



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

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Dear Minister,

On 30 July 2021 Local Government New Zealand, Taituarā and Te Tari Taiwhenua Internal Affairs invited councils across New Zealand to provide feedback to the Government on the potential impacts of the proposed Three Waters Reforms by 1 October 2021.

Over the past eight weeks Central Hawke's Bay District Council (Council) has assessed the package of Three Waters Reforms proposed by the Government following the decision made by Cabinet in July 2021. This assessment has included a detailed analysis of the information provided by the Government to support its package of reforms, as well as Council's own analysis of the impacts the reforms would have on Central Hawke's Bay, supplemented by independent analysis commissioned by Council and feedback received from our community in the limited time available. Based on this analysis, an alternate model to the Government proposal is preferred by our Council, with the preference being for the development of a Hawke's Bay Regional entity to deliver 3 waters services which is described further in this response.

Council understands that no formal decision is being sought at this point in time on whether Council supports Government's reform package or otherwise. In Council's view the Government must provide clarity to territorial authorities on if, when and how this decision will be sought. The reforms proposed by the Government are significant for how New Zealand's drinking water, stormwater and wastewater systems will be managed, and how this will impact connected ratepayers and communities. Our work over the past eight weeks has further evidenced that the proposed reforms are polarising and have triggered a range of emotions across our community. It is therefore Council's firmly held view that the Government must adequately consult the New Zealand public before the package of reforms is progressed through a select committee process.

Council also wishes to emphasise to the Government the significant challenges brought about by the pace and scale of the current Government's reform programme and the implications these reforms have on local government and provincial communities. In particular, the proposed Three Waters Reforms, Resource Management Act Reforms, and Future of Local Government will all have a bearing on the way territorial authorities conduct their core business and service their communities. To this end, Council request with the strongest of urgency that Central Government take a stronger lead and work with the sector in better informing and communicating with community about the multiple reform programmes with a particular emphasis on the difference between 3 Waters Reform, and the Water Services Bill. We expect the Government to provide clear and concise reassurance about the combined vision of the multiple reform programmes that effect Local Government, and how that relates to the constitutional makeup of democracy in New Zealand.

Our context

Central Hawke's Bay District Council is a small, largely rural Council servicing the communities of Tamatea Central Hawke's Bay. Like many Councils of our size, we face increasing challenges to serve the needs of our communities while balancing the constraints of affordability and resource limitations. This balance and pressure are exemplified in Council's delivery of three waters services as well as any other activity

Council has a long history of challenges with three waters service delivery and have invested significantly in both people and plant to continue to deliver against the expectations of our communities and key stakeholders (incl. regulators). Council's most recent 2021 LTP builds upon work commenced in 2016 to 'face the facts' of aging, failing and underperforming three waters infrastructure in the district. Enhanced asset management planning built upon better understanding of asset condition, performance and community requirements has resulted in radically different investment programmes than those on Councils books only 3 years prior. These investment programmes take Council to the edge of financial and resourcing limits and will test community affordability.

Further to our own work to better understand our three waters assets and services, Council is proud to have actively participated in strong regional collaborative initiatives since 2018 to thoroughly and formally assess opportunities for improved three waters outcomes across Hawke's Bay. Council is grateful for Government's early support of this work and acknowledges the contributions and recognition made by Government of this work at the time.

It is this collaborative work within Hawke's Bay that has given Council confidence that a) there is a need for change, and b) significantly improved outcomes are possible through changed delivery models.

Our feedback

Council is firm in our determination that reform of the sector will only be beneficial if reform programmes are delivered with and for communities. Council considers that the Government's reform proposal has not demonstrated sufficiently an ability to address the risks of large-scale aggregation of services and Council believes that due to this it is likely our communities may/will suffer from the reforms. Contrastingly, Council is confident based on the extensive and robust analysis work completed within Hawke's Bay, for Hawke's Bay, that the establishment of a Hawke's Bay asset-owning CCO to deliver three waters services would be beneficial. This option is therefore Council's preferred option for any reform.

While the establishment of a Hawke's Bay entity is Council's preferred option, Council is pleased to provide detailed feedback on the Government reform proposals as outlined below headed under 9 key theme/topic areas. We also append a list of more detailed questions that have been raised over the past 8 weeks that we request the Government to respond to.

Theme 1: An alternate option – a Hawke's Bay Regional model

Last year, with Government financial support we undertook and released the report of our own independent review of three waters service delivery for Hawke's Bay. In the context of Government's water reforms, we worked together to assess the options for a regional solution to the way we manage drinking, waste and storm water services.

We are now working together as a region and with iwi representatives to compare the Government's proposal against the considerable analysis and wider perspectives that went into our own detailed review. A summary of this analysis is provided below in a table/matrix.

Thanks to our own review, we have a very good understanding of the scale of change that is needed to ensure three waters services are affordable and sustainable for our communities here in Hawke's Bay. We agree the status quo is not an option.

Unless the challenges described further above can be resolved, Council are not able to support Government's three waters service delivery reform proposal. However, experience has shown us that when working together and to our respective strengths, local and central Government and iwi can complement each other to deliver better outcomes for all. That is why we remain committed to working with you to explore an alternative to the status quo that can best meet our shared objectives and ensure we meet the expectations of our communities here in Hawke's Bay.

This aligns with the feedback provided by the collective Councils of Hawke's Bay to Ministers on August 19.

Council request further engagement with government about the opportunity and practicalities of a targeted reform programme and delivery model for Hawke's Bay only.

Scenario	Water objectives and service levels met	Financial capacity and funding	Legal / compliance risk (assuming higher stds in future)	Workforce Capability and Capacity	Achievement of Wellbeings and integration with Council wellbeing outcomes	Key Threats (Risk)	Key Opportunities (not already considered in other criteria)
A - Government proposal / reforms	Med Increased ability to meet technical standards but questions remain about delivering local outcomes	High Significant signalled financial savings through aggregation	Low Signalled increased ability to meet new and existing standards and levels of service	High Increased capacity by leveraged scale and procurement/contracting models	Med Questions remain about ability of entity to integrate with Council and community	High High risk of loss of Council/community voice and influence and reduced outcomes for community.	Identified meaningful role for Maori in governance structure and proposed significant resources required for entity set up promoting employment opportunities locally
B - Council delivery	Med Council has adopted an LTP that will meet the objectives of today	Med Council has adopted an LTP that is at the limits of affordability	Low Council has signalled risk of current and future compliance standards breaches	Med Continued pressure to attract and retain necessary skillsets	High Council's current plans are integrated and aligned with community wellbeings	Med Ability to meet future standards and affordability constraints	Least disruptive option to work programmes, staff, contractors, policies and plans
C – Enhanced Council delivery	Med An enhanced work programme will increase Council's ability to meet objectives	Low Severe fiscal constraints and affordability challenges by further increasing investment programme	Med Additional investment will future-proof Council's assets and organisation from increasing standards and regulatory pressure	Low Increased work programme will place further pressures on workforce capacity and capability	High Enhanced plans would build upon those that already exist	High Significant future affordability constraints make the reality of this scenario likely not possible	Enhanced level of service but affordability constraints become paramount. Benefits to Council and Community of retained ownership and control allowing continued ease of integration with existing policies/plans across Council/community
D – Hawke's bay CCO (Asset own)	High Standardising service levels across Hawke's Bay to ensure equity and access while retaining local voice	High Significant signalled financial savings through aggregation	Low Increased scale and skillsets will position HB entity to address new compliance challenges	High Optimisation of resources regionally and workforce/programme planning opportunities	High Entity would be able to build regionally optimal plans	Med Significant Practical implications of setting up CCO model, legislative change required and government support needed	Reduced costs, improved service and retained local voice. Meaningful structures built specific to and for Hawke's Bay including community and iwi / Maori

Theme 2: Decision-making for reform

Insufficient information has been provided to date on the process post-1 October 2021, even though these reforms are likely to be transformational for how we manage our Three Waters assets and therefore transformational for the end user—the connected ratepayer. Council has a role to play to meaningfully advocate for our community, but community must also have their voices heard directly.

These proposed reforms are simply too important to our community to not allow our ratepayers to have their say. Council expects a decision-making process that clearly provides an avenue for communities to engage effectively. Council therefore requests clarity on the process going forward.

Council and community are for example still unclear on what decisions are yet to be made. Will there be an opportunity to opt-in/opt-out of these reforms or will the Government mandate these reforms?

Three Waters assets are currently owned by Council on behalf of our community. There are strongly held views in our community, and our ratepayers must therefore have a voice and be heard. While it has been made clear that this eight-week period should be used by Councils to understand the impacts the proposed reforms would have on our community, it is critical that communities must be provided with an avenue to provide direct feedback on the proposed reforms. In Council's view, this should be done before the decisions made by Cabinet are progressed through a select committee process to examine the proposed Water Services Entities Bill, which, based on the July 2021 Cabinet, is scheduled to be introduced to the House of Representatives in 2021 (ie, before the end of this year).

Theme 3: Governance / Ownership

Council shares the concerns expressed by a number of other territorial authorities that the proposed governance and ownership structure for the new water services entities is convoluted and will mean that some councils will not have a seat at the decision-making table. While Council understands that on paper territorial authorities will retain ownership of the Three Waters assets, Council struggles to understand what benefit there is from ownership if there is not a direct ability to influence the make-up of the Board of the entities and the Statements of Strategic and Performance Expectations.

Additionally, in practice the limitation placed on membership on the Regional Representative Groups (no more than 12 members, and equal numbers of representatives from local authorities and mana whenua) means that many councils will not be represented at the governance table. This is particularly true for proposed Entity C which encompasses 22 territorial authorities.

It is fundamental that Central Hawke's Bay has a voice in any governance structure. Our connected ratepayers have invested in our Three Waters infrastructure for decades and are committed to further investment and improvements as presented in our Long Term Plan. Council is accountable to our ratepayers, therefore we believe we must have a strong voice at the table.

Council's request is that all territorial authorities (at Mayoral level) are part of the Representative Groups, and that these Groups establish the Entity Boards directly, bypassing the intermediary step of an Independent Selection Panel. While more work would need to be done to understand what this would mean for mana whenua representation, in Council's view this would enable all territorial authorities to have an equal voice and to retain some degree of accountability to their ratepayers as owners of the assets.

Theme 4: Delivery and Response

Council has spent significant resources over the past 3 years to develop a number of plans and strategies to ensure the resilience of our infrastructure and to ensure that we can continue to cater

for the significant growth that our district is expected to experience. These include an Infrastructure Strategy, Asset Management Plans, an Integrated Spatial Plan and has culminated in our Long Term Plan 2021 – 2031 being adopted in June 2021 as our investment plan for the next ten years.

Council notes the direction of travel provided in the material presented to Cabinet in July 2021 on the role of territorial authorities in particular that:

- local government would continue to have primary accountability for urban and land use planning.
- The water services entities will be required to identify and make provision for infrastructure to support growth and development identified in relevant plans. This will enable them to service demand for new strategic capacity, including to meet the three waters needs of all new housing development, and commercial and industrial customers. When providing new infrastructure, the entities will need to work with urban and land use planning authorities, and other infrastructure providers, to ensure that the delivery of infrastructure is sequenced and supports committed development, to minimise the likelihood of redundant assets.
- In parallel with the resource management reforms, it is expected that legislation will need to provide for statutory obligations on the water services entities to support an integrated planning approach. These obligations would ensure that urban planning authorities, the new water services entities, and other infrastructure providers, coordinate the planning and delivery of the right infrastructure, at the right time, in accordance with commitments in agreed urban growth strategies, and spatial and implementation plans (including those provided for under the new resource management system).

In line with this direction of travel, it is Council's request with the highest level of importance that any reform of Three Water Services must at the very least guarantee the delivery of the LTP 2021-2031 adopted by Council in June 2021, and other associated plans and strategies, such as for example Council's Infrastructure Strategy, Asset Management Plans and Integrated Spatial Plan. This is what our community expects to be delivered, and therefore these expectations must be met.

Theme 5: Finance

Council holds concern that financial complexity of the proposed reform packages has not been fully understood or communicated by Government. There is not sufficient understanding of the reasoning for using 2018 rather than 2021 LTP data in the Government modelling and there is not a full understanding of the impact of this.

The financial implications for Council during and following any reform process are also significant and need to be worked through more closely and explicitly with Councils. Council considers there to be significant treasury risk to the organisation following a reform programme.

Council requests an ongoing discussion with Government about opportunities to be supported financially through the reform programme and after the reform programme, including seeking commitment to the ongoing funding support for Councils to continue to engage with and support the new entities if/when they are stood up.

Theme 6: Commercial considerations

It is critical that clarity and certainty is provided to businesses as key customers of water networks through the reform process. Businesses need this more than individual households to enable them to make informed decisions about the future. It is vitally important for the prosperity and growth of our district, in particular in order to attract and retain business interests in our district.

This principle of equity in charges for commercial versus residential Three Waters services is essential, and we expect there to be a consistent pricing approach within an entity, and between entities, and for industry to pay for what it uses. However the information provided by Government to date offers little information on how equity will be achieved.

While Council understands, as stated in the July Cabinet papers, that equity is a key principle and that the new entities will need different charging instruments to effectively and equitably charge customers across the network, further advice on this matter will not be available before 1 October—which makes it impossible to assess the implications during this eight-week period.

Theme 7: Prioritisation

Closely linked to the theme of Governance and Ownership is the theme of prioritisation. As a Council with a small ratepayer base and small rural and coastal communities, Council wants guarantees that work is prioritised and carried out in a fair and transparent way across the entities. How can we give confidence for example to our small communities of Porangahau and Kairakau that they will receive the same level of service as cities such as Wellington, Palmerston North or Nelson?

As mentioned above, we expect at a minimum for entities to deliver on existing plans and strategies to meet existing and proposed levels of service for our communities.

Theme 8: Pricing

Council understands from the information provided by Government and modelled by WICS that connected households in Central Hawke's Bay (and across entity C) stand to pay \$1,260 on average in 2051 if these reforms are implemented. While Council has reservations about the modelling that has been undertaken, Council also requests a better understanding of a projected price path for connected households from Day One. For example, what can we expect the price to be in July 2024, in 2030, or in 2035?

Council also notes that:

- the new entities will be responsible for determining price for consumers
- there is an expectation from the Minister that the new entities will consult consumers and communities on these matters
- these obligations will be set up in legislation.

It is also clear from the material presented to Cabinet in July 2021 that the new entities will need different charging instruments to effectively and equitably charge customers across the network, however Council is concerned that further advice on this matter to Cabinet is scheduled to be prepared for Cabinet in September 2021, and therefore not in time for the eight-week period of feedback.

As high-level principles it is Council's view that base rates should be harmonised and that entities need to balance fair and equitable pricing (driven by economic regulation) with community specific needs. Council views water meters as a valuable tool to ensure some degree of equity on what consumers (commercial or residential) will be charged.

Theme 9: Transition and delivery

The material presented to Cabinet makes it clear that detailed work will be required to identify precisely which responsibilities, powers, functions, and assets would be transferred to, and/or held

and exercised by the new entities. Council agrees that the process of unbundling water assets, liabilities and associated contracts and staff will be a technically and legally complex process.

Our networks are currently managed and serviced by a local workforce with local knowledge and experience. It is critical that local staff with expertise and experience continue to design, maintain and manage our networks. Council is therefore seeking assurances that local knowledge, local staff and local network management will be the starting point if these proposals are to be adopted. Council seeks further assurance that any possible arrangements for local staff will ensure an environment of local ownership and empowerment so that staff continue to remain engaged and responsive to local issues and are not ever hindered by burdensome process and reporting back via any centralised control points.

	
Alex Walker Mayor Central Hawke's Bay District Council	Monique Davidson Chief Executive Central Hawke's Bay District Council

Appendix one: Detailed Questions for government officials

Commercial

- Will existing commercial contracts for water supply be honored?
- Will water pricing / trade waste charges be consistent across the whole water entity area or will commercial interests/businesses be able to negotiate for better local wellbeing outcomes? Eg a cornerstone local employer?

Decision-making for Reform

- ☐ How will iwi views be included in central decision-making?
- ☐ How will mana whenua view be included in central decision-making?
- ☐ What role will Local Councils have in the decision making that affects their assets?
- ☐ Is there going to be a public referendum on the proposals?
- ☐ How will community views be included in central decision-making?

Delivery and Response

- ☐ Will the entities be required to get local consents for stormwater/catchment management (in particular)?
- ☐ How will the entities interact with local developers?
- ☐ How will the entities interact with resource consenting?
- ☐ How will the entities interact, in practice, with community-led growth (not developer led) – eg, spatial growth plans?
- ☐ How will community retain their democratic connection to local growth and development without specifics in either the Water Entities legislation or the new Resource Management legislation?
- ☐ Will entities be accountable to our Territorial Authorities urban/residential zones for connections/growth?
- ☐ Are our rural stormwater drains on road reserve included in the proposal?
- ☐ Will the entities own the urban curb and channel as assets? Or will they pay Council for their use?
- ☐ Stormwater and catchment management in small rural communities is nuanced and complex – often not including any hard infrastructure. How will this be managed?
- ☐ Will councils continue to be responsible for local stormwater catchment areas across open spaces and open drains?
- ☐ Local knowledge and local staff, local network management – how will this be maintained?
- ☐ Local water source and receiving environment nuances are vital to good system management locally. How will this be ensured?
- ☐ What response times will be required of the entities? Will it be the same as what councils have had to do?
- ☐ How many complaints will be required before a local issue will be resolved? Or lack of response be remedied? Elect Members often field these complaints.
- ☐ How will water entity staff be legally expected to be onsite in local emergencies? Natural disasters, weather events etc – directed by local controllers at Council or Civil Defence Emergency Management group?

Finance

- ☐ Will shared assets (eg, Transfer Station and Wastewater Treatment Plant on same council site) still sit on council balance sheet?
- ☐ Will Council be able to rate the land that water infrastructure is built on or under as utilities as we do currently do for gas and power companies?

Governance / Ownership

- ☐ Being one of 22 Territorial Authority owners in Entity C – how will we get “accountability” to Central Hawke’s Bay consumers?
- ☐ What are the actual benefits of ownership if not accountability of the Board?
- ☐ Outside of Governance/ownership, what other mechanisms can be in place to ensure Central Hawke’s Bay’s voice is heard and the entity delivers on priority issues for the wellbeing of our community?
- ☐ How will commercial/specialist/independent boards will add value?
- ☐ Scale – being one of 22 Territorial Authority owners in Entity C – how will Council actually get a voice in the appointment of the Board and approval of Statements of Strategic and Performance Expectations?
- ☐ Will the Governor/Representative group decide on the criteria for board appointments? Or is that going to be prescribed?
- ☐ Council owned entities governed by independent boards of who, what, how? What does it mean that half will be mana whenua?
- ☐ How will our community be confident our local voices will be heard?
- ☐ What would stop a new incoming government from changing the 3 waters legislation and selling off the assets?

Pricing

- ☐ We have been given a model which shows 2051 pricing. Does this include inflation?
- ☐ What would price look like in 2024?
- ☐ Will it be charged via councils? Or direct to consumers? _

- ❑ How will consumers on water meters be treated? Volume charge, fixed charge or a mix?
- ❑ What confidence can we have in the calculated \$1,260 average cost per connected customer at year 2051 for Entity C? Seems too low and unable to see how it is realistic.

Prioritisation

- ❑ How will equity across entities be ensured when Entity C is so geographically dispersed? Will it cost our rate payers more for that compared to the other entities? (including Nelson/Marlborough AND Chatham Islands will be a challenge)
- ❑ Will government funding for the Chatham Islands still be included?
- ❑ How will we be able to ensure, at a district level, that our smallest networked communities are adequately prioritised? Eg, Porangahau and Kairakau.
- ❑ How will individual Councils retain the ability to implement locally-based initiatives?
- ❑ Will the new entity complete our local 3 waters projects?

Transition and Delivery

- ❑ Will existing infrastructure strategies be adopted and completed by the new entity?
- ❑ How can we assure our community that our wastewater strategy (to improve environmental and cultural outcomes right across the district) will be completed?
- ❑ How will historic issues of access be dealt, for example drinking water and wastewater connection of marae.