

30 September 2021

Hon Nanaia Mahuta
Minister of Local Government
Parliament Buildings
WELLINGTON

Via email: n.mahuta@ministers.govt.nz

Dear Minister

THREE WATERS REFORM PROGRAMME – WAIMATE DISTRICT COUNCIL FEEDBACK SUBMISSION

1. The Waimate District Council is appreciative for the opportunity to provide further feedback on the Three Waters Reform proposal and note that this is a complex decision-making process for all parties involved.
2. One of the key drivers for reform is that all New Zealanders should have access to safe drinking water and improved environmental outcomes. Waimate District Council supports this approach through the establishment of Taumata Arowai and supporting legislation.
3. The Waimate District Council met on Tuesday 28 September 2021 to consider the current Three Waters Reform proposal and to provide feedback as required at the termination of the “eight-week” period. It should be noted that Council has been actively involved in both formal and informal discussions about the proposal for a significant period of time.
4. At this meeting Council resolved that:
 - a. Council adopts a ‘good faith approach’ in responding to the Three Waters reforms; and
 - b. Notes the staff advice that a decision at the meeting to opt-in or opt-out:
 - i. Would be premature and require consultation in both the urban and rural areas;
 - ii. Would be a significant decision, both in terms of the Local Government Act 2002 and the Council’s Significance and Engagement Policy; and
 - iii. Could only be made after appropriate observance of ss. 77 (options) and 78 (community views) of the Local Government Act 2002; and

- c. Agrees with the staff advice that any decision to opt-in or opt-out of the proposed delivery model would only be made by Council after public consultation in line with the Waimate District Council Significance and Engagement Policy; and
- d. Inform the Government that based on the information available and public feedback to date; if forced to make this decision at the current time Council would recommend opting out of the proposed delivery model; and
- e. Inform the Government that Council will honour our obligations under our Significance and Engagement Policy to consult with our community prior to any decision that proposes transferring significant assets of our three waters infrastructure; and
- f. That Council strongly and actively opposes Government mandating the proposed entity-based model for water services delivery.

Background

- 5. Our feedback is based on the balance of information made available to Council through the Department of Internal Affairs, Local Government New Zealand (LGNZ), the Water Industry Commission for Scotland (WICS) and various external consultancies. The same information has been made available to our communities through a dedicated Council web page. Furthermore, the decision is reflective of recent conversations with the wider district community. We note that to date formal consultation with the community has not occurred as this would be reliant on presenting detailed options for consideration. It is our view that the “iterations” presented by WICS do not necessarily represent a complete options analysis as would be required by a territorial authority through current legislative requirements.
- 6. The following commentary is representative of the key issues that Waimate District Council has identified or require further consideration by Government. We note that the identified issues, in some cases, represent the critical issues as defined by Local Government New Zealand and that these focus groups are unlikely to conclude prior to 30 September 2021. It is our view that feedback received as at this date will be incomplete and a decision based on limited information could be considered a risk.

The proposed Governance structure

- 7. In consideration of the size of the proposed entities (circa 800,000 population), Council does not consider proportional representation of 10-12 people on the Regional Representative Group (RRG) to be adequate for the territorial authorities representing “Entity D”. This is compounded further when considering that only half of the membership is sourced directly from territorial authorities. Council would require further information as to how representation would be defined in order to reach a decision on this issue.
- 8. Asset ownership still needs to be defined. In the absence of direct influence (as in the proposed governance structure), how can councils still be considered “owners” when the assets no longer exist on their respective balance sheets? Most importantly, who is holding the board accountable?

9. By definition, owners have considerable, or at least some influence over the assets in their respective ownership. Influence needs to be much better defined / incorporated within the governance model from both top-down and bottom-up (at a community level). The current model is unacceptable to our communities of interest and is a key point of contention.
10. Further protection from future privatisation can be attained through a better understanding and interpretation of “asset ownership” and reviewing the governance model in tandem.
11. In short, Council is concerned and advocates for local representation and asset ownership to be at the core of the reviewed governance model.

Rural water schemes and their integration with the proposed entities

12. Waimate District Council has been a long-term advocate to clearly define what rural water schemes are and how they differ from conventional urban supplies. Further to this, we note that there are differences between rural water schemes, for example, trickle fed supplies as opposed to smaller, full pressure systems. Additional complication occurs when the primary use is for stock water as opposed to the assumed potable water allocation (WICS, 70% of revenue). Continuation with this current assumption will undoubtedly lead to unintended consequences for the proposed entities, particularly through future price setting.
13. We note that the aforementioned is, in part, addressed through the implementation of “Acceptable Solutions” under the Water Services Bill. However, Waimate District Council remains concerned that a number of entities will potentially be impacted by a lack of understanding about rural water schemes. The current WICS modelling assumes that “three waters services will be equally accessible to all”. This is untenable for our remote rural communities who only receive water via trickle fed supplies and resultantly the model suggests rural communities will subsidise urban communities (three waters). Our analysis has identified significant risk that replacing data submitted with the Request for Information (RFI) with high level assumptions has masked a significant issue that WICS did not, or could not, understand. Consequently, Waimate District Council does not necessarily agree that the Scottish or English models are reflective of the New Zealand context.
14. We respectfully add that Waimate District Council actually submitted two RFI’s in order to demonstrate the vast differences between rural and urban areas. It is unfortunate that these were added together for the purposes of the WICS modelling (and subsequently commissioned reports on the same model). On completion of the LGNZ critical issues work, Waimate District Council suggests further, more detailed, modelling will better inform how services should be delivered to specific communities of interest, rather than an aspirational assumption that “Three waters services will be equally available to all”. This is simply not the case and was demonstrated to you and ministry officials during a visit to the Waimate District in April 2019.
15. With the enactment of the Water Services Bill, it is likely that the investment profile for rural areas (both Council controlled and private) are likely to change and therefore so will the RFI financial injects and subsequent models.

16. Levels of service differ markedly between rural supplies and urban supplies in terms of hydraulics, fire-fighting capacity, expectation, etc. Without clear definition(s) of rural water supplies and acceptable levels of service (including health outcomes) it would be difficult for any entity to provide an acceptable service offering.
17. Lastly, and building on the previous governance submission, additional work is required around the complex governance arrangements associated with rural water supplies. Waimate District Council has five active Rural Water Supply Committees who represent schemes which they or their families constructed, albeit with Government support. This needs to be considered when reviewing the proposed governance structure to ensure that communities still have an appropriate level of influence.

The retention of local voice and influence on the proposed entities

18. When canvassing our community, the issue of local voice and influence on the proposed entities was a major concern. The proposed structure does not currently allow for an appropriate level of influence on growth infrastructure, levels of service, integrated planning, etc.
19. How can the Waimate community have guaranteed influence over the direction of the water service entity, given the complicated and multi-layered proposed governance structure?

Sector engagement

20. The pace at which the Three Waters Reform process has been pushed has completely removed any opportunity for Council and community knowledge sharing, public understanding, and an opportunity for feedback from the very people that are critically affected by these reforms, the current assets owners, our ratepayers. The Government's media campaign has been misleading and uninformative. Councils have been put in the unwelcome position of explaining critical Central Government policy to our community, mostly in the absence of honest public-facing detail from the Government.
21. The Local Government sector in New Zealand are facing a package of critical public-service reforms that are coming at the same time as new freshwater and biodiversity regulations, Resource Management Act reform and a looming review of the future of local government, all during a global pandemic.
22. Councils in New Zealand are democratically elected, transparent and directly accountable to their ratepayers. Councils strongly advocate on behalf of the community, ensure a high level of local knowledge and expertise is invested in local matters, are trusted to deliver multiple essential services including three waters, and do excellent work.

Presented financial case

23. Waimate District Council is aware that there has been much scrutiny of the WICS modelling and that the intent of the modelling was, initially, to better understand the current state at a national level.

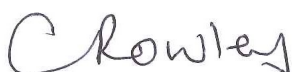
24. Council has analysed the WICS modelling, and associated reports, and considers the financial case-for-change to be fundamentally flawed. Through the RFI process considerable granularity has been provided with this information being set aside and substituted by a number of assumptions which simply do not represent the district. Given the number of connections was a key RFI submission, Council sees no reason why an assumption was used in place of the real data? The result is an overstatement of cost per connection.
25. Broad assumptions used to provide a national view are simply inappropriate and are not suitable at either an entity or territorial authority level. Morrison Low's 'Review of WICS data – Waimate District Council' highlights the failings which can broadly be presented as:
 - a. Differences in levels of service, funding and water use for rural water are not taken in to account in the modelling.
 - b. The assumption that 70% of the RFI revenue figures are sourced from residential connections simply does not hold. For the Waimate District this is likely to be 50%.
 - c. Determining the number of household connections using total population and dividing by 2.7 persons per household is incorrect. Occupancy in Waimate, and for many "Entity D" councils is substantially less (2.2).
 - d. Debt capacity is not based on total revenue for the Council, but focused on the three waters activities. Resultantly, the model reached the ratio of 250% at lower investment levels and the shortfall becomes an operational cost resulting in inflated investment requirements for the "opt-out" scenario.
26. With an asset base replacement value of approximately \$70,000,000, Waimate District Council has budgeted \$12,570,000 to 2031 to cater for appropriate growth in our district and to increase levels of service related to both demand and improved compliance. The projected WICS investment for the same period is \$138,600,000. In consideration that the annual rate take for the district is circa \$12,000,000, how can an investment in the order of \$112,000,000 for growth and improved health and environmental outcomes for the same period be justified?
27. Council provided growth capital projections alongside capital for increased levels of service to 2031. The modelling then assumes that this will continue in direction (with significantly increased magnitude) to 2051. The initial "stepped change" was a result of increased compliance costs associated with meeting the Drinking Water Standards for New Zealand in the shorter term and to assume that this will continue is not necessarily reflective of the investment profile. The result is programmed investment far in excess of what is required, again increasing the cost per connection.
28. From a community perspective, the cost of borrowing will ultimately be covered through billing and a pricing policy. Council notes that there is no indication to date on how prices will be set. There are several critical issues that need to be resolved before price structures can be considered, for example charging for stock water. How will the proposed economic regulator be structured and how will it deal with the specific communities of interest? Ultimately this is a key ingredient to the proposed reform which will offer some clarity for those connected, or potentially connected, to three waters infrastructure.

29. Council does not necessarily support the case to attain balance sheet separation, particularly when other potential models have been discounted before being fully developed. Other options exist, including co-funding models, which could mitigate many asset ownership concerns.
30. In summary, the Waimate District Council wholeheartedly supports the proposed improvements to drinking water regulation and the subsequent health and environmental benefits that result from the wider reform proposal. Council is acutely aware that the required improvements require increased investment and has allowed for this within the 2021-31 Long Term Plan.
31. The Waimate District Council remains unconvinced that the proposed service delivery mechanism, asset ownership model, governance model, promoted efficiencies and indeed the underpinning financial modelling provided by WICS will result in better outcomes for the Waimate District, or indeed New Zealand.
32. Council considers the current financial case for change is flawed, and likely overstated. Our Long-Term Plan 2021-31 has been built from the 'ground-up' using local partnerships with our rural water scheme committees, knowledge of asset data and condition and the need to transform our operational practices and process controls to bring water safety risk management to the levels expected. Our ten-year budgets include sizeable capital upgrades for some of our rural schemes and continuous development of water safety plans for each of our schemes.
33. Significant refinement is required and this can only be achieved through further work associated with the submission process and through continued engagement with local government, in good faith.

Concluding remarks

34. Council is deeply concerned that Government will introduce a Bill to make the reform mandatory and force the transfer of local assets. This would be a lost opportunity and would set the reform process up very poorly with local communities.
35. Council urges Government to provide further clarity in relation to the governance model, economic regulator, environmental outcomes and service levels, and to allow Council to have formal consultation with our community **before** a final decision is made.

Yours sincerely



Craig Rowley
MAYOR



Stuart Duncan
CHIEF EXECUTIVE