

Three Waters Reform - September 2021

Meeting: Kaipara District Council
Date of meeting: 29 September 2021
Reporting officer: Sue Davidson, GM Sustainable Growth & Investment

Purpose | Ngā whāinga

To update Council on additional information received regarding the proposed Three Waters Reform and to seek approval of a draft letter to send to the Minister of Local Government.

Executive summary | Whakarāpopototanga

This report provides additional information Council has received since the last briefing to help Elected Members understand the government's proposal.

The Department of Internal Affairs (DIA) has requested that Council's provide written feedback if they wish on the Three Waters Reforms, prior to the end of the 8-week period (end of September).

This report seeks approval to send a letter to the Minister of Local Government providing Council's feedback on the proposal. A draft letter has been written and approval of the letter is being sought. The report also seeks delegation for the Mayor to; incorporate any further feedback from elected members; finalise the letter; and send it to the Minister of Local Government, prior to the end of September.

Recommendation | Ngā tūtohunga

That Kaipara District Council:

- a) Notes the Three Waters Update report.
- b) Agrees that a letter be sent to the Minister of Local Government providing feedback on the Three Waters Reform package.
- c) Approves the draft letter provided at **Attachment D** and delegates the authority to the Mayor to finalise (incorporating any feedback from the meeting) and send the letter to the Minister of Local Government on behalf of Council.

Context | Horopaki

The Government has concluded that the case for change to the three waters service delivery system has been made and during June and July 2021 it released information and made announcements on:

- The direction and form of the Three Waters Reform, including proposed new Water Service Entities (four and their indicative boundaries), their governance arrangements and public ownership
- Individual (WICS) Council data based on the information supplied under the RFI process
- Package of investment (\$2.5b) for councils to invest in the future for local government, urban development, and the wellbeing of communities, ensuring no council is worse off as a result of the reforms, and funding support for transition
- An eight-week process for councils to understand the implications of the reform announcements, ask questions and propose solutions and for Government to work with Councils and mana whenua on key aspects of the reform (including governance, integrated planning and community voice).

Council has been placed in Entity A and KDC's better off funding allocation is \$16.1m. Elected Members have been provided the opportunity to raise questions through LGNZ and DIA as part of the 8-week period which continues to the end of September 2021.

The purpose of this period is to provide time for all local authorities to:

- engage with and understand the large amount of information that has been released on the nature of the challenges facing the sector, the case for change, and the proposed package of reforms, including the recently announced support package
- Take advantage of the range of engagement opportunities to fully understand the proposal and how it affects your local authority and your community
- Identify issues of local concern and provide feedback to LGNZ on what these are and suggestions for how the proposal could be strengthened.

Council has previously discussed this at briefings in August and September 2021 and at the September Council meeting. No decisions have been required of Council as yet, however the following extract of an email was received from the DIA on 17 September 2021.

"While the Department, Taituarā and LGNZ have been taking onboard feedback that has been raised through engagements with you during this 8-week period, councils (or groupings of councils) may wish to provide formal written feedback to the Government at the end of the period."

Council staff have collated issues where there are areas outstanding, provided in the Discussion section.

Discussion | Ngā kōrerorero

It has been reiterated that regardless of whether Water Services Entity A is established, council and the new entity will face increased costs as a result of regulation. DIA has continued to provide updated information and answers to questions.

Key points in these reports refer to the increase in regulatory requirements and some key points are highlighted showing there will be increased future costs which are likely to be a burden on our Council and ratepayers.

Key reform questions and essential facts

Attachment A provides a key reform questions and essential facts document. Key points from this are:

- The status quo no longer exists
- The status quo for water service providers is changing and Council water providers and their communities will face very significant regulatory obligations and costs if they were to opt out of the reforms.

Statement on Castilia report

The DIA released a statement (provided at **Attachment B**) regarding the Whangarei District Council Castilia report. The statement states;

In estimating future investment levels, past (or planned) capital expenditure by councils does not necessarily represent a good estimate of required future investment for at least three reasons:

- First, the future will see greater enforcement of drinking water standards and higher standards for environmental discharges. Water suppliers will be held to higher standards than they have in the past, and this will have implications for asset quality and investment requirements. Note also, that under provisions in the Water Services Bill, councils will face a duty to ensure safe drinking water within their districts, including in relation to communities and households serviced by private and community supplies. Given variable compliance with standards, and the relatively high proportion of unconnected properties in Northland, this represents a

potential contingent liability for these councils once the Bill is passed and requirements enforced.

- Second, with economic regulation, it will no longer be acceptable for councils, including WDC, to maintain assets at a rate below the economic rate of depreciation (effectively borrowing from future generations). Data gathered by DIA indicates that Whangarei District Council's current investment in its renewals programme represents ~40% of the rate of depreciation over the period 2017 to 2020. This is not dissimilar to what we see with many councils across New Zealand and is why, over a period of decades, we now face a nationwide infrastructure deficit.
- Third, while not included in the WICS modelling, climate change will likely push investment requirements higher again, particularly in areas such as Northland that are prone to drought. In some parts of the country, seismic risk is significant and has not been factored into the modelling.

Issues that are still outstanding

Relating to Debt

- KDC has both internal and external loans relating to water assets that would need to be assigned or taken over by Central Government.
- KDC has a number of interest rate swap agreements to minimise risk in the short and medium term future that would need to be paid out or taken over by Central Government.
- KDC is a guarantor of LGFA and would be concerned if water entities are intending to borrow from LGFA that our guarantee would be greater than anticipated when we became a guarantor.

Relating to the transfer of stormwater assets and functions

Central Government is proposing to take over stormwater systems which are integral to land use and a means of protecting our key towns (housing and roading) from flooding and response to climate change. We are concerned that the land drainage systems and flood protection systems KDC manages, which perform the same function to protect housing, schools, state highway, and highly productive agricultural land, seem to have been discounted from this proposal. It would seem stormwater infrastructure interventions only would sit in the water services entity but land drainage and flood protection responses need to be aligned and this may not occur with different organisations responsible for the hazard management.

Relating to planning for Growth

The government's proposal is that local government will continue to have primary responsibility for urban and land use planning. The intention is that local authorities will collaborate with the new water entities to achieve integration and alignment of infrastructure provision with land use planning processes and that there will be a "reciprocal obligation" on the water entities in the legislation to ensure this occurs.

Currently Council's decisions across water, transport and community infrastructure are guided by various KDC strategy documents including the District Plan so investment can be aligned in infrastructure with growth requirements. It is not clear how this will be handled under the new water services entity. Nor how Council would have the ability to match the water entity's spend with respect to transport and community infrastructure without clear agreements over the timing and staging of growth with the water entity.

Relating to future potential obligations

- Responsibility for future failing water systems would need to be the responsibility of the water services entity. This has not been clarified.

- The government's objectives for the reform include building resilience to natural hazards and climate change, but how this will be addressed by each individual water service entity is unclear at this stage.

Relating to Consultation

The current proposals do not specify how communities will be consulted or involved in local decisions and projects. It is important that the community voice is not lost. We note we have good engagement on our key water projects and this needs to be protected. The opportunity for the community to influence a larger water entity will be less than at present under the proposal. The government should recognise that councils already have a significant role in representing the views of their communities, and that councils are well placed to represent the communities' views

To protect consumer rights, the proposals need to be clear how service standards and prices will be set and monitored, consumer advocacy ensured, and complaints processes and mechanisms set up for dispute resolution.

Letter to the Minister of Local Government

As mentioned earlier in this report, DIA and LGNZ have encouraged Councils to provide written feedback on these reforms at the conclusion of the 8-week period. A draft letter has been written by the Mayor for this purpose based on information provided to date, this report and feedback from KDC elected members. A meeting was also held between KDC elected members and LGNZ to discuss the reforms. The LGNZ meeting summary of themes is available at **Attachment C** (at time of writing this was not available and will be circulated separately to this report).

The draft letter intended to be sent to the Minister of Local Government is available at **Attachment D**. This report seeks council approval of the draft letter and seeks authority for the Mayor to finalise it (incorporating any feedback from elected members) and send the letter to the Minister.

Policy and Planning

The Three Waters Reform will impact on Council's policies and plans if it is enacted. Kaipara District Council, along with Auckland Council, Whangārei, and Far North District Councils have engaged PWC to review the financial information to develop an understanding of the financial position of the new entity compared to our Council. This is provided at **Attachment E** (at time of writing this was not available and will be circulated separately to this report).

Also available are updated frequently asked questions from a recent webinar on the reforms, held on 19 August. This is available at **Attachment F**.

Significance and Engagement

These reforms and the impact on Council will be significant. This report provides updated information and central government will advise next steps post October 2021.

Next steps/E whaiake nei

Assuming approval, the letter will be finalised and sent to the Minister of Local Government.

Attachments | Ngā tapiritanga

	Title
A	Key reform questions and essential facts September 2021
B	DIA statement on Castilia report for WDC
C	Summary of LGNZ and Elected member meeting (To be circulated separately from this report)
D	Draft letter to be sent to the Minister of Local Government
E	PWC Phase 2 Analysis KDC Three Waters Reform Sep 21 (To be circulated separately from this report)
F	FAQs from CEOs webinar – 19 August 2021