

Submission

**Three Waters Reform Proposal – Eight Week
Feedback Period**

September 2021



Three Waters Feedback to LGNZ and DIA

Waipa District Council

Submission deadline: 5pm Friday 1 October 2021

Emailed to: threewaters@dia.govt.nz and feedback@lgnz.co.nz

The Council has carefully considered the Govt's proposed reforms and structure of entity B and does not support this proposal in its current form. Our reasons are set out below.

1. Iwi/Māori having 50% control

Council acknowledges the Crown's endeavours to resolve iwi/Māori rights and interests in the ownership and control of water resources but does not agree that this should be achieved through the vesting of 50% control of community assets, which have been funded by local communities over many generations. Local Government is not a party to the Treaty of Waitangi and all settlements should be between the Crown and Maori and not involve third party assets.

The proposals raise a conflict of interest in that there is no clear separation between regulation and service delivery. Maori have been given significant control over policy setting and regulation of water and in the proposed reforms would also have 50% control over service delivery.

2. Significant information gaps remain

With respect to the reform programme in total, Council is very concerned that it will be asked to make a decision on whether or not to commit to the Central Government Three Waters Reform proposals in the absence of important information that will enable them to meet the key requirements for robust decision making; in that they have considered all relevant information and discounted all irrelevant information. These reforms will have significant impacts on the community's wellbeing, as defined by the Local Government Act 2002, for many generations and the community has a right to be consulted and their views given due consideration.

The purpose of local government is to enable democratic local decision-making and action by, and on behalf of, communities; and to promote the social, economic, environmental and cultural wellbeing of communities in the present and for the future. It is the role of local government to ensure that the current and future needs of our communities for good-quality local infrastructure, local public services, and effective regulatory functions are met in a way that is cost-effective for ratepayers, households and businesses. To enable us to fulfil our purpose (and the four well-beings), we require Three Waters infrastructure that is fit for our community's needs.

Local Government in general has accepted that in certain circumstances there needs to be an improvement of drinking water standards and environmental outcomes for fresh water and marine environments, and as such has universally accepted the need for a water regulator in the form of Taumata Arowai. However prior to committing to any reforms, it would be preferred if these regulations were better known, or fully implemented, which would allow Council to understand the impacts of these on our Community and Council's delivery.

3. Local determination and decision making needs to be retained.

For Waipa DC, the proposal is to be a part of Entity B with 21 other Councils. Whilst this provides the number of connected households indicated to achieve the indicated optimal efficiency targets, it is considered too large an entity to have confidence that individual communities and areas will be as well served as they currently are. Local determination of levels of service for how Waters services are delivered, is a key part of understanding and achieving community well-being.

4. Governance

Waipa District Council has significant concerns with the Entity model as proposed, but in particular the Governance model. The lack of Council representation in the Regional Representative Group (with only six Councils represented, and six mana whenua representatives), will not meet either Council's, or the Communities' served by our Council, expectations.

4.1. Loss of effective ownership of our community's assets

The transfer of ownership of community assets to the new entities is causing considerable debate from a constitutional and an equity perspective. Whilst "ownership" remains with a community, that community's control of their assets in the proposed new structure is lost. With that loss goes accountability and the ability to control the direction and standard of growth in individual communities.

4.2. Convoluted governance structure

The proposed governance structure is convoluted and does not provide local communities the ability to influence their own destinies. The indicated efficiency gains do not take into account the loss of equity, financial costs and reduced effectiveness for local communities on the other side of the equation.

4.3. Intent of Statement of Strategic and Performance Expectation unclear.

We also note that a 'Statement of Strategic and Performance Expectations' is to be drafted. This places a requirement on the Board to report to the Representative Group. Will the Statement of Strategic And Performance Expectations include a provision which formalises a

link between the local authorities (ideally individually) with the Water Services Entity? This is considered essential to meet community and Council aspirations.

4.4. Community Advocacy – the Local Voice

There is significant concern that each community will lose their ability to influence the delivery of services, and this concern is greater for smaller councils in particular. If a community chooses to fund a higher level of service for their area, how will these be managed by a large Water Services Entity (WSE)? It is indicated that a Consumer Advocacy Council is proposed as part of the Entity, but further information is needed on this role and the powers it would have.

For example who would be in that group - and can it be the same people that are involved in any of the other layers of the system? Is the group elected or nominated? How does the group advocate for levels of service? Is there proposed to be one Consumer Advocacy Council per Water Service Entity, or will the Consumer Advocacy Council be national? Ideally there would be one per Entity as a minimum.

There is also concern that the WSE won't be able to take on holistic environmental initiatives that make sense locally because it doesn't fit with their larger "one size fits all" work plan. Also balancing needs for renewal and maintenance activities over such a large area, it is unclear how local priorities will be able to be relied upon. How will the Statement of Intent "contract" between the Regional Representative Group and the Entity Board be developed to recognise all individual Territorial Authority plans?

4.5. Need for an Ombudsman

Waipā also believes that missing from the current Representation/Governance framework is an Ombudsman. This is a key role in other sectors and we believe it would be appropriate to have an Ombudsman as well. This is because:

- It is a model people are already familiar with – and it operates in other industries.
- It provides another tool for a consumer voice, and resolution of complaints.
- It provides a fair, independent and quick process.

5. Strategic Planning

Waipā is a partner within the FutureProof partnership model for the Waikato sub-region. Historically, FutureProof and Waipa have worked hard to develop robust sub-regional and local strategic plans for land use and infrastructure. If the reforms proceed, Waipa will require a Water Services Entity to work alongside Waipā DC (as Team Waipa) to give effect to the vision, community outcomes, statutory plans, and (currently under development) Waipa Community Spatial Plan. The Entity will need to have capability and capacity to work alongside Council in delivering on these outcomes. If such roles were not adequately resourced, time delays and

decision uncertainty would sabotage these complex and finely tuned processes to the point where the collaborations could become unworkable.

6. Risk of funding of infrastructure for growth shifting from developers to householders

In Waipā we have a very well established Development Contributions Policy which ensures the principle of 'growth pays for growth'. There is concern that this will not be continued as robustly under a new WSE, and that instead households will be expected to carry the burden for infrastructure to service new growth areas rather than developers.

7. Lack of clarity on how conflicts and competing needs of various communities will be resolved.

The integration of work plans between Waipā DC and the WSE will be critical but what will be the mechanism to challenge this if there is conflict? Will there be a right to object or appeal? If the right of appeal is a High Court process, it will be too expensive and too time consuming to bother with, leaving Council with no effective levers. No details have been given on how priorities and conflicting/competing needs of various communities will be worked out. This is covered in the Lisbon Charter and Waipā DC would like this model considered.

8. Funding for Three Waters Service Delivery

It is also acknowledged that for many years Local Government NZ has been requesting change in the delivery of three waters infrastructure, and in particular how these services are funded in small rural communities and in territorial areas where their funding capabilities are constrained by legislative debt to revenue ratios. There is very little detail in the proposed reform agenda on how the services are to be funded. Questions which continue to be posed by Waipā DC are whether the new water entities will be completely self-funded through unit charges or will central government re-introduce grants and subsidies for communities that cannot afford to comply with the new standards? Further, how will stormwater services be funded? Will it be necessary to provide the new entities with rating powers? Will Councils be expected to rate for stormwater services and simply pass on the revenue with no control or accountability over the expenditure?

It is assumed that there will be price harmonisation within the new entities from an equity perspective, but how are these equity issues going to be handled between the new entities? And how is account to be taken between territorial authorities, some of which have invested heavily in the three waters infrastructure and foregone other amenity services whilst others have not? As an example will territorial authorities that have installed water meters now be expected to cross subsidise those that have not or will the standards be brought up to the same level before price harmonisation?

A means of resolving the different standards could be an equitable financial recognition of the standard of the current infrastructure and a payment made to Councils to balance the ledger. This is not being proposed with an insignificant payment being made instead to each community

based on population, land area and socio economic deprivation. These measures bear no resemblance to the state of the assets, nor the level of commitment the community may have made over many decades.

There is also concern that the definition of 'efficiency' used by WSEs will see gold plating and 'one size fits all solutions' which increase technical efficiency, but will also add to the cost of services. It is questioned as to whether an Economic Regulator has the ability to recognise and influence or control this?

Summary

In summary, Waipā DC has significant concerns regarding the Water Reform proposal. The timeline is very challenging, the staging of the various reforms underway, and the lack of appropriate engagement with the public is concerning. Waipā has undertaken an engagement survey of our community (via the Waipa DC website Have Your Say) and overwhelmingly our community has let us know that they do not want to move to a much larger Water Services Entity. The pace of this process is of significant concern, and it is strongly promoted by Waipā DC that the pace of any change is such that co-design is truly possible alongside an option for a national referendum or other community input.

Waipā DC looks forward to further community engagement on the reforms to allow the people our Council represents and serves to meaningfully participate in this process.

Waipā DC is also keen to be involved in a discussion with the Government to be a co-design partner in how to achieve the objectives of the reform programme in a manner that is supported by Council and the communities represented.



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