

By email

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Tēnā koutou

Feedback on the Three Waters service delivery reforms

This letter sets out feedback from Greater Wellington Regional Council (GW) on the Three Waters reform programme proposals and how they will impact GW and the region. This includes requests for additional work on some aspects of the proposals.

Across the country, Long Term Plans show costs to water services in the billions over the next 30 years, increasing beyond the point of affordability or sustainability. It is because of this, GW supports the need for water services reform. However, for the reform to be successful we believe there are some serious issues that need to be worked out and other opportunities that could be explored further.

GW has a unique position in this reform, being the only regional council with a role in water services delivery, with that role being limited to one of the three waters functions: bulk water supply. This is provided for in the Wellington Region Water Board Act 1972. Under that Act, GW provides bulk water to four councils (Wellington, Hutt, Upper Hutt and Porirua City Councils). The TAs fund bulk water services through the bulk water levy (also provided for in the Act). The levy is included in the TAs' rates. GW does not have any interaction with consumers of water; only with the TAs supplied. GW owns the assets (187km of distribution pipework, four treatment plants, 9km of tunnels, three water storage dams, 15 pump stations, 45km of roads and tracks, 2,688 raw water intakes and wells, 18 aquifer wells, plus all the catchment lands) associated with the bulk water supply function. The water services are delivered by Wellington Water Limited, a Council-Controlled Organisation (CCO) which has six shareholding councils.

GW has used the eight week window provided to consider the impacts of the reform proposals. We have engaged with other councils in the region and in the proposed 'Entity C'. It had been our intention to also reflect the views of our mana whenua partners here, but due to the impacts of the COVID-19 Alert Level changes (to Level 4) we have had to reschedule our wānanga with mana whenua partners and cannot include their feedback.

A report on the Three Waters Reform was presented to the Council at its meeting on 23 September 2021. The relevant resolutions from that meeting, identifying areas of feedback, are attached. This letter expands upon the issues identified.

The case for change

Broadly speaking, GW agrees with Government's assessment of the need for changes to the way drinking water, wastewater and stormwater services are delivered in our communities.

We share Government's ambitions to significantly improve the safety, quality, resilience, accessibility and performance of three waters services in a way that is efficient and affordable for our communities and all New Zealanders.

We agree the status quo is not an option. However, the current proposal needs adjustment to respond to the issues being raised by local government and improve the outcomes for Councils, iwi/mana whenua and communities serviced by three waters.

The proposed model

The governance structure of the proposed Water Service Entities (WSE) is at odds with enabling local representation from the range of communities across Entity C. It is considered overly complex and unworkable across 22 local authorities and many iwi/mana whenua which, for some, cross boundaries into more than one entity. There appear to be too many layers and insufficient opportunity for local input, effective representation, and ensuring accountability back to the communities it serves.

GW would like government to consider an alternative approach, adjusting the model by taking an approach more akin to extending the Wellington Water model, with assets transferred. Wellington Water provides three waters network management services to its clients, who are also its shareholders. A representative from each council shareholder sits on the Wellington Water Committee, which provides overall leadership and direction to the company through a Statement of Intent and appointment of its board of independent directors.

Further consideration is also required to effectively balance elected representation with a partnership approach with mana whenua that fairly represents all iwi involved.

Councils' representation in governance

Ensuring that there is both local accountability and mana whenua governance is fundamental in the adopted model.

One of the key concerns from our Council is the fairness of representation in the groups. Although GW is supportive of the representative groups having a 50 percent iwi/mana whenua delegation, the size of the representative groups does not offer equitable opportunities for community and council voices to be considered in decisions.

GW would recommend expanding the membership of the 'regional representative groups' to include all councils in the relevant entity. For Entity C, this is approximately 22. As it is stated currently, the representative group would have only six. We recommend that individual representation of all mana whenua groups is also required.

We recognise that our recommended approach would make the groups large. Therefore, we also suggest introducing subgroups in the entities. For Entity C, it could look like 'C1' and 'C2', allowing a more direct interest to be taken in a smaller geographical area. Entity C also has a barrier that no other Entity has, and that is being divided by the Cook Strait which could cause the communities in the north of the South Island to feel more disadvantaged if not fairly represented in governance.

Our mana whenua partners and their representation in governance

GW is disappointed in Government's inconsistent engagement with mana whenua and questions how the model ensures that Te Tiriti o Waitangi and Te Mana o te Wai will be given effect to.

GW considers that the Government's inconsistent engagement with mana whenua on the Three Waters proposals does not meet the threshold that Government imposes on local authorities. We are required, in the course of the decision-making process, to identify all reasonably practicable options for the achievement of the objective of a decision; and if any of the options involve a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wahi tapu, valued flora and fauna, and other taonga (Local Government Act section 77 (1)(a) and (c)). Given the significance of water to mana whenua and the scope and influence of the proposed water entities that cross numerous iwi boundaries and authorities, it would be useful if Government identified how many iwi were not engaged in the consultation processes and the reasons for not engaging with them.

GW urges the Government to reconsider the proposal to limit mana whenua representation in governance to six members per entity. For example, the 'Entity C' area covers 28 iwi from Tairāwhiti in the North, to Te Tau ihu in the South and Takitimu in the East and Te Moana o Raukawa in the West (refer Te Kahui Mangai TPK maps). This includes GW's six mana whenua partners. We consider the proposed 50:50 split of mana whenua and Council members meets the general principle of equity. However, a 50:50 split is in conflict with the Treaty of Waitangi principles as it actively excludes 22 iwi from representing their own rights and interests for water in their rohe. Instead, GW proposes that Government adopts a Treaty of Waitangi partnership approach that enables all participating iwi to have a seat at the table.

Mana whenua are experiencing challenges given the speed of the review process and the resources required to be actively involved. GW fully supports the Government's position that mana whenua

should contact DIA directly for funding to support hui for iwi to discuss the Three Waters proposals leading up to the enactment of the new Act (refer DIA Three Waters webinar 14 September 2021¹). However, it is unclear which agency will resource mana whenua involvement in the entity processes once the new structures are established. If it is to be Councils then new funding is required.

GW understands the need for the new entities to be at arms distance from the Government to achieve their commercial imperatives and notes there is no other existing structure of this kind. GW is keen to see how the Government will hold the entities to account when there is conflict between having to give effect to Te Tiriti o Waitangi and Te Mana o te Wai, and having to meet commercial goals and objectives.

Local voice

It is critical to make sure that communities, mana whenua and councils have a decision-making voice in the system, are enabled to guide and influence local investment decisions, and that there is clarity about how concerns with three waters issues that impact them can be raised. The proposed model is inadequate in this regard.

In addition, there needs to be more work on mechanisms to ensure that water services entities meet their obligations under relevant legislation and regional spatial plans.

Public Engagement/Consultation

The current Three Waters public campaign has not been clear about how the process for community involvement works, nor has it explained to the public about the public consultation responsibilities to help manage the risk to councils' reputations.

Going forward, more clarity is required as to how councils and communities would have input and influence into the planning processes and investment prioritisation of the WSE to ensure that this aligns with local needs and outcomes.

Flood protection and stormwater

GW supports in principle, the inclusion of stormwater in the Water Services Entities (WSE). We concur with the comments that the context for the element of stormwater management is primarily about climate resilience. We also agree that stormwater should be managed on a "whole of catchment" principle and not just be focused on the pipes in the ground. As a regional council, GW has responsibility for flood protection. Where flood protection ends and stormwater begins is something that requires further work.

Catchment management requires a multi-disciplinary approach. The water services entities are not the best placed entity to do this holistic management. Regional councils are better placed to do this.

¹ <https://www.youtube.com/watch?v=Mn-B0EGx82k>

We suggest that Regional Councils (RC) could do all stormwater/flood water aspects not done by WSE. This includes emergency management, integrated catchment management, managed retreat, land use, river and stream work restoration. RCs' connections with catchment communities is vital in the development of this approach and it would not be sensible for the WSE to try and establish and undertake engagement in this area because it is likely to cause confusion within communities.

We therefore concur that the assets comprising the piped network generally in the urban areas should transfer to the WSE but that all remaining functions could be undertaken by us. The interface service agreements will be critical in this management division between WSE and RC to avoid confusion and there needs to be some level of national involvement in these to ensure consistency. We ask to be engaged in any activity involved in developing this concept further.

We also request that Government contributes funding to flood risk management work, whether undertaken through the WSE or RC.

Many reforms affecting local government

GW is concerned with the proposed structure and processes². The Government needs to establish a structure and process to ensure alignment and oversight across the Three Waters, Resource Management Act and Future for Local Government reforms processes, as well as coordination of any consultation.

The cumulative impacts and seeming lack of alignment across the reform programmes impact on Councils' ability to adequately plan for the future.

We suggest that the Three Waters reform process is slowed down (if not paused) to ensure alignment across the reform programmes and that we are involved, with other councils, in developing the model further.

Better-off funding

The Three Waters reform support package which highlighted the 'better-off' funding for councils did not include an allocation for GW, despite our role as bulk water supplier. This role means that GW is impacted by the proposed Three Waters Reforms, and the potential transfer of assets and delivery responsibilities, just as the councils are. Therefore GW must also be recognised and provided financial support.

We understand that there may be an expectation that the support funding allocated to councils in the region be adjusted (downwards) to free up an appropriate amount to be allocated to GW. This gives a sense that the region is being short changed. There is some disquiet about such an approach, given the public announcement of funding amounts allocated to councils has now seen them starting to make plans for how the money can be used.

² <https://www.gldc.govt.nz/media/hvcp4qsx/1b-attachment-b-three-waters-reform-programme-overview-a3-30-june-2021-1.pdf>


We request that GW receives a separate allocation of support funding, in addition to that already allocated to councils, to ensure GW is supported in the same way as the other councils who are affected by the reform programme.

We seek confirmation that 'better off' funding will be made available for GW, and the amount that funding will be.

A summary of our requests

- DIA considers improvements to the governance model, and Council and iwi/mana whenua representation, by:
 - Adjusting the model by taking an approach more akin to extending the Wellington Water model, with assets transferred
 - Establishing subgroups in Entity C (e.g. C1 and C2), allowing a more direct interest to be taken in a smaller geographical area
 - Expanding the membership of the 'regional representative groups' to include all councils in the relevant entity (for Entity C, 22 rather than six), and all mana whenua.
- Further consideration is given to how the stormwater aspects might interface with regional councils' flood protection functions.
- Greater Wellington and other councils are more involved in developing the proposals further.
- The Three Waters reforms process is slowed down to ensure alignment across other reform programmes.
- Confirmation that 'better off' funding is available for Greater Wellington, and the amount of that funding.

Ngā mihi



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Greater Wellington Council Report resolutions, 23 September 2021 (Report 21.413)

He tūtohu Recommendations

Requests the Chief Executive to give feedback to and seek guidance from the Government reflecting that the Council:

- a Supports the need for reform but suggests the model needs to be adjusted to respond to the issues being raised by local government, including by:
 - i Ensuring that both local accountability and mana whenua governance is fundamental in the adopted model
 - ii Expanding the membership of the 'regional representative groups' to include all councils in the relevant entity (for Entity C, 22 rather than six), and all mana whenua
 - iii Establishing subgroups in Entity C (e.g. C1 and C2), allowing a more direct interest to be taken in a smaller geographical area
 - iv alternatively, adjusting the model by taking an approach more akin to extending the Wellington Water model, with assets transferred
 - v ensuring that communities, mana whenua and councils have a decision-making voice in the system, and guide and influence local investment decisions and clarity of how to raise concerns with three waters issues impacting on them. There needs to be more work on ensuring mechanisms are in place to ensure that water services entities meet their obligations under relevant legislation and regional spatial plans.
- b Seeks that Greater Wellington and other councils are more involved in developing the model further.
- c Is disappointed in Government's inconsistent engagement with mana whenua and questions how the model ensures that Te Tiriti o Waitangi and Te mana o te Wai will be given effect to.
- d Seeks that further consideration is given to how the stormwater aspects might interface with our flood protection functions.
- e Is concerned that Government needs establish a structure and process to ensure alignment and oversight across the Three Waters, Resource Management Act and Future for Local Government reforms processes, as well as coordination of any consultation, and suggests that the three waters reform process is slowed down to ensure alignment across the reform programmes.
- f Seeks confirmation that 'better off' funding is available for Greater Wellington, and the amount of that funding.