

Feedback



Three Waters Reform Proposals – Feedback and Areas of Clarification

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SUBMITTED TO: Department of Internal Affairs

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Introduction

1. Ashburton District Council (Council) welcomes the opportunity to provide feedback on the Three Waters Reform Proposal, as released in mid-July for feedback.
2. Located an hour's drive south of Christchurch, more than 35,300¹ residents live in the district, with the main town of Ashburton accounting for over 50% of residents. The rest of our residents live rurally or in smaller towns or villages across the district.
3. Ashburton District has experienced moderate and sustained population increase since the mid-1990's, increasing by 23% between 2006 and 2013 (a 3.3% increase per year). This growth, however, is now slowing, with an average growth of 1.3% per year since 2013.

A snapshot of our Three Waters

4. We operate 12 drinking water supply schemes across our district, which service over 70% of our residents and more than 10,300 homes and businesses.
5. We manage wastewater collection, treatment and disposal services for our communities across the district. We have three community-based wastewater schemes that service approximately 65% of our population.
6. We provide urban stormwater collection and disposal networks in Ashburton, Methven and Rakaia, while Lake Hood and Hinds have small systems of swales and open drains. These networks and systems ensure property and the environment are protected from flooding, and that roads and footpaths continue to be accessible during rain events.

Feedback to Government on the Proposed Three Waters Reform

7. To inform this submission, Council has undertaken the following:
 - Received an analysis report from Morrison Low,
 - Held a workshop with presentations from staff and Morrison Low
 - Discussed the reform proposal with DIA representatives and LGNZ representatives separately
 - Attended a number of virtual webinars and virtual meetings arranged by LGNZ
 - Held a number of discussions with Canterbury Councils and wider South Island Councils, and Ngai Tahu, in relation to the formation and structure of Entity D;

¹ Statistics New Zealand Population Estimates 30 June 2020

- Posted a [video chat](#) between the Mayor and CEO discussing some aspects of the reform and dispelling some of the commonly heard myths of the reform programme
- Put a [summary of the reform proposals](#) on our web-site and a link to the DIA's Three Waters web-site, and
- Conducted a community feedback survey via survey monkey, which received 504 responses (the results of which have been incorporated into our feedback).

Aspects of the proposal that Council supports

8. The fundamental premise of the reform is that all New Zealanders should have access to safe drinking water and that three waters activities improve environmental outcomes. Ashburton District Council supports these fundamentals in principle, but notes that solutions need to be cost-effective and efficient to benefit the communities that we serve, and the local community voice must be heard.
9. Our community reinforced this in our recent survey, with 64% of respondents telling us that the continued improvement of health and environmental standards in three waters, from what is currently provided, is important for them. 27% of respondents are prepared to pay more for higher standards, with a further 21% happy to do so if the improvements are localised, justified and/or decided upon by local representation.

Financial Case for Change

10. Council considers that the current financial case for change is flawed, and likely over-stated. Our Long-Term Plan 2021-31 has been built from the 'ground-up' using our 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 schemes and development of water safety plans for each of our schemes.
11. When comparing our LTP to the Department of Internal Affairs WICS data, we are concerned that the calculations based on population, area and population density tested against experience and observations in the United Kingdom are over-stated and unnecessarily inflate costs at the local level. This makes comparisons and meaningful conversations with the community about the opportunities and risks with the proposed reform difficult at best and has not helped Government to successfully make the case for change.
12. This is reflected in feedback from our local community who expressed concern with the data and evidence of the need to change, and transfer of assets from local ownership and control to Government.
13. Our Long-Term Plan 2021-31 shows our debt levels peaking in 2026/27 at \$161million (from a capacity to borrow of \$249 million), of which \$70million is for three waters infrastructure. We have estimated that the removal of three waters would mean a reduction in our capacity to borrow to \$205 million and a peak debt in 2026/27 of \$91million. This leaves a headroom to borrow of \$114million. Should the proposed three waters reform proceed, Council may increase its headroom by \$26million.
14. Care needs to be taken when considering that this leaves the Council and community "better off" – the additional borrowing capacity does not consider the ability of the community to pay. When

considering future investments to support community resilience and well-being, affordability will likely be more of a factor than the estimated additional headroom.

15. Further to this, Council needs clarity on the mechanism for debt transfer associated with 3 waters assets.

Entity structure

16. Council does not have any general concerns with the geographic boundaries of Entity D as proposed, and believes the issues in the top of the South Island should be solved by agreement with those communities.
17. We would note, however, the strong links between Canterbury and the Chatham Islands, and would ask for further work to be done on whether the Chathams should join Entity D or C (as currently proposed).
18. Council acknowledges there will likely be some benefits of scale from the proposal, although is sceptical at the claimed efficiencies and actual numbers supporting the proposal.
19. While the community has raised issues through our feedback survey around the risks of privatisation with water, Council notes the level of protections from privatisation included in the proposal. However, given the significance of this point for the community, suggests further protection measures are considered to protect against future legislative change.

How can Council have guaranteed influence over the direction of the WSE, given the complicated and multi-layered proposed governance structure?

20. Council is critically concerned with the loss of local representation to advocate for, and on behalf of, local communities with the governance structure proposed in the three waters reform. This has been reinforced by our community survey, where 97% of respondents felt that it was important that the community was able to have its say on how three waters services are provided.

What further work is planned on alternative ways of achieving balance sheet separation than the current multi-layered structure of the Representative Governance Group and the Independent Selection Panel?

21. Council notes that the DIA understands local authorities and our communities are concerned with the governance structure of the WSE's. We are highly motivated to understand what alternative arrangements could look like to meet our unique New Zealand circumstances.

How can the community have guaranteed influence, given the size and scale of the entities?

22. While Council notes the intention is that the respective entity would be required to engage with the local community on its programme of works, in practise Council is sceptical of how effectively this could be done when Entity D makes up the majority of the South Island. Council and our community is not convinced of how the community voice will be heard and what influence local authorities and communities will have, particularly given that under the proposals the number of representatives will be smaller than the number of Councils it represents.

How can Council be guaranteed that the District's three waters investment priorities will be met?

23. Given the loss of local voice with the proposals, Council believes that the reform is the exact opposite of 'localism', which is, in essence, about 'bringing power to the people' through devolving services tailored to individual citizens, based on the premise that locals are best placed to decide local matters. Local Government New Zealand (LGNZ) argue New Zealand's policy landscape is dominated by a 'one size fits all approach' which is incompatible with local needs. While Council acknowledges the principles of the water reforms, as noted in clause 9, it is not convinced that the proposed large aggregation of existing service provision to three waters reform is the best way to achieve the desired outcomes.
24. The high-level nature of the proposed reform has meant that neither Council nor the community has assurance over the on-the-ground levels of service that can be expected under the reform. Council acknowledges that this is difficult to state given the size and scale of the reform, but notes that without it, it is problematic to ascertain if the community will see tangible improvements to three water services in the district. Levels of service matter, as these are how the community judges and understands if Council is doing a good job or otherwise.

How will Council have visibility of future pricing proposals of the WSE?

25. Council and the community are concerned with the pricing model and associated charges of the WSE's. Included in these concerns are the visibility of future pricing proposals, volumetric charging, timeframe and methodology to achieve standard pricing over the whole WSE area. Our recent Long-Term Plan consultation, where we proposed to introduce district-wide water meters for all of our drinking water supplies, highlighted just how connected our communities are to three water issues and the importance of ensuring our residents have their say.

We request that the Governance Structure is altered to enable direct Council involvement in Board and Director performance, accountability and appointments.

26. The ability of the Regional Representative Group to influence the board of the entities appears too far at arms-length and is exacerbating Council and the communities concern with the proposals. Linked to this is the ability to hold the board to account for local decisions and actions.

Economic Regulator

We request detailed visibility of the structure and role of the proposed economic regulator.

27. Council acknowledges that the details of the economic regulator are yet to be released, however, the conversations over the past two months have highlighted the critical role of the regulator in the three waters reform proposals. As such we are seeking an in-depth understanding of the structure, purpose and role of the regulator.

Will the proposed economic regulator regulate all private supplies and WSEs, and if not, where is the cut-off point for not being regulated?

28. Given the sheer number of water supplies that the WSE's will be providing to the community, as well as the number of private supplies throughout New Zealand, we are not clear on how the regulator will have the capacity to monitor and regulate all supplies. Therefore, we presume that there would be a cut-off for supplies being regulated or not. Clarification on this cut-off point is being sought.

Stormwater

What work was done on the realities of stormwater being included in the reform proposals?

29. Council is concerned that the inclusion of stormwater into the reform proposals needs further work and clarification. The provision of stormwater for Councils outside of the main urban centres are complex and have a myriad of intricate aspects to consider. We suggest that more work should have been done before including stormwater into the proposals.

How will charging for stormwater work, noting the private and public benefit of stormwater?

30. Local authorities throughout New Zealand grapple with how to charge stormwater given the public and private benefits. Council is unclear how WSE's would charge for stormwater given that there is neither a single 'beneficiary or user' of the service nor a system of direct connection to the service in the rural areas (quite different to drinking water and wastewater services. Council seeks further clarification on this important matter.

How will decisions be reached on which stormwater infrastructure transfers to the WSE and which remains with the Ashburton District Council?

31. Linked to the points made above, the stormwater infrastructure transfers to the WSE are ambiguous. Council seeks detailed information about what assets would be transferred and what would be retained (and therefore need to be maintained) by Council.

Will present consent conditions of Council infrastructure be honoured?

32. Council holds resource consents for various aspects of three waters infrastructure. A concern raised was if the WSE's would honour the current consent conditions on Council infrastructure so the community would not see a difference in levels of service.

Local Government Roles & Functions

How can Council have a guarantee as to how the WSE will follow Council's planning and land development ambitions and not be an inhibitor to development in the Ashburton District?

33. Currently, three waters services are integrated with spatial and local planning processes within our organisation. This enables concise and clear advice for the community, including local developers, on where Council has planned for future growth, including infrastructure supply. The removal of three waters from local authorities is likely to make this more complex and difficult for future developments and we are not clear on how the WSE will be involved in this process.

How will WSEs be compelled to contribute meaningfully to Ashburton District civil defence emergency planning and management?

34. During Civil Defence emergencies, Councils rely heavily on their intimate knowledge of three waters infrastructure and operations. The recent flooding in May of this year reinforced the criticality of local knowledge on the ground as the impacts of the flood unfolded and throughout the continuing recovery for our community.

35. We are concerned that the loss of three waters from Council's will weaken what is an already lean operation for emergency operations at a local level, which is the front line of disaster management. We seek clarification of how WSE's would function alongside local authorities in this important area.

How does the three waters reform integrate meaningfully with the broader local government reform that is currently underway, most notably the reform of the RMA and the Review into the Future for Local Government?

36. There are a number of unknown factors associated with the timing of the water reforms, particularly in the context of the Government's wider reform programme and how this will affect local government and community-based democracy. Council suggests that before the Three Water Reform process proceeds, an issues analysis is completed and understood in relation to the impact on the water reform of the Resource Management (RM) and the Future for Local Government (FfLG) reforms as these are all inextricably linked.

Has Government considered the impact of the reforms on local body governance?

37. While difficult to quantify, Council is concerned that the removal of three waters governance from local authorities, may impact on candidacy for local body elections. While Mayors and Councillors are generally not elected for their technical expertise of three waters services, the loss of a significant aspect of Council business may influence future candidates on standing for election.

Rural water schemes

How will rural schemes that are primarily supplying stockwater be treated?

38. Council and the community remain concerned about the effect of the reform on rural water schemes. A clear definition on what a rural water scheme is would be a good first step, as right now it isn't clear if it includes stock schemes, rural community, small towns and/or houses supplied by a single sources on a farm.

39. Once this is determined, then clarity is needed on how and when to apply acceptable solutions, and whether local councils will be required to retain water schemes. Right now, what's in the Water Services Bill and how it will affect rural water schemes and how the Three Waters reform will affect them is ambiguous. We urge Government to work alongside Council's and key partners to navigate this complex issue.

Workforce

How will Government resource the workforce required for the reforms to be successful?

40. Council is unclear where the workforce, skills and technical capability will come from to deliver the Three Waters services as proposed. Finding, recruiting and retaining the right people in the industry is a challenge already for local authorities, doing so to deliver the Three Waters Reform given the increased workforce needed will be a significant challenge to the successful implementation of the reforms.

How will the maintenance contract between Ashburton DC and contractor Ashburton Contracting Ltd be treated on transfer (presumably 1 July 2024), including the protection of their workforce?

41. Council has a close working relationship with the local contractor who delivers our three waters services operationally. We are concerned of the impacts of the reform on their workforce, and request advice from Government as to how local contracts, contractors and their staff will be protected.

Process

We request that all information is available to us before asking Councils to consult their communities and make a decision on the reforms – including all those matters raised in this feedback

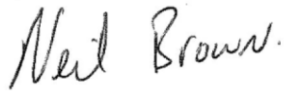
42. Council is seeking clarity on the process from this point going forward. Communities are highly concerned and sceptical that their voices will be heard by Government, and in turn, this affects our relationship with our community.
43. The Local Government Act 2002 ensures that we are held accountable for our actions as a local authority, including how we ensure that our local community voice is heard and understood **before** we make key decisions. We request adequate time and information from Government to engage and speak with our community before being put in the position of opting-in or out of the reform. As it stands right now, the lack of clarity on the new regulatory environment (Taumata Arawai, the economic regulator and regional councils) and how these all work together for example, make it difficult to convey to the community what this will mean for our local situation.

Transition Arrangements

44. Should the reform process proceed, Council urges Government to work alongside local authorities to ensure that transition arrangements are given the due diligence they will need for reform to be successful.
45. Poor transition management may cause delays and confusion over responsibility exposing Council to liabilities and affecting continuity of service delivery for communities.
46. Key issues for Council that Government will need to plan for, include:
 - Community resistance to change has been greater than expected and will require significant consideration;
 - Speed of change may see an increase in mistakes and unforeseen issues, we urge a considered and methodical approach;
 - The formation of a transition team with representatives from local authorities are ideal, but require resourcing and staff within Council's which are already at capacity workloads continuing with business as usual. We are not prepared to compromise staff health and wellbeing to meet Government reforms, while at the same time we want our staff to have every opportunity to contribute to the successful establishment of the new Entity D. A great deal of thought and planning is required here;
 - Development / financial contribution refunds may affect Council's charges linked to debt (including the possibility of refunds);
 - Different local approaches to our regional neighbours may reduce the economies of scale making regional water solutions more expensive;
 - Community uncertainty may result in residents continuing to call Council for delays in resolving faults;
 - Existing contracts may leave Council liable for compensation if contractors take legal action;
 - The transfer of asset management systems & data will need to be clearly established as the loss of data or failure of systems will affect the continuity of service delivery;
 - Stranded overheads within local authorities will need to be well understood and plans established to mitigate impacts.

Concluding remarks

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



Neil Brown
Mayor



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