

30th September 2021

Dear Minister, Department of Internal Affairs, and Local Government NZ

Re: Submission on proposed Three Waters Reform

Te Tari Taiwhenua Internal Affairs, Taituarā and Local Government New Zealand have invited all Aotearoa New Zealand local councils to consider and provide feedback on Central Government's Three Waters Reform proposal. An 8-week window for preparing feedback was provided, with councils being asked to interrogate the proposal to identify gaps, questions and concerns.

Napier City Council has analysed the proposed approach to future three waters services delivery in terms of its own future three waters work plan, understanding of the value and condition of assets, and needs and aspirations of its community. Our feedback appears below. It is important to note there are two significant impacts from the relatively tight timeframe in which to prepare submissions. First, there has not been enough time to authentically consult with mana whenua and tangata whenua in a meaningful way. Second, local voice has been identified as essential to the future of three waters decision-making and, as much as we have managed to include findings from a community survey, the constraints of the imposed timeline did not support us in deepening or strengthening this engagement. It is vital to the successful future of three waters reform, in whatever shape that might take, that consultation with our communities is prioritised.

As much as Napier City Council has submitted individually, it does work collectively with the other councils in our region. Together, we are already leaders in three waters delivery. We have recent and acute experience of the impacts of under-resourced water services management, and we are committed to improving how three waters services are operated and governed in the future. We have carried out significant research and planning for three waters, regionally. We are well on our way to achieving many of the aspirations of Central Government's reform proposal. We also work closely and collaboratively with iwi, hapū and marae in Hawke's Bay. To effectively and efficiently progress our three waters work programme and future direction, we must think, act and plan together as a region, including through joint-council, council and iwi, and council and community discussions.

Local voice is at the very core of local government. As a Mayor or Councillor we swear an oath to our local community, to serve them and enable democratic decision-making on behalf of our community. This could not be more true or more important than in the future planning of our three waters delivery. Napier's relationship to water is part of our sense of place. Our connection to the coast, our rivers and our aquifer are unique to our community and are part of who we are, our heritage and our future. Our 'up-close and personal' relationship with environmental hazards means our awareness of climate change is acute, and maintaining three waters services that can adapt and pivot in response is essential. Equally as important is retaining the ability to provide local solutions and levels of service over and above national standards if that is the desire of our community. From considering Central Government's proposal to taking on new management and governance structures, to setting work programmes and priorities, listening to our local community is vital.

Hawke's Bay Councils collectively agree our starting point is an acknowledgment that we do need reform of the water sector so that across Aotearoa New Zealand we can lift the standards of water supply quality and the quality of wastewater treatment.

We note the significant work that has been undertaken on our stormwater management, the levels of toxins in that water and the future work required in this space. This has been a long-standing issue and we welcome the Government's commitment to addressing it.

We also agree and welcome the Government's stated commitment to date about partnering with Local Government around three waters reform. A partnership, however, does not mean Government presenting a proposal that is fixed and not subject to significant amendment. Noting the efforts undertaken by Hawke's Bay to date, we believe there are other ways of achieving the Government's outcomes for the sector. This will require Government to reconsider a sector-wide redesign, with flexibility for some local/regional variation such as that outlined in our alternative model. It will also require joint agreement about some fundamental principles. We believe our principles and collective agreement reached to date would be a good foundation stone for local/regional variation, nationally.

Although the current status quo is not an option for the future and change is needed, we are proposing an alternative to Central Government's proposal to ensure Three Waters Reform meets the needs and aspirations of our community as well as Central Government's objectives. This alternative model is a regionally based Hawke's Bay Regional Water Services Entity.

Our journey to review how three waters might be delivered and managed started in 2018. We took a proactive approach as a region, on the back of the Havelock North incident, and undertook a detailed business case review (see attached). The case to bring Hawke's Bay three waters delivery together is strong, and well received by the Mayors of the Hawke's Bay Councils (Central Hawke's Bay, Hastings, Napier and Wairoa). We recognise the impact and costs of water services are significant and will grow unaffordable for our smaller communities over time in light of increasing regulatory costs. We have committed to working together as a region, and have successfully achieved many shared services, including delivering three waters services effectively and efficiently for our communities.

Our region has undertaken significant levels of work to understand the needs of our community around three waters and its delivery. We can confidently compare, therefore, our data and information against the Government's Three Waters Reform proposal. We have considered the pros and cons of each proposal and assessed whether the assumptions made by Central Government are beneficial for our community, as well as identifying potential gaps in Central Government's reform proposal.

As a result of work completed to date, our Council is informed and well placed to provide feedback on the proposal. We have interrogated the proposal, have been receiving regular updates and have considered the findings of the Hawke's Bay Review (although any further progress was put on hold subject to what Central Government has put forward, nationally).

There are six key themes that frame the feedback set out by Napier City Council: Geographic boundaries and an alternative solution to these; representation, governance and the importance of local voice; iwi and hapū engagement and collaboration; funding, asset ownership and responsibility; strengthening the ability to deliver water services in a changing regulatory environment; and assumptions built on flawed underlying information affecting negatively desired outcomes of reform.

Alternative geographic model

Overall, Central Government's proposal for Three Waters Reform meets many of the areas of change that Napier City Council - alongside the other councils in Hawke's Bay - has identified and begun measures to remedy and improve. The size, scale and governance complexity of the proposed Entity C, however, works against the aspirations of the reforms and does not offer an agile model in which Napier can successfully deliver to its objectives.

A better model, from a planning, delivery and governance perspective, is to aggregate the four councils responsible currently for three waters services delivery in Hawke's Bay into an entity working in partnership with the Hawke's Bay Regional Council. Together, these five local authorities would form a Hawke's Bay model, which would meet Government's aims more effectively and mitigate the issues currently marring the future success of the proposed Entity C.

Much of the Government case for change has focussed on economic modelling and, from Day One, the new Water Services Entities will need to embark on an ambitious capital works programme. The challenges facing the Water Services Entities in environmental planning and consenting will be significant. As part of this, existing infrastructure upgrades and new infrastructure alike will require the full suite of designations, resource consents and other approvals under our environmental legislation. Three waters infrastructure will also require protection and enablement in district and regional plans. The proposed Hawke's Bay entity will provide for planning and delivery by connecting our Spatial Plans and aligning work programmes, collaboratively. In summary, population and industry growth, environmental constraints, local hazards, and climate change responses will all be better met and managed by a regional model.

This alternative, regional model will require support with transition costs, as signalled by Central Government who will need to partner with us to make these changes. As a sector, Local Government is positive about the benefits the potential partnership with Central Government can bring to communities. Napier City Council acknowledges the benefits this partnership can have to the future of water services in our region.

Work carried out over the past three years ensures, as a Council, we have an understanding of the costs, value and assets of our current three waters obligations. Our master plan provides a 'roadmap' we are already navigating, delivering projects and work programmes that bring real benefits to our community.

We already work closely and proactively with our partner councils in Hawke's Bay. We are able to achieve the capital expenditure within our debt/revenue caps and prudence benchmarks. The understanding we have of our systems, networks and infrastructure is detailed and has matured over a number of years of concentrated commitment, attention and focus. The headway we have made in our working relationships to deliver a joined-up approach to three waters in Hawke's Bay means we are already well on our way to realising the goals of Central Government's proposal.

Hawke's Bay Councils can provide a catchment-based, regionally led WSE ready to deliver in tandem with the RMA reforms without complex governance arrangements and loss of local voice.

Representation and Local Voice

The principle of subsidiarity suggests regulation and law-making should take place at the lowest appropriate governance level. The aim of the principle is to promote efficiency and local ownership over policies and regulation. Subsidiarity is gaining increasing international recognition as an integral component of water services delivery given the interconnectedness of ecological processes, cultural significance of water, and environmental and social challenges associated with climate change. The Central Government Three Waters Reform bases its justification of scale on economic indicators and would be enhanced by adopting a more holistic and contemporary view of efficient delivery. Subsidiarity is essential for sustainable three waters service delivery and community resilience.

A key driver for the recommendation of a Hawke's Bay model is the importance of ensuring local voice in decision making. The Government is proposing six Council representatives to act for 21 Councils on a 'Representative Group' that appoints an 'Independent Selection Panel', which appoints and monitors 'Independent Directors'. Not only is this complex, it is difficult to see how Napier or the Hawke's Bay region's voice could be well represented in this option.

Unlike Entity C, a Hawke's Bay model will secure a delivery and governance structure that can reflect and accelerate the priorities and aspirations of Hawke's Bay's communities. We have completed the Hawke's Bay Three Waters Review, an option that provides for local voice and influence with support from our local community. We undertook a Three Waters Reform survey of our community as part of the 8-week consultation period (an independent survey undertaken by SIL Research). The feedback we received found 83% of respondents indicated the importance of a strong local influence in the governing and delivery of three waters services. Local voice and representation, Council control and the local knowledge required to manage water supply were key reasons given by respondents. Drilling down, the community expressed their views that local voice is needed for both governance and delivery, that there are different and unique needs in different areas and local voice is required to meet these, and that smaller areas and local priorities could be neglected under the Central Government Three Waters Reform proposal. A resounding message of, "Local people know local issues" was sent to Napier City Council through these survey results.

The Hawke's Bay governance model can support and enable the inclusion of effective local voice and is essential to successfully delivering the objectives of the reform proposal.

Hawke's Bay is already experienced in region-wide consultation and governance. We currently have the following joint committees working successfully together:

- ✓ Clifton to Tangoio Coastal Hazards Strategy Joint Committee
- ✓ Hawke's Bay Civil Defence Emergency Management Joint Committee
- ✓ Hawke's Bay Crematorium Committee
- ✓ Hawke's Bay Drinking Water Joint Committee
- ✓ Hawke's Bay Regional Transport Committee
- ✓ Heretaunga Plains Urban Development Strategy Implementation Working Party (HPUDS)
- ✓ Joint Waste Futures Project Steering Committee
- ✓ Omarunui Joint Refuse Landfill Committee
- ✓ Regional Cycling Governance Group

- ✓ Te Komiti Muriwai o Te Whanga (this is a co-governance entity established through the passing of the Ahuiriri Hapu Claims Settlement Bill)

Already Napier has positioned local voice at the centre of our consideration of Central Government's proposal. Community consultation and engagement is a tenet of local government through the Local Government Act 2002. Although Government has signalled a consultation period as part of the Three Waters Reform programme later in 2021, it has been essential for Napier City Council to go out to community at this stage also. What we have heard from our community is retaining local voice in decision making in the future delivery of three waters services is of high importance. Continuing to place local voice at the centre of reform processes is also essential in terms of our responsibilities as a local territorial authority, and our commitment to our significance and engagement policy.

Of critical importance in our Hawke's Bay model proposal is that it strengthens our ability to ensure the people of Hawke's Bay have their say when they need it. A focus of our analysis of Central Government's proposal is making sure this is not hampered by scale, complex governance layers and models, and centralisation of decision making.

A model that can effectively represent the voices of Hawke's Bay Councils, mana whenua, iwi and community must find a balance between economies of scale and direct connection with the peoples it serves. The proposed Hawke's Bay model achieves these strong links with community far better than the Central Government proposal. The Hawke's Bay model governance structure is not yet set and there is room to incorporate Central Government's reform objectives in the governing body. Fundamental to our proposal is co-design with mana whenua. Conversations between local stakeholders will be required to determine the final structure.

Cultural voice too is vital to the successful and sustainable delivery of three waters services. Based on the trajectory we are seeing from Government in terms of co-governance with mana whenua, we know this can be better developed through a more local governance structure giving us further opportunity to grow and nurture these relationships. With our Hawke's Bay model, hapū-specific knowledge can be applied to the appropriate locale, and because of the Hawke's Bay/Taiwhenua boundaries there is more certainty of our mana whenua inclusion in decision-making compared to the Government proposal where the geographic spread potentially works against this.

Mana whenua/tangata whenua engagement

Our ability to fully engage with mana whenua has been an issue for us exacerbated by the relatively short timeframe in which to respond. Our preferred approach would be to work with mana whenua as a key partner on a response to the Government proposal. A key part of our information gathering and consideration of the future of three waters in our region must be in collaboration with our iwi, hapū and marae in Napier, and the wider Hawke's Bay region. There has been limited time and details available with which to authentically engage with mana whenua and tangata whenua in any meaningful way, significantly constrained also by Covid-19 Delta Strain lockdowns through the eight-week feedback period. Our co-governance proposal is dependent on these conversations progressing concurrently with the Government's proposal schedule.

There has been a lack of clarity around who is engaging, and at what level, with iwi in discussions with Central Government directly, as well as in pan-iwi discussions, and in discussions with Hawke's Bay local authorities, individually and collectively. Central Government could improve the outcomes of this consultation by providing advice, structure and time in which to carry out these conversations effectively.

Mana whenua and tangata whenua voices are essential and their views and position on three waters is multi-faceted with a range of diverse needs, aspirations, resources and requirements across the nine marae within the Ahuriri extended boundary. These differences are linked directly to the delivery of water services with some marae being rural, some urban, some with papakainga initiatives, some acting as private water suppliers. Many questions and concerns have been raised by these communities and including their voice in our considerations is essential but limited due to the imposed time constraints.

Funding/Transfer of Assets/Responsibility

The alternative model put forward by Napier City Council helps enable close and workable proximity between service delivery and customers, assets and asset owners or shareholders, and shareholders and decision makers. The understanding we have of our assets, their value and condition, and the master plan of works ahead of us means we can put forward a Hawke's Bay model that meets the imperatives of the Government proposal. We have taken time to analyse the figures and data associated with our proposed model and we are confident our case meets Government aspirations while improving outcomes for our communities better than the proposed Entity C model.

We are concerned planned levels of capital investment for Napier in Entity C modelling are only 50% of the investment committed by Napier City Council in our Long Term Plan 2021-31. Our number one priority across our region, detailed in our Long Term Plan, is our three waters programme. A 50% reduction in proposed expenditure under Entity C would significantly impact the planned work programme and increase our risk of asset failure at these levels. This would not be acceptable to our community.

It has been promoted that Councils require the new entity structure to enable higher debt levels. Through our own review, we are confident we have the ability to raise debt to the levels required as part of our proposed Hawke's Bay model, in line with our Long Term Plans within the current 250% debt/revenue levels.

A key concern for our community is the risk of privatisation of water services and assets. Local government has robust protections built into its processes, statement of intent and constitution to ensure this cannot take place, offering reassurance to community. Local government has a direct link, responsibility and accountability to its community, and an understanding of the nuances in the importance of their three waters to them. Embedded in the Local Government Act and in our Significance and Engagement Policy is our legal requirement, and our commitment, to talk with our community about proposed changes rather than simply dictating to them. Local governance also has built-in ways of working in partnership with other councils in our region. Working together to deliver water services is an extension of our existing business-as-usual rather than a new structure to navigate. Of note is the Hawke's Bay Drinking Water Joint Committee (administered by the Hawke's Bay Regional Council) that was established in August 2017 in response to the Havelock North incident. This demonstrates our commitment to work collaboratively as a region on initiatives. In addition, some of our stormwater-related activities are carried out jointly with the Hawke's Bay Regional Council.

We place importance on consulting and engaging with stakeholders and partners to deliver water services, and we are accountable to our community with multiple on-ramps to their participation in service delivery. As a Council, we have already established relationships, put in place initiatives, and committed to work programmes in the Three Waters space before Central Government and the Department of Internal Affairs became involved. With the commencement of the DIA-led national reform we agreed not to progress this further with the community to enable the Central Government reform to proceed. We still believe we have a strong case to be heard as part of the Government's consideration of options. Crucially, our model is built on a co-governance premise with iwi. With limited ability to engage with them at this time, we would strongly urge delaying your decision to allow these essential council-iwi discussions to occur.

As far as we understand, the Hawke's Bay region is the only region to have progressed an alternative to this point. By not enabling council-iwi discussions to take place our relationship with iwi is at risk, not only in the Three Waters space but across the board.

Meeting new standards

From an operational and management perspective, Napier City Council sees a key reason to move forward with a Hawke's Bay model is to ensure our ability to be responsive and agile in our three waters service delivery. For example, circumstances like the fast-tracking of regulatory changes can more easily be enabled by a localised structure that can respond appropriately. Hawke's Bay is capable of pivoting in times of change with close working relationships, links into our region and our communities, and a thorough understanding of various needs and aspirations. We are doing this already, and we are doing it well. Enable us to reinforce what is working, and resource what still needs work. We have a positive track record that is bringing genuine benefit to our peoples. Recent examples of regional cross-council commitment to delivering to community outcomes includes the Hawke's Bay Coastal Hazard Risk Strategy and the Hawke's Bay Drinking Water Joint Working Group.

Being part of a larger entity is potentially going to make it more challenging to meet regulatory drivers, such as drinking water standards, as a larger entity will be more unwieldy. With a large cohort of 21 councils, numerous communities, diverse aspirations, with assets in varying condition, prioritising works programmes will be challenging and time-consuming.

Flawed Assumptions

A central issue with the Government's Three Waters Reform proposal is that it is modelled on flawed data. It is built on a series of assumptions and as a Council we have identified material variances with the underlying information from which these assumptions have been formed.

For this reason, there is risk associated with basing Three Waters reform on them. If the government proceeds with reform based on these assumptions, it may fail to reach the outcomes it desires.

Assumption 1:

Household charge excluding inflation

Concerns and comments:

NCC and HB model have not modelled charges beyond 2031. Indicatively, we believe such modelling would show a small reduction in projected household charges, however, price rises may occur due to the need to increase borrowing capacity depending on future investment. Note that Entity C shows a lower charge per household. This is due to differing assumptions for timing of capital investment, depreciation rates and use of debt.

Data:

Entity C Government Data	NCC RFI ¹ Data	HB Model ² Data
\$1,260 at year 2051	\$1,793 at year 2031	\$1,471 at year 2031

Assumption 2:

Total investment required: At year 2031 and at year 2051

Concerns and comments:

The difference in assumptions between Government data and NCC RFI data is a concern for Napier City Council as the process for prioritisation of one community's needs alongside others has not yet been developed, for example achieving chlorine-free drinking water for Napier. The Government model is forecasting capital investment significantly less than the NCC RFI and the HB model.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$391m at year 2031 \$1.3b at year 2051	The Government analysis presents a modelled scenario of investment that does not reflect any prioritisation of projects or infrastructure nor responds to our community's desire for different service levels.	\$727m at year 2031

¹ Request for Information

² Undertaken by Morrison Low for Hawke's Bay councils

Assumption 3:

Level of Service enhancement and growth

Concerns and comments:

The underlying assumptions in the Government model are based on Scotland and UK data.

This is the most significant driver of Government projected household charge calculations.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$231.8m	NCC RFI projects LoS ³ enhancements & growth requirements to be 5.5 times higher than Govt data by year 2031.	

Assumption 4:

Renewals

Concerns and comments:

The NCC RFI has the majority of the forecast in year 2031 so the better comparison is with 2051 Government data.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$159.5m	NCC RFI projects renewals to be 2.5 times higher than Govt data by year 2031	

Assumption 5:

Asset value year 2031

Concerns and comments:

Higher asset values become more relevant over time.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$936m	\$703m-\$1b	

³ Levels of Service

Assumption 6:

Depreciation year 2031

Concerns and comments:

The longer term depreciation rate of 1.75% in the Government model is much higher than most councils in NZ.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
1.35% to 1.75% \$12.8m (2031)	1.32% \$9.3m (2031)	

Assumption 7:

Total debt at year 2031

Concerns and comments:

The Government projects debt to be significantly lower at year 2031 (\$450m by year 2051)

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$182m	\$385m	\$288m

Assumption 8:

Total revenue

Concerns and comments:

The Government projects revenue to be significantly higher at year 2031 (\$185m by year 2051).

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
\$75.3m	\$23.3m	

Assumption 9:

Debt to revenue ratio (ceiling)

Concerns and comments:

Both NCC and HB model have ratios in line with LGFA⁴ limits. Entity C has been modelled with no limit on the debt to revenue ratio which accounts for a substantial part of the difference between the projected three waters rate in 2051. Differing approaches will impact on household costs, for example the requirement to comply with a lower debt to revenue ratio will increase the revenue generated from household charges. Revenue is determined based on the amount needed to maintain a three waters debt to revenue ratio below 250%. Council's debt capacity is not measured at an activity level, given the lower borrowing requirements of other activities, a ratio of at least 500% is likely more appropriate. From our own modelling we believe that we can achieve the long-term plan at a lower debt level.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
645%	230%	250%

Assumption 10:

Proportion of income from households

Concerns and comments:

This difference drives material changes in future household cost. When the underlying assumptions regarding percentage of revenue from households and number of connected properties are adjusted to match the RFI data the forecast charges for NCC are lower than estimated in the reports used by Government. Government data uses the split of revenue between households and non-households of 70% as observed in the UK.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
70%	62%	

⁴ Local Government Funding Agency

Assumption 11:

Connected Household Properties

Concerns and comments:

Number of connected properties is 13% less in the Government model than what we submitted.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
21,873	25,244	

Assumption 12:

Financial/Development Contributions

Concerns and comments:

It is difficult to estimate what proportion would be funded from Financial/Development contributions because of the approach taken by the Government to forecast the investment.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
Govt assumes that Financial/Development contributions, when combined with revenue from commercial and industrial users, account for less than 30% of total three waters revenue	Financial/Development contributions in 2031 equate to less than 6% of total three waters revenue	

Assumption 13:

Efficiency Assumption

Concerns and comments:

The efficiency identified in the modelling should be reviewed as we do not believe that these are achievable and underpin the case for change.

Data:

Entity C Government Data	NCC RFI Data	HB Model Data
Efficiency savings of 50% in capital and 61.9% in operating costs after 30 years.		Assumed 11% efficiency after year 10.

In conclusion, Napier City Council accepts Central Government's principal that we cannot continue to provide three waters services delivery on our own. But we have already begun to build - as a region - the collaborative models, economies of scale, relationships and processes, work programmes and vision of the future required. We are well on our way, and it will be easier for us to meet Central Government Three Waters objectives as a strengthened, resourced and enabled unit.

Our proposed alternative model aligns with the objectives set out in Central Government's Three Waters Reform proposal, however, it also satisfies concerns raised by the community as part of the eight-week review of the Government's proposal. The proposed Hawke's Bay model strikes a balance between scale and the agility required to meet a changing regulatory environment, it enables us to comprehensively plan for the impacts of climate change in a cohesive manner as a region, it supports our role as a guardian of our ocean and rivers, and it enables us to meet changing community needs as our population grows.

We request from you further engagement with us on the opportunity and practicalities of a reform programme and delivery model for Hawke's Bay. The findings of our community survey, as attached, support our request for local representation and governance, and our desire for you to consider the alternative option.

Nga mihi nui,

A handwritten signature in blue ink, appearing to read 'Kirsten Wise', written in a cursive style.

Mayor Kirsten Wise

Working Group: Councillor Sally Crown, Councillor Nigel Simpson, Councillor Keith Price

On behalf of the Napier City Council