

*The central and local government Steering Committee has put together the following compilation of FAQs to assist councils with an understanding of the proposed reform programme. These will be added to and updated as further questions arise and the reform programme progresses.*

## Three Waters Reform Programme: Frequently Asked Questions

### **FAQs Part 1: High-level questions on reform parameters and scope, and the joint approach**

#### **1. Why does service delivery reform need to happen?**

- The Havelock North inquiry highlighted some significant deficiencies in the provision and regulation of safe drinking water. This has seen the Government progress a programme of three waters regulatory reform, including the establishment of Taumata Arowai, the new Water Services Regulator.
- While addressing the regulatory issues, both central and local government acknowledge there are broader challenges facing local government water services and infrastructure, and the communities that fund and rely on these services.
- Under-investment in three waters infrastructure in some parts of New Zealand and persistent affordability challenges make it increasingly difficult to meet rising drinking water and environmental regulatory requirements and community expectations, while providing resilient infrastructure. There are concerns that the economic recovery from COVID 19 will exacerbate this situation.
- Addressing these challenges through service delivery reform is intended to facilitate good public health and environmental outcomes, increase resilience to climate change and natural hazards, and enhance community wellbeing and equitable access to affordable water services for all New Zealanders.

#### **2. What will the reform programme entail?**

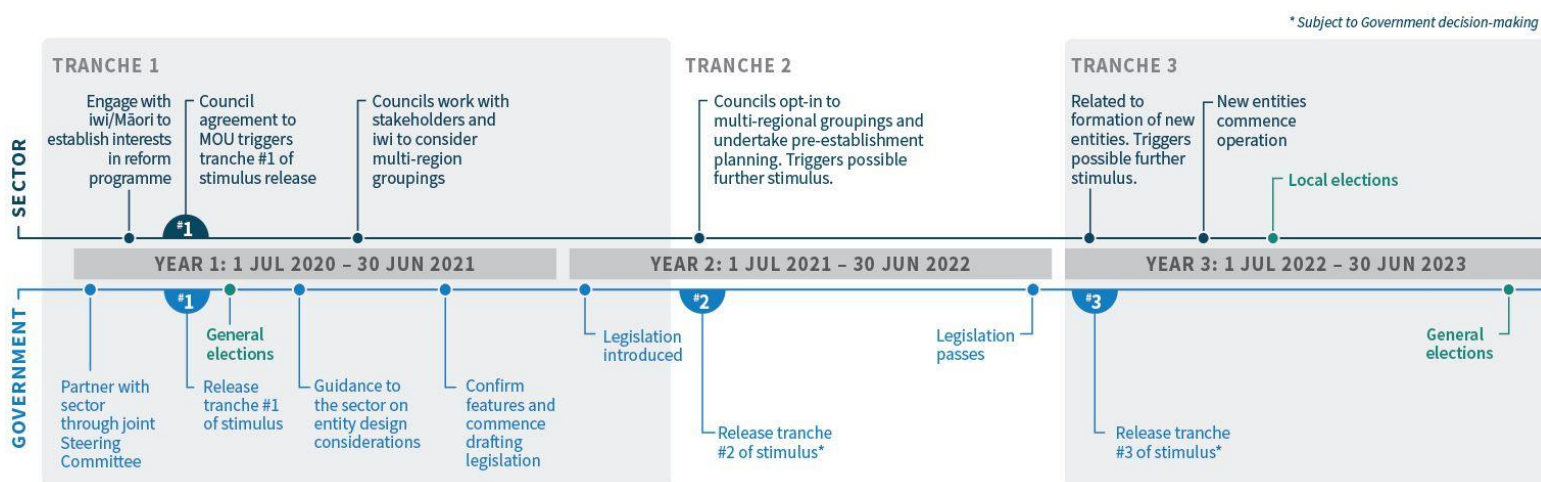
- The reform programme is an opt-in programme designed to support economic recovery post COVID-19 and address persistent systemic issues facing the three waters sector, through a combination of:
  - stimulating investment, to assist economic recovery through job creation, and maintain/accelerate/increase investment in water infrastructure renewals and maintenance; and
  - reforming current water service delivery to realise significant economic, public health, environmental, and other benefits over the medium to long term. The Government's starting intention is for new service delivery arrangements, such as multi-regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest.
- Alongside the above, the reform programme also has the following objectives:
  - significantly improving the safety and quality of drinking water services, and the environmental performance of wastewater and stormwater systems;
  - ensuring all New Zealanders have equitable access to affordable three waters services;

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- improving the coordination of resources and unlocking strategic opportunities to consider New Zealand's infrastructure needs at a larger scale;
  - increasing the resilience of three waters service provision to both short- and long-term risks and events, particularly climate change and natural hazards;
  - moving the supply of three waters services to a more financially sustainable footing, and addressing the affordability and capability challenges faced across the sector and particularly by some small suppliers and councils;
  - improving transparency about, and accountability for, the delivery and costs of three waters services, including the ability to benchmark the performance of service providers; and
  - undertaking the reform in a manner that enables local government to further enhance the way in which it can deliver on its broader “wellbeing mandates” as set out in the Local Government Act 2002.
- The reform is expected to proceed in phases, enabling councils to determine at each point in the process whether they will participate in future phases on a voluntary, opt-in basis.
  - The first phase of the programme includes a Memorandum of Understanding (MoU) between central and local government to progress the reform in partnership and targeted infrastructure stimulus to enable improvements to water service delivery and ensure economic recovery following COVID-19.
  - The subsequent phases of the reform programme will be guided by the process undertaken in partnership throughout phase one. However, the Government’s starting intention is to reform current water service delivery arrangements into larger scale providers. These phases will also be on an opt-in basis for local government.

### 3. What is the timeframe for the reform programme?

- Below is an indicative timetable for the full reform programme. While this is subject to change as the reform progresses, this provides an overview of the longer-term reform pathway.



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**4. Why are central and local government working together on this programme and why is this the best approach to take?**

- A partnership approach between central and local government enables the expertise and aspirations of both parties to guide the proposed reform programme.
- An initial allocation of funding will be made available upon signing of a MoU that commits parties to work together on the reform programme. This stimulus investment will support three waters projects, creating and maintaining jobs and investment in water infrastructure renewals in the context of COVID-19 pressures.
- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives. The amount, timing, conditions and any other information relating to future funding will be advised at the appropriate time.

**5. What are the key features the Government is expecting from future reformed service delivery arrangements?**

- The first phase of the programme will involve central and local government working in partnership to design and develop the proposed new service delivery arrangements and operating models.
- The initial focus of phase one is on drinking water and wastewater assets and services; however, we will work through the inclusion of stormwater, where appropriate, as part of the reform programme.
- However, the Government is expecting new service delivery arrangements, such as multi regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest. The new water entities would also likely be governed by competency-based boards.
- There are also a number of features that central government expects to be included/retained in new water service delivery entities including:
  - The new water entities must be able to borrow independently of councils;
  - The new entities must be publicly owned – with a preference for collective council ownership – and there need to be mechanisms to protect against privatisation in the future;
  - Consumer interests must be protected, and the model must allow for consideration of the needs and well-being of local communities;
  - At a minimum, drinking water and wastewater must be included in the new water entities. Stormwater services may be included where efficient and effective to do so; and
  - The new entities will be statutory entities (i.e. designed and established by legislation).

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- The reform of water service delivery is likely to present a range of Treaty interests which will need to be identified and explored as part of the reform programme through targeted engagement with iwi/Māori.

#### **6. Can councils choose to participate in the reform?**

- This reform of service delivery arrangements is an opt-in reform programme. However, the initial stimulus funding to invest in critical water services and infrastructure is contingent upon councils participating in the reform programme. This will entail working with neighbouring councils over the course of the reform period to consider the creation of multi-regional entities.
- There will be subsequent phases of the reform at which councils can choose to opt-in. Later phases are likely to require councils to opt-in by signing a binding contract committing to the reform of their water services.
- Regardless of participation in this process, all water service providers will be required to meet drinking water and wastewater regulatory requirements, including complying with the proposed new drinking water regulatory system that will be overseen by Taumata Arowai (the new Water Services Regulator).

#### **7. What will happen to the voluntary service delivery reform programmes that some councils have already embarked on?**

- Those councils that have already begun discussions about three waters reform will be well placed to engage with the reform design.
- It is a decision for councils as to whether they continue their voluntary programmes or sign the MoU and commit to working to get alignment with the reform objectives.
- We will work with these councils on whether their current programmes are likely to meet the objectives of the benefits of scale, and reflect neighbouring catchments and communities of interest as we work through the reform process.

### ***FAQs Part 2: Councils' role in the reform programme***

#### **1. How can local government play a role shaping the reforms?**

- To ensure reformed water service delivery entities have longevity they need to be shaped and influenced by both central and local government.
- Central and local government have created a Three Waters Steering Committee with representatives from central and local government to oversee and provide input into the design of the proposed service delivery entities.
- The Steering Committee comprises elected members and chief executives from local government along with LGNZ, SOLGM and central government officials.
- Councils signing the MoU will be committing to engage in the reform programme and to work with their neighbouring councils to consider the creation of multi-regional entities.

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- Initial sector engagement is planned for July and August 2020 to provide an initial forum for raising issues and areas for the Steering Committee to work through and consider in the detailed design and policy work.
- As we progress beyond this date, we will provide you with updates, and hold workshops or webinars on specific topics to explain options and trade-offs and hear your views.

## **2. What would my council actually be committing to?**

- Councils signing the MoU are committing to the principles and objectives of working together with central government through the first stage of the reform programme.
- This will entail working with neighbouring councils over the course of the reform period to consider the creation of multi-regional entities for the improvement of three waters service delivery for communities. This will include:
  - Open communication and a no-surprises approach to matters related to the reform programme;
  - Working with neighbouring councils over the course of the reform period with a view to creating multi-regional entities; and
  - Openly sharing information and analysis undertaken to date on the state of the system for delivering three waters services and the quality of the asset base.
- The initial funding allocation will be provided as soon as practicable following agreement to the MoU and associated Funding Agreement and Delivery Plan.
- The Delivery Plan and associated reporting arrangements will need to show that the funding is to be applied to operating or capital expenditure on three waters service delivery that:
  - supports economic recovery through job creation; and
  - maintains, increases or accelerates investment in core water infrastructure renewals and maintenance.
- This funding will not need to be repaid if the council does not ultimately commit to subsequent stages of the reform programme provided you meet the terms of the Funding Agreement and Delivery Plan.
- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives.

## **3. Is the stimulus a grant or a loan?**

- The stimulus is a grant.
- The initial funding will be made available following the signing of the MoU and associated Funding Agreement and Delivery Plan and can be applied to three water services as described in those documents.
- It is important that this funding is spent effectively and efficiently as soon as possible to support the economic recovery following COVID-19.

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- Additional funding will be subject to Government decision-making and reliant on the parties demonstrating substantive progress against the reform objectives. We anticipate this will include signing a binding contract to commit to water reform (and any associated funding agreements).

#### **4. What does my council need to decide and when?**

- As part of the voluntary opt-in process, councils need to consider and sign the MoU and associated Funding Agreement and provide a Delivery Plan by the end of August 2020.
- This MoU covers the first phase of the programme and commits central and local government to partner and work towards the reform of three waters service delivery.
- Councils should approach the MoU in good faith. However, if they initially support the MoU and reform programme and subsequently opt-out, they can do so.
- If a council opts-out, it will not be able to access future funding associated with future phases of the programme.

#### **5. Why does the MoU need to be signed by the August deadline?**

- The first phase of the reform programme is in part designed to support economic recovery relating to COVID-19 through urgent funding stimulus. To achieve this, the investment needs to be made and actioned very promptly.
- The initial allocation of funding will be released immediately upon signing the MoU and associated Funding Agreement and Delivery Plan.
- This will help create and maintain jobs, investment in infrastructure renewals and maintenance, and protect the safety and sustainability of this essential infrastructure and its associated services.

#### **6. What role will iwi/Māori have throughout the reform programme?**

- It is important that the rights and interests of the Crown's Treaty partners are well understood and that our work is informed by this relationship.
- We acknowledge the range of relationships councils have with tangata whenua that will need to be considered alongside the reform programme.
- We will be formally engaging with iwi/Māori throughout the reform programme to understand the Treaty rights and interests as they relate to the reform. However, we encourage councils to remain engaged with their iwi partners throughout the journey as well.

#### **7. Will councils need to consult with their communities before signing the MoU?**

- While each council will have their own significance and engagement policy, our best advice is that you will not have to consult your communities to sign up to the MoU and participate in phase one of the reform programme.
- Signing the MoU, and committing to participate in the reform programme, does not commit the council to change the way it currently delivers three waters services.



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- However, you will need to consider your own significance and engagement policy when considering investment to be made through the Funding Agreement and Delivery Plan.
- The decision to commit to the transition to new water entities will not occur until the second phase of the reform programme which is likely to be mid-2021 at the earliest.
- Commitment to subsequent stages of the reform programme may require changes to your LTP which would require public consultation at that stage in the process.

**8. How does participating in the reform programme impact my council planning process?**

- Participating in this initial stage of the reform programme does not impact your LTP process.
- However, subsequent stages of the reform programme may require changes to your LTP to reflect commitment to future changes as part of this phase of the reform.
- We will work with councils to understand the implications of future stages of the reform, how to undertake public consultation to reflect future commitment to the reform, and how we might reduce the burden of this as the reform programme progresses.

***FAQs Part 3: Potential forms of new water service delivery entities***

**1. What sort of model (ownership/financial) is envisaged?**

- The first phase of the reform will work through this question in partnership with central and local government. However, the Government's starting intention is for the entities to meet the objectives of the reform, as above, including to be financially self-sufficient and sustainable.
- The Government's preferred model is that the entities remain in public ownership and that they should be statutory entities.
- Statutory entities are created in legislation and are different from Crown entities.. They can have non-commercial functions or commercial imperatives.
- Each statutory entity usually has its own establishing legislation that contains entity-specific objectives that could be a mix of social, cultural, public policy, and commercial. There will be opportunities for local government to help shape the key features of this legislation through the reform programme.
- The entities will need to be legally separate from councils to ensure balance sheet separation for both the water entity and councils to drive improved access to capital and funding instruments.

**2. Will this be a set model for each entity or will there be flexibility?**

- The Government is expecting new service delivery arrangements, such as multi-regional entities, which can achieve the benefits of scale, and reflect neighbouring catchments and communities of interest. We anticipate that the entities will have many features in common, as provided for in legislation.

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- However, the exact make up of each entity may differ to allow some flexibility at a local level in terms of operations, management, governance, and funding and financing, while ensuring the long-term success and sustainability of these entities.

### **3. Why does the Government prefer a multi-regional entity?**

- A multi-regional entity implies an entity or organisation that is not limited to or constrained by regional boundaries and is likely to include councils in more than one neighbouring region.
- Ministers have indicated a preference for a small number of entities, with at least one large urban centre within each entity. The exact numbers and boundaries of these would be finalised following discussions with local government through the reform programme. However, these decisions are likely to be based on factors such as benefits of scale, communities of interest, and catchments.
- A multi-regional approach is preferred by the Government as it is more likely to achieve the size (population and customer density) over which scale efficiencies are likely to be necessary to meet the objectives of the reform programme.
- The aim of the first phase of the reform programme will be to identify configurations that best meet the objectives of the reform in partnership with central and local government.

### **4. Looking after water services is a large part of what my council does – if this is being done by other entities what will my council do instead?**

- This is an important consideration and will be discussed through the reform programme in partnership with local government.
- Councils provide a wide range of services to communities, and play an essential role in supporting community wellbeing. These roles and potential new roles will be fully explored alongside the reform programme.

### **5. How will community interests be maintained under the new entity?**

- We understand that councils will want to ensure that your ratepayers are protected. The reform process and subsequent design of the water entities will provide mechanisms to ensure this happens.
- New governance and management structures will be put in the place for the new entities with an appropriate establishment phase. These entities will be independently and commercially run and separate from council.
- Councils may no longer have direct control over the assets or water provision in your area. However, there will be mechanisms put in place to ensure local service delivery considerations and influence are maintained.

## ***FAQs Part 4: Potential forms of new water service delivery entity ownership and governance***

### **1. Is this privatisation by stealth and how will public ownership be protected?**



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- No. The Government has been clear that, if service delivery arrangements are reformed, water infrastructure must remain in public ownership.
- Most water infrastructure is already publicly owned – by communities through their council.
- The preference is for multi-regional water entities to be collectively owned by councils – on behalf of their communities – as shareholders.
- However, the new water entities will need sufficient legal separation to ensure they can borrow, independently of councils and without impacting councils' balance sheets.
- The basis for shareholding will need careful consideration and financial and commercial analysis through the first phase of the reform programme. This analysis will also investigate ways to ensure protections against any future impulse towards privatisation.

## **2. Will there be Crown ownership?**

- The possibility of some form of Crown shareholding has also been raised, but these matters require further consideration and will be worked through as the design process proceeds.
- There are several reasons why the Crown may consider having an ownership interest, including to reflect its level of investment through the economic stimulus packages, and to support the reform objectives. However, these matters require thorough analysis through the early phases of the reform programme.

## **3. What is the iwi/Māori role in entity ownership and governance?**

- It is important that the rights and interests of the Crown's Treaty partners are well understood and that our work is informed by this relationship.
- At a minimum, the entities will be set up in legislation and this may require the relationship to the Treaty to be clearly expressed.
- A programme of targeted engagement will be undertaken with appropriate parties to canvass matters of mutual interest as the programme proceeds.

## **FAQs Part 5: Asset ownership and transfers**

### **1. Will my council still have control over our assets and service conditions?**

- It is proposed that the assets related to provision of water services will be transferred to the new water entities. This would be to ensure that they are owned, maintained and operated independently by the new entities.
- The transfer of assets enables the water entities to take a strategic approach to infrastructure planning and development and funding and financing arrangements.
- We will work to ensure councils and the communities they represent will be able to have their say on service conditions and expectations through mechanisms set up in the design of the statutory entities.

### **2. If water assets and liabilities are taken out of my council, what will this do to its ability to borrow?**

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- We will be asking councils for information on assets and liabilities to assess this and determine the impact, on balance sheets, revenue, liabilities and on the ability to borrow. This will vary from council to council.
- We will work through this with participating councils as part of the reform programme.

**3. What will happen with my internal resource/staff allocated to water services? Will they transfer too?**

- Ultimately this will be a matter to be worked through between employers and employees.
- Consideration will need to be given to the overall level of resource and capability required at an aggregated entity level. However, an objective of the reform is to see efficiencies through shared service delivery at scale.
- Efficiencies mentioned above may not necessarily mean a reduction in staff, but will instead help address current capability and capacity issues, as staff will be used more efficiently across the entity area.
- Once groupings are determined associated resourcing will also need to be worked through and we anticipate an appropriate establishment phase.
- Where your staff operate across water and other council assets, decisions will need to be made as to the best place for this skilled resource to remain.

**4. Should I continue with my three waters investment programme now?**

- For now, carry on as planned. We are asking councils to not let this process stop you from making planned investment in water assets.
- The additional investment provided by the Government as part of this reform programme is designed to enable you to undertake this planned investment despite the significant impact of COVID-19 on all councils and address existing investment gaps.
- We don't want to stop investment at this key time when improvements and change are needed nationwide, and economic benefits of investment and the associated impact of improved water services are needed.
- When we ask for information to help us shape the reform programme, we will also be interested in your planned capital investment in water and any debt you are planning on raising to fund this.

**FAQs Part 6: Water related revenue**

**1. Will councils retain their water-related revenue?**

- Revenue relating to these assets would need to be available to the new entities to ensure that they have the funding (or are able to raise debt against this funding) to maintain, replace and invest in future water assets.
- Different models for revenue collection are applied across the country and we will work with you to understand this and consider whether this will need to evolve over time.

**2. How will my ratepayers be charged for water under this model?**

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- We are looking to minimise the change to consumers.

**3. How do I get comfort that ratepayers will not be cross-subsidising other regions and/or face increased costs?**

- An aggregated model of service delivery will always involve some degree of cost sharing across the region. However, the extent and scale of this will be worked through in partnership with councils as part of the policy development through the reform programme.
- The intention of this reform is to address the significant ongoing under-investment in three water services in some areas and the capability, capacity and affordability issues that are facing some councils, particularly in light of the expected impact of COVID-19.
- From a national perspective, any increased costs due to cross-subsidisation in the short-term are likely to be offset in the medium-term by benefits of the changes to create sustainable larger scale entities.
- In the medium- to long-term, this includes the operational and efficiency advantages and cost benefits of operating at scale.

**FAQs Part 7: Other considerations**

**1. I am a small council - will I get a say in shaping the solution or just have to follow suit? Will design be dominated by larger councils?**

- The intention is that the reform is to ensure that the needs and interests of all communities are identified and understood.
- The views of all councils that sign the MoU will be heard and considered in the final design of the reform.

**2. What happens if no neighbouring councils want to join up with my council?**

- Once the MoUs have been signed, we will work with those councils that are interested in considering reform.
- The ability to join the reform programme is open to all councils at any stage so more councils may choose to join at subsequent phases.
- However, once the deadline for opting into funding has past, there is no further opportunity for councils to access that funding.

**3. What is the process for submitting questions and continued engagement in the reform programme?**

- We expect questions to arise throughout the process and will be updating FAQs and distributing these to our webpage as we progress.
- Beyond our proposed initial period of engagement, we will continue to meet and discuss pressing issues with the Steering Committee. We will also provide your council with regular update emails, and opportunities to join webinars and formal information-sharing sessions.
- If there are questions you would like to discuss prior to MoU signing, we will do our best to accommodate this. Please send an email to [3WatersSteeringGroup@dia.govt.nz](mailto:3WatersSteeringGroup@dia.govt.nz) with your query.

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- Please make it as specific as possible so we can do our best to answer it in the short timeframe available. Given the short timeframes and work to be done as part of the programme, we may not be in a position to answer your question fully.