those financial statements and the performance measures. The auditor-general is the auditor for council-controlled organisations.[[40]](#footnote-40)

# Legal Framework

## Companies Act 1993

The Companies Act 1993 provides basic requirements for the incorporation, organisation and operation of companies. It defines the relationships between companies and their directors, shareholders and creditors, and encourages efficient and responsible management of companies.

It sets out the powers of shareholders and the duties and powers of the directors. It also lists the company records that WWL must obtained at its registered office and sets out financial and audit reporting requirements and disclosure obligations to shareholders.

## Local Government Act 2002

The Local Government Act 2002 sets out the requirements for the governance and accountability of council-controlled organisations. It provides for councils to appoint and remunerate directors and requires CCO to prepare and adopt a statement of intent. It establishes that the role of directors of council-controlled organisations is to assist the organization to meet its objectives and any other requirements set out in its Statement of Intent.

## Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 applies to a council-controlled organisation as if that organisation were a local authority.

## The Ombudsmen Act 1975

The Ombudsmen Act 1975 also applies to a council-controlled organisation as if that organisation were listed in Part 3 of Schedule 1 of that Act.

# Definitions

**Board** means the board of directors for Wellington Water Limited.

**Committee** or **WWC** means the Wellington Water Committee.

**Company, Wellington Water** and **WWL** means Wellington Water Limited.

**Council Controlled Organisation** has the meaning given to that term by the Local Government Act 2002.

**Director** means a person appointed as a director of the Company in accordance with the constitution.

**LGOIMA** means the Local Government Official Information and Meetings Act 1987.

**MWPE** means the Mana Whenua Partner Entity.

**Service Level Agreements** means the Service Level Agreements between each of the Shareholders individually and WWL.

**Shareholder** means a person whose name is entered in the share register of the Company as the holder for the time being of one or more Shares, and for Wellington Water Limited, the shareholders are Hutt City, Porirua City, South Wairarapa District, Upper Hutt City, Wellington City and Greater Wellington Regional Councils.

**Shareholders Agreement** means the Shareholders and Partnership Agreement relating to Wellington Water between WCC, HCC, UPCC, PCC, GWRC and any other Shareholder and Mana Whenua Partner Entity acceding to the Shareholders and Partnership Agreement, and its variations.

**WWL Constitution** or **Constitution** means the company constitution of Wellington Water Limited.

1. Provision 11.5 WWL Constitution [↑](#footnote-ref-1)
2. Provision 11.12 WWL Constitution [↑](#footnote-ref-2)
3. Provision 12.10 WWL Constitution [↑](#footnote-ref-3)
4. Provision 13.1 WWL Constitution; Section 58(1) Local Government Act 2002 [↑](#footnote-ref-4)
5. Provision 13.2 WWL Constitution [↑](#footnote-ref-5)
6. Provision 13.3 WWL Constitution [↑](#footnote-ref-6)
7. Provision 13.4 WWL Constitution [↑](#footnote-ref-7)
8. Provision 13.5 WWL Constitution; Schedule 2 Companies Act 1993 [↑](#footnote-ref-8)
9. Section 26 and 27 Companies Act 1993 – there is no requirement for a company to have a constitution, but if it does then the company, the board, each director and each shareholder have the rights, powers, duties and obligations set out in the Companies Act 1993. [↑](#footnote-ref-9)
10. Provision 1.2 Shareholders Agreement [↑](#footnote-ref-10)
11. Provision 1.3.1 Shareholders Agreement [↑](#footnote-ref-11)
12. Provision 11 WWL Constitution [↑](#footnote-ref-12)
13. Provision 9 and 12 WWL Constitution [↑](#footnote-ref-13)
14. Provision 4-7 WWL Constitution [↑](#footnote-ref-14)
15. Provision 1.2 WWL Constitution [↑](#footnote-ref-15)
16. Section 59(1) Local Government Act 2002 [↑](#footnote-ref-16)
17. Section 6(1) Local Government Act 2002 defines **council-controlled organisation** as a company in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are held by 1 or more local authorities. [↑](#footnote-ref-17)
18. Background, Shareholders Agreement [↑](#footnote-ref-18)
19. Provision 2.1 WWL Constitution; Section 36(1)(a) Companies Act 1993 [↑](#footnote-ref-19)
20. Provision 2.1 WWL Constitution; Section 36(1)(b) Companies Act 1993 [↑](#footnote-ref-20)
21. Section 120 and 122 Companies Act 1993; Provision 9 WWL Constitution [↑](#footnote-ref-21)
22. Section 30 Local Government Act 2002 [↑](#footnote-ref-22)
23. Provision 3.1 Shareholders Agreement [↑](#footnote-ref-23)
24. Wellington Water Committee Terms of Reference [↑](#footnote-ref-24)
25. Section 30A Local Government Act 2002 [↑](#footnote-ref-25)
26. Section 30(A)(2)(c) Local Government Act 2002 [↑](#footnote-ref-26)
27. Wellington Water Committee Terms of Reference [↑](#footnote-ref-27)
28. Provision 2 Shareholders Agreement [↑](#footnote-ref-28)
29. Provision 2.1 Shareholders Agreement [↑](#footnote-ref-29)
30. Section 60A Local Government Act 2002 [↑](#footnote-ref-30)
31. Provision 1.1 Shareholders Agreement [↑](#footnote-ref-31)
32. Section 64 Local Government Act 2002 [↑](#footnote-ref-32)
33. Section 60 Local Government Act 2002 [↑](#footnote-ref-33)
34. Section 64A Local Government Act 2002 [↑](#footnote-ref-34)
35. Section 64B Local Government Act 2002 [↑](#footnote-ref-35)
36. Section 64B(3) Local Government Act 2002 [↑](#footnote-ref-36)
37. Section 65 Local Government Act 2002 [↑](#footnote-ref-37)
38. Section 66 Local Government Act 2002 [↑](#footnote-ref-38)
39. Section 67 Local Government Act 2002 [↑](#footnote-ref-39)
40. Section 69 Local Government Act 2002 [↑](#footnote-ref-40)