

Wairoa District Council's submission to the Government's Three Waters Reform proposal

Purpose

Given Wairoa District Council's responsibility to promote community wellbeing now and into the future, this report is submitted as Wairoa District Council's submission to the Government's Three Waters Reform proposal.

Wairoa District Council met at an Extraordinary Meeting on Tuesday, 28th of September 2021 to consider Council's submission to the Government's Three Waters Reform proposal. The following resolutions were approved unanimously.

Resolutions

That Council:

- A. **Adopt** the Wairoa District Council's submission to the Government's Three Waters Reform proposal.
- B. **Delegate** to the Chief Executive power to make any minor changes and amendments required to the submission, and to send on behalf of Council by 30 September 2021.
- C. **Notes** the following areas of concern that Wairoa District Council wishes to raise in this submission to the Government's Three Waters Reform proposal;
 - a) Concerns with the assumptions that underpin the model used in the case for change where Council believes its specific data has been overstated;
 - b) The lack of meaningful engagement with community, including local iwi and tangata whenua;
 - c) The dilution and absence of local voice in representation and governance; and
 - d) Uncertainty in the arrangements for funding/transfer of assets, ownership and responsibilities.
- D. **Notes** the letter to the Minister of Local Government dated 19 August 2021, indicating a strong preference to further pursue a Hawke's Bay Three Waters Regional Entity, supported by all Mayors and Councils of Hawke's Bay.
- E. **Recommends** the following changes to the Government's Three Waters Reform proposal:
 - The further pursuit into the establishment of a Hawke's Bay Regional Water Services Entity (known as the Hawke's Bay Regional model) for the delivery of three waters services.
 - That Wairoa District Council and local iwi be guaranteed representation in any proposed governance structure of a newly established Water Services Entity.
 - That the reform process be clarified and that the community, including tangata whenua are formally, rightfully and actually engaged to provide insight, and the Government provide appropriate resources to allow this to occur as well as genuinely listening to feedback and incorporating relevant feedback where appropriate.

1. Summary

- 1.1. Over the past four years the central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater) – Three Water Reform. The background is provided in Attachment 1 including information on Taumata Arowai (which became a new Crown entity in March 2021 and will become the dedicated water services regulator later this year).
- 1.2. Hawke’s Bay has been actively progressing a review of water since 2018 and released the Hawke’s Bay Three Waters Review Report to the community in mid-2020. In undertaking this review, we recognised there is a strong case for change, and the cost and regulation changes within the sector would result in higher costs moving forward. Those views are recognised by the Government and are a key reason for the Government’s proposal being put forward to councils for their consideration. For Hawke’s Bay, prior to the injection of \$11M stimulus, the cost of three waters services for smaller communities such as Wairoa was considered unaffordable in the future under the current funding regime (or lack thereof), and this is something that we have considered in our alternate proposal. The proposed Hawke’s Bay model which is publicly available for review
- 1.3. The Government has concluded that the [case for change](#)¹ to the three waters service delivery system has been made [please see Attachment 2 for further information] and during June and July 2021 it released information and made announcements on:
 - the direction and form of 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
 - a 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).
- 1.4. Wairoa District Council has been placed in Entity C and our better off funding allocation is \$18,624,910.00
- 1.5. While the Government and LGNZ consider that the national case for change has been made, each council will ultimately need to make a decision based on its local context if the process to join one of the proposed entities remains voluntary.

¹ [Transforming the system for delivering three waters services \(dia.govt.nz\);
https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)

- 1.6. Wairoa District Council currently has a number of concerns with the current proposal and based on current information, Council would have no option but to provisionally opt out, until such time that more accurate, reliable and contextually appropriate information is made available to ensure that elected members and the Wairoa community, including tangata whenua has confidence in the claimed benefits as proposed in the Government's reforms. Further questions and concerns are noted in Appendix 6.
- 1.7. This report provides the Wairoa District Council with high level views of staff on the information provided and assesses the Government's proposal and currently available service delivery options. In preparing it officers have used the Local Government New Zealand, Taituarā, and Te Tari Taiwhenua Internal Affairs [guidance](#)² and our risk framework and policy to assist Council to understand the information that has been provided to date and enable Council to prepare for future decisions and consultation and engagement with communities. Key risks considered are documented later in this report.
- 1.8. Councils were provided with an 8-week period to allow time to:
- Engage with and understand the large amount of information and data 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 local authorities and their communities; and
 - Identify issues of concern and provide feedback on what these are and suggestions for how the proposal could be strengthened.
- 1.9 Council believes that given the complexity and amount of information provided, that the 8 week period is too short and has not allowed for deep meaningful engagement with affected communities, particularly ratepayers, the rightful owners of three waters assets managed by Councils, who have paid for these over a period of decades.
- 1.10 No formal decisions are required of Council through this period and therefore the engagement period did not trigger the need for formal consultation. In the event that a decision was required, formal consultation would be required as per Council's Significance and Engagement Policy of the Council.

² <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

1.11 To ensure that Wairoa District Council had initial thoughts and views from our community on the Government's proposal, Council went out early and hosted a series of community meetings and undertook an online survey of residents. High level findings of those engagement opportunities have been included in this submission. It should be noted that Council undertook to resource this engagement process as it was important to ensure that the local community was made aware of the Government's proposal. This was seriously disrupted by the Delta Covid Lockdown and no provision from Central Government was allowed for an extension to its 8-week period. Communities are being engaged at different stages and this is creating situations where mana whenua are being engaged without Councils and vice versa, that silos are being created and communities generally are just being left to figure this all out themselves. Our strong view is that the Government has failed to ensure that local communities have been and continue to be informed about their Three Waters Reform proposal. The Wairoa District Council (like other Councils around the country), have absorbed the costs of ensuring its affected communities are aware of the reforms proposal and has resourced this ourselves. It should be noted that this has not been budgeted for by Councils, but Wairoa District Council believes it is imperative that communities (including tangata whenua) are informed appropriately about the potential impacts of this Government's three waters reform proposal. Council asks the Government to allow Councils who have undertaken and resourced this process to seek recovery of these costs from the Government.

1.12. In summary,

In response to the request to feedback on the proposal, Wairoa District Council undertook the following proactive measures (see also appendix 7):

- Workshops with Councillors to better understand the proposal to identify and compile themes for a response;
- Identification of specific questions of Councillors and the community that are included in this submission (appendix 6);
- Held a regional collaboration day with the Hawke's Bay Councils and iwi, which included a presentation from LGNZ on the proposal;
- Undertook an independent survey with the Wairoa community on their thoughts and views on the proposal
- Met with iwi leaders from across the Wairoa district
- Have sought feedback from the Tripartite Relationship Agreement partners, which is a statutory instrument under the Treaty Settlement for Tātau Tātau o Te Wairoa Trust. We note the letter that to the Minister on behalf of the Tripartite partners in September seeking support to resource appropriate engagement.
- Provided regular information to the community through the local newspaper (Mayoral Column)
- The Mayor (on behalf of Council) has written to the Minister, DIA officials and others on numerous occasions
- Online meeting between His Worship Mayor Craig Little and Minister Mahuta held on 6 August. (note: it was noted during this discussions that DIA officials would make themselves available to a meeting at Wairoa to discuss the reforms proposal with the local community, this has not yet occurred).

As a result of the feedback, the following themes will form the basis of our submission on the proposal:

1.13. Concerns with the assumptions that underpin the model used in the case for change where Council believes its specific data has been overstated;

Officers have identified a number of assumptions that are of concern and have been provided in this report, which has a material impact on the outcomes of the proposal. Issues with the WICS model assumptions have been raised by many councils across the country with their own peer reviews stating so. It needs to be made clear that these are of significance to the Wairoa community given these issues are compounded for Councils like Wairoa. For example, the DIA dashboard shows Wairoa District Council's performance rating high against other larger Councils in regard to performance, yet the DIA RfI forecast spend is noted as 15 times higher than noted in Wairoa District Council's LTP capital investment, and five times the existing asset value.

A sensitivity analysis undertaken by Morrison Low highlights that WICS has modelled levels of service and growth investment that is over six times larger than the investment requirements identified by Wairoa in its completed RfI. For Wairoa, this is the most significant driver of the household charge calculations produced by WICS. The assumption of staying below a three waters debt/revenue ratio of 250% also drives a significantly higher three waters household charge than if debt/revenue was viewed at the total Council level.

Wairoa District Council does not have confidence in these figures as it believes its specific figures have been significantly overstated based on incorrect, irrelevant and fundamentally flawed underlying assumptions.

1.14. The lack of meaningful engagement with local community and tangata whenua;

Members of the Wairoa community who fed back to Council during this 8-week period referenced a legacy of grievances in central government structures and policies and raised concerns around the Three Waters proposal, particularly noting the size of the Wairoa district and an absence of local voice. There was also feedback about the right to democracy and having locally elected representatives rather than appointed members at the governance level. A lot of this feedback referenced a sense of amalgamation and being "forced" and "told" what to do. Most of the feedback received valued status quo to maintain representation and local voice. Elected members were urged to be "courageous" and "stand up and voice the opinions of local people". Further concerns were raised around paying for water/infrastructure in areas outside of the Wairoa District and a satisfaction in current levels of service and representation arrangements. The community expressed concerns that other Council's within the proposed Entity C might have a reduced level of service and as a consequence this would not only lower the levels of service for Wairoa but also may increase the costs.

The community also expressed disappointment with a perceived lack of communication and engagement from Central Government about the reforms process. This was reflected significantly in community meetings where a lot of feedback indicated the information presented was brand new or information that had been previously released was overly complex and confusing.

Alongside this regional approach, Wairoa District Council has sought to engage directly with local district iwi. As noted previously, Tripartite Partners (Tatau Tatau o Te Wairoa, Wairoa District Council and Hawke's Bay Regional Council) have written to the Minister seeking support to allow local iwi to effectively and rightfully engage in this process. A meeting is scheduled to also be held with local iwi partners to update them on Council's process to date in regard to this three waters reform proposal during this 8-week period.

The Hawke's Bay proposed alternative model has progressed a cultural case and initiated dialogue with local iwi, however this was paused when the Government indicated its intention to reform three water service delivery. Iwi engagement for the proposed reform has been undertaken directly with DIA and the Minister. This has led to resource and time constraints for iwi to authentically assess the Hawke's Bay model proposal as an alternative to Entity C during the 8-week period. A hui is proposed to be held during the week of 20-25 September, and an application for an extension on the timeframes provided to allow for these vitally important discussions to be progressed is required. We note the significance to Māori of the assets that are being transferred. We want to be able to engage meaningfully and locally on how we collectively reach the best outcome for mana whenua.

1.15. The dilution and lack of local voice in representation and governance;

There is concern over the complex governance structure being proposed for Entity C. Six Council representatives will act for 21 Councils on a "Representative Group" that appoints an "Independent Selection Panel" which appoints and monitors "Independent Directors". Not only is this an overly complex bureaucracy, but it is also hard to understand how Wairoa or the Hawke's Bay region could be fairly and rightfully represented in this option. Being able to influence decision making is raised as being a risk due to the size, scale and complexity of Entity C.

Wairoa District Council believes the above issues could be resolved through a Hawke's Bay Water Services Entity being an alternative option, with decisions and direction being set at a local level. The Hawke's Bay regional model is also designed to allow co-governance with mana whenua.

As part of this submission, we will recommend there be consideration given to the makeup of the governance structure, so Hawke's Bay communities (including tangata whenua/mana whenua) are guaranteed appropriate representation at all levels.

1.16. Uncertainty in the arrangements for funding/transfer of assets and responsibilities.

There is concern raised that by transferring the assets to Entity C, in time these assets will be privatised which will result in additional and unaffordable costs to communities like Wairoa (as we have seen with the electricity reforms). The 'better-off' package being offered of \$18.6M nowhere near compensates for the value of assets being transferred.

2. The Hawke's Bay Regional Model

- 2.1 Although in principle we agree there is a case for change in the way in which water services are delivered, we have concerns about the underlying assumptions used as the basis for the Government's Three Waters Reform proposal.

Wairoa District Council alongside our regional council partners and iwi in the Hawke's Bay have undertaken a significant detailed review of collective water services, driven by information that was underpinned by our LTPs, this has been useful when reviewing and comparing the Government's proposal.

Based on the extensive work undertaken by the Hawke's Bay Councils, which are publicly available, that the benefits as noted in the Hawke's Bay model serves the communities of Wairoa with associate evidence. Hawke's Bay was noted for its leadership in this process through the Three Waters Stimulus Package.

Wairoa District Council firmly supports pursuing a Hawke's Bay Regional Water Services Entity. Proposals and other reviews and analyses which support our position of this case are also publicly available.

Wairoa District Council has had its WICS specific information peer reviewed by WSP and officer analysis suggests that Wairoa District Council's RfI specific information is highly overstated. The Hawke's Bay model review has also been peer reviewed by Morrison Low comparing the WICS modelling, and this also demonstrates over inflated underlying assumptions in the Government's data.

3. Background and context

- 3.1. Following the serious campylobacter outbreak in 2016 and the Government's Inquiry into Havelock North Drinking Water, central and local government have been considering the issues and opportunities facing the system for regulating and managing the three waters (drinking water, wastewater, and stormwater).
- 3.2. The focus has been on how to ensure safe drinking water, improve the environmental performance and transparency of wastewater and stormwater network and deal with funding and affordability challenges, particularly for communities with small rating bases or high-growth areas that have reached their prudential borrowing limits.

- 3.3. The Government's stated direction of travel has been for publicly-owned multi-regional models for (with a preference for local authority ownership). The Department of Internal Affairs (DIA), in partnership with the Three Waters Steering Committee (which includes elected members and staff from local government commissioned specialist economic, financial, regulatory and technical expertise to support the Three Waters Reform Programme and inform policy advice to ministers.
- 3.4. The initial stage (Tranche 1 - MOU, Funding Agreement, Delivery Plan and RFI process) was an opt in, non-binding approach. It did not require councils to commit to future phases of the reform programme, to transfer their assets and/or liabilities, or establish new water entities. The 2020 indicative reform programme and then anticipated next steps can be found in Attachment 1.
- 3.5. Council completed the RFI process over Christmas and New Year 2020/21 and the Government has used this information, evidence, and modelling to make preliminary decisions on the next stages of reform and has concluded that the case for change has been made [Attachment 2].

4. Government's June and July 2021 announcements and information releases

- 4.1. In June 2021 a suite of information was released by Government that covered estimated potential investment requirements for New Zealand, scope for efficiency gains from transformation of the three waters service and the potential economic (efficiency) impacts of various aggregation scenarios.³
- 4.2. In summary the modelling indicated a likely range for future investment requirements at a national level in the order of \$120 billion to \$185 billion, an average household cost for most councils on a standalone basis to be between \$1910 and \$8690 by 2051. It also estimated these average household costs could be reduced to between \$800 and \$1640 per household and efficiencies in the range of 45% over 15-30 years if the reform process went ahead. An additional 5,800 to 9,300 jobs and an increase in GDP of between \$14b to \$23b in (Nett Present Value, NPV terms over 30 years were also forecast.
- 4.3. As a result of this modelling, the Government has decided to:
- **establish four statutory, publicly-owned water services entities that own and operate three waters infrastructure on behalf of local authorities**
 - **establish independent, competency-based boards to govern**
 - set a clear national policy direction for the three waters sector, including integration with any new spatial / resource management planning processes
 - **establish an economic regulation regime**
 - develop an industry transformation strategy.

The proposed safeguards against privatisation can be found on page 26 of the DIA's [summary of the case for change](#).

³ This information, including peer reviews and the Minister's briefing can be accessed at: <https://www.dia.govt.nz/Three-Waters-Reform-Programme> and [release-of-second-stage-evidence-base-released-june-2021](#).

- 4.4. Both DIA and LGNZ have produced two page national overviews, available on the DIA [website](#)⁴ and [LGNZ websites](#)⁵ respectively. Attachment 2 contains more detail on the national context and Attachment 3 provides the DIA/LGNZ overviews.
- 4.5. We have been placed in Water Services Entity C **[the boundary includes the entire east coast of the North Island from Gisborne to Wellington and includes Marlborough and Tasman districts, Nelson and the Chathams]**, although the precise boundaries are still up for discussion.

⁴ [2872-DIA-A3-A New Water with-without reform Map 20210526 v2.7](#)

⁵ [Three-Waters-101-Infographic.pdf \(lgnz.co.nz\)](#)

Entity A



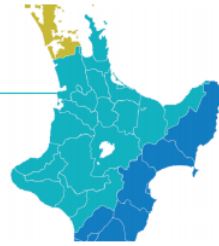
Auckland
Far North
Kaipara
Whangarei

Entity A

Connected population (2020)	1.7m
Average household cost (2051, real)¹	
With reform	\$800
Without reform	\$2,170

Entity B

Entity B



Hamilton
Hauraki
Kawerau
Matamata-Piako
New Plymouth
Opoiki
Otorohanga
Rangitikei

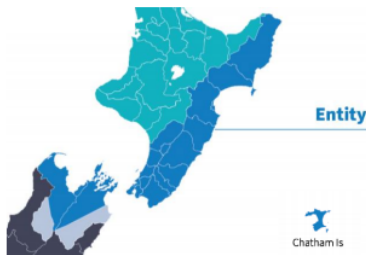
Rotorua Lakes
Ruapehu
South Taranaki
South Waikato
Stratford
Taupo
Tauranga
Thames-Coromandel

Waikato
Waipa
Waitomo
Western Bay of
Plenty
Whakatane
Whanganui

Entity B

Connected population (2020)	0.8m
Average household cost (2051, real)¹	
With reform	\$1,220
Without reform	\$4,300

Entity C



Carterton
Central Hawke's Bay
Chatham Islands
Gisborne
Hastings
Horowhenua
Kapiti Coast

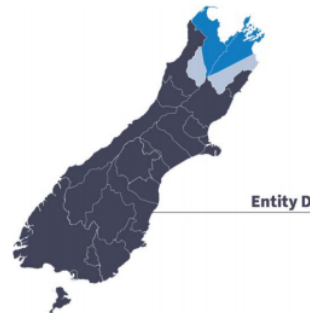
Lower Hutt
Manawatu
Marlborough
Masterton
Napier
Nelson
Palmerston North

Porirua
South Wairarapa
Taranaki
Tasman
Upper Hutt
Wairoa
Wellington

Entity C

Connected population (2020)	1.0m
Average household cost (2051, real)¹	
With reform	\$1,260
Without reform	\$3,730

Entity D



Ashburton
Buller
Central Otago
Christchurch
Clutha
Dunedin
Gore

Grey
Hurunui
Invercargill
Kaikoura
Mackenzie
Queenstown
Lakes
Selwyn

Southland
Timaru
Waimakariri
Waimate
Waitaki
Westland

Entity D

Connected population (2020)	0.9m
Average household cost (2051, real)¹	
With reform	\$1,640
Without reform	\$4,970

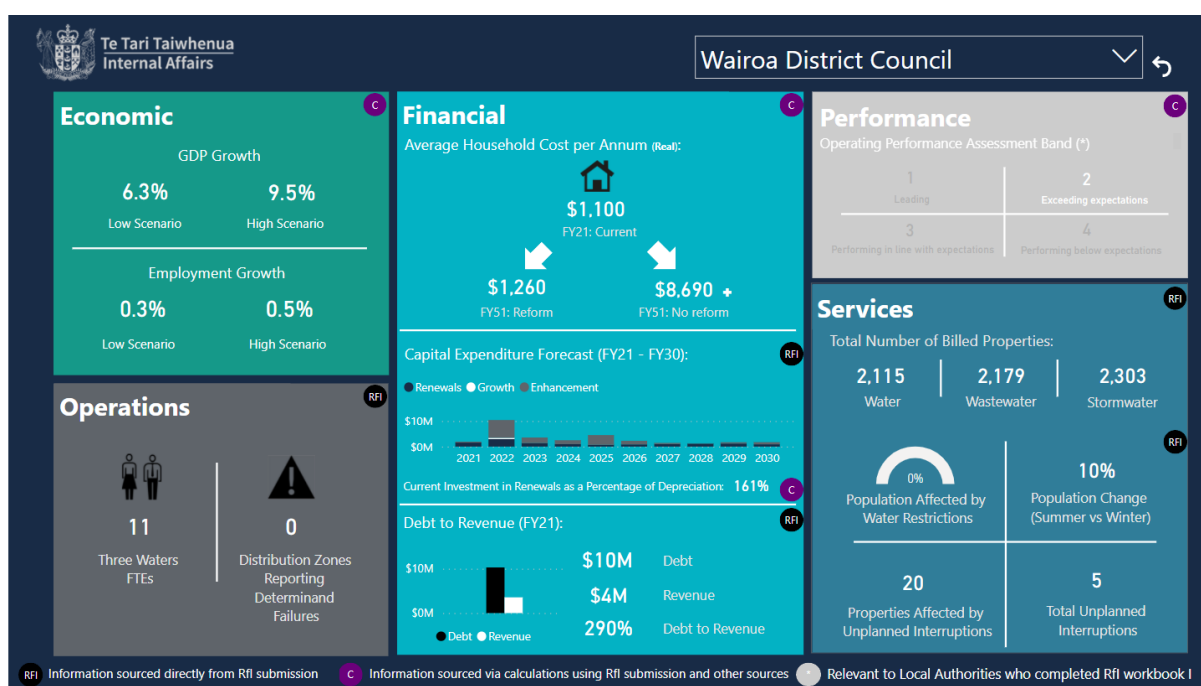
- 4.6. On 15 July, in partnership with LGNZ under a [Heads of Agreement](#)⁶, the Government announced a package of \$2.5 billion to support councils to transition to the new water entities and to invest in community wellbeing. This funding is made up of a **‘better off’ element** (\$500 million will be available from 1 July 2022 with the investment funded \$1 billion from the Crown and \$1 billion from the new Water Services Entities) and **‘no council worse off’ element** (available from July 2024 and funded by the Water Services Entities). The **“better off”** funding can be used to support the delivery of local wellbeing outcomes associated with climate change and resilience, housing and local placemaking, and there is an expectation that councils will engage with iwi/Māori in determining how to use their funding allocation.
- 4.7. **Council’s funding allocation is \$18.6M.** The detail of the funding (including expectations around the use of reserves) and the full list of allocations can be found in Attachment 4. Conditions associated with the package of funding have yet to be worked through.
- 4.8. In addition to the funding announcements, the Government has committed to further discussions with local government and iwi/Māori over the next eight weeks on:
- the boundaries of the Water Service Entities
 - how local authorities can continue to have influence on service outcomes and other issues of importance to their communities (eg chlorine-free water)
 - ensuring there is appropriate integration between the needs, planning and priorities of local authorities and those of the Water Service Entities
 - how to strengthen the accountability of the Water Service Entities to the communities that they serve, for example through a water ombudsman.
- 4.9. As a result, the original timetable for implementing the reform (outlined in Attachment 1) and for councils to consult on a decision to opt-in (or not), no longer applies.
- 4.10. Next steps are expected to be announced after 30 September 2021, which would include the timeframes and responsibilities for any community or public consultation.
- 4.11. It is also important to note that the Government has not ruled out legislating for an “all-in” approach to reform to realise the national interest benefits of the reform.
- 4.12. In the interim the DIA continues to engage with council staff on transition matters on a no regrets should the reform proceed. These discussions do not pre-empt any decisions about whether to progress the reforms or whether any individual council will transition.
- 4.13. On the assumption that the reform goes ahead, it is anticipated that councils will continue to deliver water services until at least early 2024 and council involvement in transition will be required throughout.

5. Council specific information and analysis

- 5.1. While the Government and LGNZ consider that national case for change has been made, each council will ultimately need to make a decision based on its local context.

⁶ [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf)

- 5.2. Councils do not have a national interest test for their decision making. Councils are required to act in the interests of their communities and the community's wellbeing (now and into the future), provide opportunities for Māori to contribute to their decision-making processes, ensure prudent stewardship and the efficient and effective use of its resources in the interests of the district or region (including planning effectively for the future management of its assets) and take a sustainable development approach⁷.
- 5.3. Council currently delivers three waters as a standalone entity with a mix of inhouse and contracted out services
- 5.4. Our dashboard looks like this:



- 5.5. It, and the dashboards of other councils, can be accessed on this [site](#)⁸.
- 5.6. The key aspects Council would like noted are detailed below.
- Compared with Council's own information and LTP 2021-31. We believe the DIA information contains some inaccuracies and is fundamentally flawed.
 - Wairoa District Council's information shows a 40% increase in three waters spend from year 4 onwards in our LTP, this demonstrates that there is moderate to significant investment signalled over the next 10 years of our Long Term Plan and out across 30 years in our infrastructure strategy, underpinned by assumptions that regulatory standards will tighten and that there will be more monitoring and enforcement in the future.
 - Our asset condition, performance (and confidence) levels for

⁷ See for example sections 5 and 14 of the LGA.

⁸

<https://app.powerbi.com/view?r=eyJrIjoieGE1OTJlYWUtdZDZkNy00YWZjLTgzN2EtOTY1MzQxNGM5NzJmliwidCI6ImY2NTIjYTVjLWZjNDctNGU5Ni1iMjRkLTE0YzYk1ZGYxM2FjYj9>

- a. drinking water is medium – high
 - b. wastewater is medium – high
 - c. stormwater is low-medium
- 5.7 Wairoa District Council is also currently undertaking a private water scheme analysis in collaboration with other Hawke’s Bay councils to better understand the risk.
- 5.8 To assess whether the proposed better off and no worse funding to Council of \$18.6M is sufficient Council needs further information on the conditions that will be associated with that funding. For the purposes of the following analysis it is assumed that this funding would provide Council with an opportunity to address a range of issues and opportunities to improve community wellbeing in partnership with mana whenua and the communities Council serves.

6. Options available to Council for three waters service delivery

- 6.1. Section 6 provides an overview of the options available to Council and is followed by an analysis of the Council’s reasonably practicable options.
- 6.2. This analysis will provide some of the required information to enable Council to make a decision and consult on opting in or out of the reform process at the end of the eight week period (but not all as there is further information to be developed and decisions to be made), although whether this is ultimately required will be dependent on where the Government gets to with the reform process and the decisions it makes after 30 September 2021.
- 6.3. Staff have used the Local Government New Zealand, Taituarā, and Te Tari Taiwhenua Internal Affairs [guidance](#)⁹ and our risk framework and policy to understand the potential impact of reform and other practicable options (both today and in the future) in terms of service, finance and funding, economic development and growth, workforce, delivery and capability and social, cultural and environmental wellbeing.

6.4. Option A - Government Proposal

- Under this option, we are in entity C, a publicly owned water services entity that owns and operates three waters infrastructure on behalf of councils, mana whenua and communities.
- The ownership and governance model is a bespoke model, with councils listed in legislation as owners, without shareholdings or financial interests, but an advocacy role on behalf of their communities. Iwi/Māori rights and interests are also recognised and representatives of local government and mana whenua will sit on the Regional Representative Group, issue a Statement of Strategic and Performance Expectations and receive a Statement of Intent from the Water Services Entity. Entities must also consult on their strategic direction, investment plans and prices / charges.

⁹ <https://www.lgnz.co.nz/assets/Three-Waters-Guidance-for-councils-over-the-next-eight-weeks-FINAL.pdf>

- The law currently prohibits Council deciding to opt-in to the current proposal (given section 130 of the LGA, which prevents councils from divesting their ownership or interest in a water service except to another local government organisation such as a Council Controlled Organisation) and what we know about this option at present.

6.5. Option B - Council as a standalone deliverer of three waters [Status quo]

- Council delivers three waters services itself through a mixed model of in-house and contracted services.
- While the RfI information, dashboard and supporting information provided to Council suggests that this might not be a sustainable future model for the country, we have used the information to analyse whether this is a viable option for Council and our communities.
- Council is of the view that further Government funding is required for this option to be sustainable and viable.

6.6. Option C - Council continues to deliver three waters but at a higher level of service and investment

- A modified version of Council continuing to deliver services to reflect the anticipated regulatory environment for three waters delivery.
- This option requires making assumptions about
 - the future regulatory requirement (potentially using the assumptions underpinning the WICS modelling and the Government's proposal and draft/emerging standards and compliance regimes e.g., those coming from Taumata Arowai)
 - the ability of non-Council water supplies to meet standards and requirements and the risks to Council

and would ideally include the production of business cases for investment and enhanced activity and asset management planning to be robust.

- Council staff have assessed our ability to do this work in the current operating environment (delivering business as usual, stimulus projects, other Government reform workloads, consultant availability etc) and concluded that only a very high level of analysis of this option could be done in the available timeframe. This is included in section 7 below.
- Please note that any changes to levels of service or material changes to the cost of service would require consultation and an LTP amendment (or consultation on those changes as part of the next LTP 2024-34 and potentially later ones).

6.7. Option D – Asset Owning Entity

- The geographic region that has been assessed as part of the group delivering three water services under this option is the Hawke's Bay.
- While it is possible that a group could be set up as a shared service, at scale this is likely to be suboptimal to the CCO option.¹⁰
- This option has therefore been developed as council-controlled organisations (CCOs) as provided for in the LGA with governance, management and operational oversight.

¹⁰ [HB-3-Waters-Delivery-Detailed-Analysis-29.07.20-Full-Report.pdf \(hb3waters.nz\)](#)

- This option enables assets to be transferred.
- Although both a management CCO and an asset owning CCO have benefits, the detailed analysis in the [Hawkes Bay report](#) demonstrates that a regional asset owning CCO is a more effective service delivery model than the management CCO and best met the investment objectives and principles set by the participants in that review.
- This option has therefore been developed assuming that assets are owned by a CCO.
- There are existing examples of CCOs [WaterCare](#) (water and wastewater services) and [Wellington Water](#) (who don't own but do manage all three waters on behalf of their owners) and studies such as [the Hawkes Bay study ..] that have been considered in developing and analysing this option.

Please note that both the Auckland Council and the owners of Wellington Water are affected by the Government's proposal and are assessing their options, e.g. for Wellington Water to become an asset owning company.

6.8. Do-nothing

- While the do-nothing option is conceptually always an option, the reality is that Council needs to continue to deliver its drinking water, wastewater and stormwater responsibilities. Doing nothing is therefore not a practicable option and is not assessed further.

7. Options analysis

There are four options available for consideration by the community for the delivery of water services. These include:

- a. The Government's proposal (aggregation of 67 Councils into a 4 Water Services Entity model)
- b. Current Council-delivered service (Status Quo)
- c. Current Council-delivered service but with a higher level of service
- d. Regionally delivered services

Council is not consulting on the delivery of services at this time and will be guided by the feedback received after the 8-week review period.

8. Risks (opportunities and threats) considered for the various options included

- Financial sustainability
- Underestimating the investment Required
- Compliance failure
- Cost of Works
- Workforce, skills, Technical Capability
- Economies of Scale
- Council Plan Implementation and Integration
- Council Risk (and capacity for it)
- Household Ability to Pay
- Long Term Outcomes and wider wellbeing outcomes
- Gaps in Service Delivery and Funding Responsibilities
- R&D Funding Opportunities
- Increased Incident Response Time
- Additional Water Capacity (water source)
- (Reduction in the) Local Contractor Capacity
- Partnerships (ineffective)
- Compliance Monitoring
- Industry support
- Impact on business (AFFCO)
- Value of Council Services
- Community perception; Loss of interest in Council – effect on candidacy
- Regional investment(lack of additional in the district due to current asst condition)
- More efficient water use
- Reduced ability to Promote Sustainable Resource Use
- Failure to Recognise Cultural Knowledge in Design
- Business Priorities Differ to Council Goals
- Loss of Community Engagement
- Lack of service integration
- Lack of Understanding of Growth Constraints
- Unclear responsibility for environmental impacts
- Gaps in infrastructure data
- Procurement outcomes
- Litigation
- Reduced levels of service / optional service level increases

8.1 Option A - Government Proposal

- 8.1.1 In summary, the greater financial capability, efficiency, affordability and community/water benefits (published by Government) of delivering three waters to the community are likely to be of significant value if they can be realised.
- 8.1.2 The key opportunities our own analysis identifies include reducing the Council's current risk profile (when considered against the status quo) including compliance risk and the risk of not meeting standards etc.
- 8.1.3 Risks that need to be mitigated include integration with spatial, growth and local planning and transparent prioritisation, households' ability to pay, and Council's financial sustainability.

8.2 Option B - Council as a standalone deliverer of three waters

- 8.2.1 In summary, the potential benefits of this option include greater Council control and more certainty over local infrastructure integration (planning and delivery) with land use plans and council objectives.
- 8.2.2 However, Council faces risks, including potentially high costs, in meeting the new water standards, environmental requirements and achieving compliance.
- 8.2.3 The ability of non-Council water supplies to meet standards and requirements also poses a risk to Council and the community.
- 8.2.4 These present affordability challenges for households in the future, exacerbating our current affordability challenges.
- 8.2.5 Council is also experiencing workforce challenges to meet the current requirements of three waters service delivery, Government reforms and an enlarged investment programme created by stimulus funding.
- 8.2.6 This option becomes less sustainable if those around us move to some form of aggregated model (which will adversely affect our ability to retain and attract workers, access technical, financial or construction support, and procure cost effective contracts to deliver services and capital works).
- 8.2.7 The causes of most of these risks are not within Council's control. This makes mitigation difficult, and many potential mitigation options (such as greater investment, larger costs than currently planned, lower levels of service, compliance risk) may not be palatable to Council or the community.
- 8.2.8 Given the Government has rejected this as a sustainable solution for three waters service delivery there should not be an expectation that the Government would be willing to financially support councils to meet the new regulations beyond existing Tranche 1 stimulus funding.
- 8.2.9 There may also be broader implications for our relationship with Government, iwi/Māori and key stakeholders.
- 8.2.10 Given the analysis to date, Council continuing to deliver the three waters as a standalone entity under the present funding regime is unlikely to be sustainable in the medium to long term and further Government funding would be required.

8.3 Option B - Council continues to deliver three waters but at a higher level of service and investment [modified status quo]

- 8.3.1 The issues and opportunities associated with this option are broadly the same as for Council delivering three waters at the service levels forecast in the LTP 2021-31.
- 8.3.2 There is likely better integration with Council outcomes, objectives and plans, but even if Council can predict the investment required to meet the new water standards, environmental requirements and compliance requirements in the short term, the costs of service provision and levels of service may change significantly over the next 30 years.
- 8.3.3 As in the case of the status quo:
 - should one or more non-Council water supplies default to Council this would exacerbate Council's risk profile and financial position

- if Council's neighbours voluntarily joined a larger water services grouping or entity, we would likely experience negative impacts on our workforce capability and capacity, on our pipeline of construction and ability to deliver cost effectively and on our ability to get professional services, advice and support.
- 8.3.4 Again, there should not be an expectation that the Government would be willing to financially support councils to meet the new regulations beyond existing Tranche 1 stimulus funding.
- 8.3.5 This presents affordability challenges for households in the future and there may also be broader implications for our relationship with Government, iwi/Māori and key stakeholders.

8.4 Option D – CCO asset owning

- 8.4.1 Under this option the entity and councils would still need to be satisfied that the changing regulatory environment was adequately provided for, including ensuring there was sufficient funding to meet legal and regulatory obligations.
- 8.4.2 However, due to scale, this option (better) addresses the risk that the size of investment required to meet new standards and community expectations is greater than forecast by individual councils;
 - it enables an organisation to focus on the groups three water challenges and prioritise investment decisions across the region, which should lead to better environmental and community outcomes
 - it provides for greater strategic, management and operational capacity and capability, workforce development and planning
 - it enables efficiencies (in planning, programming, procurement and delivery) and should as a result reduce household costs and increase affordability.
- 8.4.3 As with the above options, should one or more non-Council water supplies default to the CCO then this would need to be funded from the group or consumers, however the risk is reduced.
- 8.4.4 There are some integration risks with spatial, growth and local planning and ensuring transparent prioritisation, the achievement of Council objectives and ensuring there is sufficient funding and that costs are affordable.
- 8.4.5 There is Council oversight and input. A statement of intent would be prepared by the CCO (and it would be best practice for the councils to prepare a letter of expectation to guide this) and half yearly and annual reports would be prepared. Councils would need to monitor the performance of the CCO. Consideration would need to be given to governance arrangements, including the involvement of iwi/Māori in both decision making and governance, and how council, community and mana whenua aspirations and needs will be met.
- 8.4.6 This option is still constrained in its ability to raise debt as the connection to council balance sheets remains under the available funding models.
- 8.4.7 There would also need to be agreement from all councils and each would need to undertake public consultation, which would take time and creates uncertainty about the outcome.

- 8.4.8 If a new CCO is to be set up this will require council(s) to use the Special Consultative Procedure (section 83 of the LGA) and arrangements (and a policy) for the appointment of directors or trustees will need to be made (as the councils appoint the “board”), as well as transition arrangements (including workforce transition), prioritisation of investment and integration with planning at the regional and local level.
- 8.4.9 Councils would need to adequately resource the establishment or transition process (if they are changing to an asset owning arrangement).

9 Transition

- 9.1 Managing transition risks to the Government’s proposed model are likely to pose a challenge for Council and others in its grouping than the risks associated with the Government proposal. If the Government’s proposal were to proceed, effective management of the transition by Council, Government and partners will be critical. It is important that Wairoa District Council be an active participant in this process, but there are risks to our ability to participate which include;

- Staff/Contractor Retention
- Transfer of Contracted Services
- Maintaining Good Quality Assets
- Stranded Overheads
- Loss of Customer Experience
- Resistance to Change
- Speed of Change - an increase in mistakes
- Lack of Business Confidence
- Transition Team – would help but will require resourcing. Staff workloads
- Limited Transfer of Water Debt – reserve funds collected for water related services affecting Council’s financial position.
- Development / Financial Contribution Refunds - may affect Council’s charges linked to debt (including the possibility of refunds).
- Current System Unable to Cope
- Scope of Agency Service - continuing / picking up for e.g. stormwater [and / or wastewater]
- Different Local Approaches - to regional neighbours may reduce the economies of scale making regional water solutions more expensive.
- Unreasonable Economic Influence - from existing industry players
- Asset Valuation - returning a much different value than expected affecting Council’s financial position
- Deferred Decision Making - development projects to stall.
- Community Uncertainty - owners continue to call Council delays in resolving faults.
- Poor Transition Management - cause delays and confusion over responsibility exposing Council to liabilities and affecting continuity of service delivery.

- Existing Contract Liabilities - Council may be liable for compensation if contractors take legal action.
- Liability for Environmental Damage - Lack of clarity for monitoring environmental impacts may expose Council to liabilities
- Loss of Asset Management Systems & Data - unclear responsibilities - loss of data or failure of systems affecting continuity of service delivery.
- Impact on Bylaws -.

9.2 That said, transition away from the status quo to any other option, carries inherent risks, with potential mitigations to reduce both impact and likelihood and therefore residual risk and sticking with the status quo may not be sustainable in the medium or long term.

9.3 Wairoa District Council notes the request from Government officials that a portion of the Wairoa District Council's \$11M three waters stimulus package fund be allocated to support transition. Wairoa District Council completely opposes this request as an ambitious programme of work has already been approved by Council and is well underway, to deviate from the work programme poses risk to Council. If the Government proceeds with its proposal, Council would expect additional funding to support transition.

10 Council decision making and consultation

10.1 Part 6 of the LGA, sections 76 to 90, provide the requirements for decision making and consultation, including the principles of consultation and information that needs to be provided including the reasons for the proposal and the reasonably practicable options.

10.2 In particular, section 76 requires that in making a significant decision, which a decision on the future management and or ownership of three waters assets will be, councils must comply with the decision-making provisions. This is a 'higher bar' than the "promote compliance with" that applies for ordinary decisions.

10.3 Section 77 states that councils must seek to identify all reasonably practicable options and then assess the advantages and disadvantages of each option.

10.4 Section 78 requires that in the course of making a decision a Council must consider community views but section 78(3) explicitly says that consideration of community views does not require consultation, which is reinforced by case law.

10.5 Section 79 gives Council discretion to decide how the above Part 6 requirements are met including the extent of analysis done etc. Therefore, while a decision could be challenged, a judicial review is unlikely to be successful unless the decision made by council was manifestly unreasonable, the process was flawed or the decision was beyond its powers (as given in law, ie the council did not act within the law).

10.6 However, despite section 79 of the LGA, a decision to transfer the ownership or control of a strategic asset from the council (or to it) must explicitly be provided for in the council's Long Term Plan (and have been consulted on specifically in its consultation document).

10.7 Council's existing LTP and the consultation information and process used to develop it will not suffice to meet this test, as Council did not itself have adequate information on the options and the implications earlier this year when it consulted on the LTP. An LTP amendment and commensurate consultation process on the ownership and governance arrangements and asset transfers proposed would be necessary.

10.8 There are also provisions in the LGA that relate to unlawful decisions to sell or dispose of assets, which can be investigated by the Auditor-General.¹¹

10.9 A decision to opt-out would also be affected by the consultation and decision-making requirements set out in this report, including the need to follow a robust process that could survive a judicial review, as well as make a final decision that was not manifestly unreasonable in the circumstances.

10.10 Given the Government's

- 8 week period of engagement with mana whenua and councils
- commitment to explore issues such as council and community influence of service outcomes, integration with other reform proposals, spatial and local planning
- request for councils to give feedback on the proposal, identify issues and solutions
- and uncertainty around next steps, including whether the reform may become mandatory or legislative change will remove legal barriers to opting in

it would be premature to make a decision to opt out of the reform process and may expose the Council to litigation risk.

10.11 A Government Bill to progress the reforms could address the issues raised above, for example removing the section 130 requirements has explicitly been raised.

10.12 At this stage no decision is required on future delivery arrangements. Based on the analysis in this report, Council should wait until it has further information before consulting on and/or making a decision on the Government's proposal.

10.13 If reform is not made mandatory, to ensure sufficient information is available to meet the moral and legal requirements of Council decision-making staff will further develop the analysis of options (based on further information from the Government, advice on next steps, and regional discussions) prior to Council decision making and consultation on future water services delivery. Whether this is ultimately required will be dependent on where the Government gets to with the reform process and the decisions it makes after 30 September 2021.

11 Information that the Council requires or potential solutions to outstanding issues that it would like to convey to Government and LGNZ

11.1 There are still several issues that need to be resolved, including:

- the final boundaries
- protections from privatisation

¹¹ See sections 43 to 47 of the LGA.

- consultation with mana whenua and communities
- how will true community voice be heard and what influence will local authorities have (and what can the community realistically expect the council to influence particularly if it is not on the regional Representation Group)
- representation from and on behalf of mana whenua
- integration with other local government reform processes
- integration with spatial and local planning processes and growth
- prioritisation of investment
- workforce and capability – we don't have enough of the right people now to deliver three waters and we need to retain our people through the transition
- what will a Government Bill cover and whether the reform will be mandatory
- conditions associated with the Government's package of funding for local government
- transition arrangements, including our own workforce challenges (without transition challenges on top) and due diligence for asset transfers etc.

11.2 Council is invited to discuss whether there are specific information needs, issues or solutions that the Council would like staff to convey to the DIA or LGNZ.

12 Conclusion

12.1 While there is uncertainty about the future steps in the Government's reform proposal, and current legislative impediments to it, the current eight-week period gives Council the opportunity to understand the information it has received (and will continue to receive) from the RFI and modelling processes.

12.2 It also provides an opportunity for Council to understand its potential options, including the financial, workforce and sustainability impacts for Council and the wider economic, social and cultural implications of each option, using the guidance that has been issued. It also provides an opportunity to engage in discussions with other councils in its entity grouping, share information and ask questions and propose solutions to issues it sees to Government and LGNZ.

12.3 All of this information will be useful to inform future decision making by both council and Government and consultation and engagement with mana whenua and communities.

13 Decision making compliance statements

This report notes that no decisions are required at this stage.

Significance

The future of water services delivery is a significant issue. This report however does not commit the council to a decision relating to that reform. Instead it provides initial analysis of the reform proposals for Council's information and highlights the uncertainties around information and next steps. As such the significance of this report is considered low.

Risks / Legal and Financial implications

Significant risks, legal responsibility and financial implications have been identified in analysing the reform proposals and completing an analysis of options for this report. However, there is not decision required, other than to note those issues and to request further information from Government if Council wishes to, to reduce the risks and implications to Council and its communities

Te Tiriti/Treaty of Waitangi and involvement of Māori in decision making considerations

The issues covered in this paper are important for Māori. The Crown is considers itself currently leading the engagement with iwi/Māori, mana whenua. Council has undertaken opportunities to discuss these reforms with iwi partners as noted previously in this report.

Climate Change / environmental impact

Climate considerations (both mitigation and adaptation), resilience and environmental impacts are drivers of the reform process. While there are no specific impacts arising from this report the decisions that occur post September 2021 will have an impact on climate and environmental issues. These issues will be reported by officers once more information on impacts is made available.

Engagement and Consultation

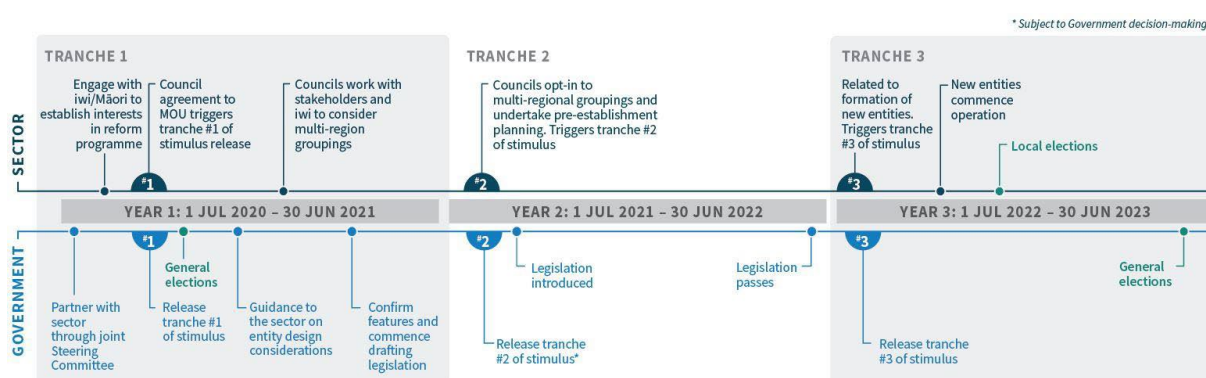
Council is not required to consult at this time as provided for in section 8 of this report. Further advice regarding any future consultation requirements will be provided after September 2021. In the interim Council has engaged with its local community and tangata whenua as noted previously in this report.

Attachment 1 – 2020 Background (including Taumata Arowai information and Indicative Reform Programme)

In July 2020, the Government launched the Three Waters Reform Programme to reform local government three waters service delivery arrangements, with the following objectives:

- improve the safety, quality, and environmental performance of water services
- ensure all New Zealanders have access to affordable three waters services
- move the supply of three waters services to a more financially sustainable footing, and address the affordability and capability challenges that currently exist in the sector
- improve transparency about, and accountability for, the delivery and costs of three waters services
- improve the coordination of resources and unlock opportunities to consider New Zealand's water infrastructure needs at a larger scale and alongside wider infrastructure and development needs
- increase the resilience of three waters service provision to both short and long-term risks and events, particularly climate change and natural hazards
- provide mechanisms for enabling iwi/Māori rights and interests.

The 2020 indicative timetable for the full reform programme is provided below. It was always subject to change as the reforms progressed, future Government budget decisions and Councils were advised that any further tranches of funding would be at the discretion of the Government and may depend on progress against reform objectives.



Also in July 2020 the Government announced an initial funding package of \$761 million to provide a post COVID-19 stimulus to maintain and improve water three waters infrastructure, support a three-year programme of reform of local government water service delivery arrangements (reform programme), and support the establishment of Taumata Arowai, the new Waters Services Regulator.

Following initial reports (that used publicly available council information) from the Water Industry Commission for Scotland (WICS), between October 2020 and February 2021, (all) 67 councils participated in the Government's Request for Information (RfI) on council's three waters assets, including future investment requirements. In return they received what was known as Tranche 1 stimulus funding (under a MoU and funding agreements with Government) for operating or capital expenditure that supported the reform objectives, economic recovery through job creation and maintaining, increasing and/or accelerating investment in core water infrastructure delivery, renewals and maintenance. Council received \$11M under this arrangement and is currently completing the agreed delivery plan. Previous Council reports detail the reasons for Council participation and resolutions.

In line with Government policy, Taumata Arowai became a new Crown entity in March 2021 and will become the dedicated water services regulator when the Water Services Bill passes, expected to be in the second half of 2021 (the Select Committee is due to report back on 11 August 2021). They will oversee and administer, and enforce a new, expanded and strengthened drinking-water regulatory system, to ensure all New Zealand communities have access to safe drinking water. They will also provide oversight of the regulation, management, and environmental performance of wastewater and storm-water networks, including promoting public understanding of that performance.

An overview of local authority obligations under the Bill is provided below. The Bill provides for a range of compliance and enforcement tools including compliance orders, enforceable undertakings, infringement offences, and criminal proceedings, which can be taken against council officers (but not elected officials).

Taumata Arowai will have the authority to prepare standards and rules that water suppliers (such as councils) must comply with. Their [initial working drafts](#) are available online¹² and are currently being updated. Consultation will occur later this year. Guidance to support the operational compliance rules is also being developed and will be available when the rules are consulted on.

It is anticipated that monitoring, compliance and enforcement of standards will increase substantially on the status quo with the passing of the Water Services Bill and as Taumata Arowai begins to operate. It is also likely that the drinking water standards and their coverage (including non-Council water suppliers) and environmental standards will become more rigorous over time. This creates risks for council in meeting future standards and mana whenua and community aspirations (such as greater investment required than currently planned, risk of enforcement action).

Water Services Bill obligations of local authorities

Table 2 from [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/transforming-the-system-for-delivering-three-waters-services-the-case-for-change-and-summary-of-proposals-30-june-2021.pdf)

¹² www.taumataarowai.govt.nz/for-water-suppliers/

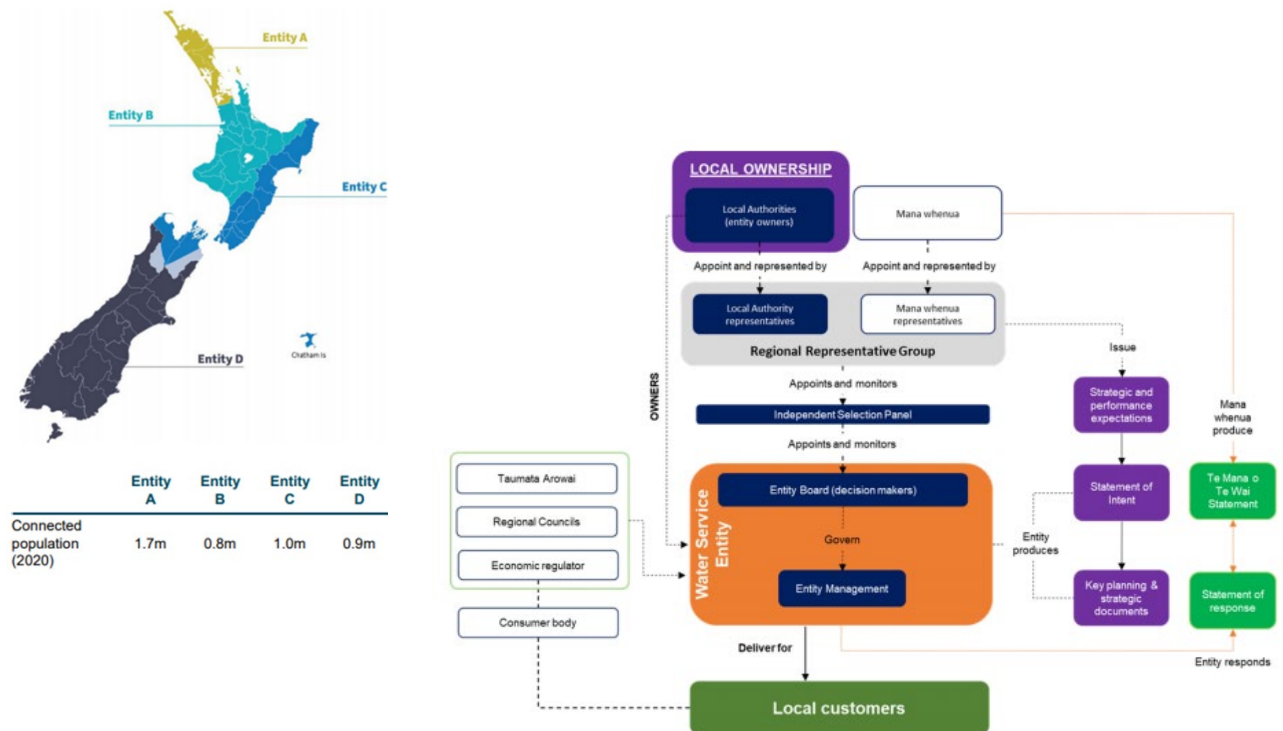
Local authorities as suppliers of water services	General obligations of local authorities
<ul style="list-style-type: none"> • Duty to provide safe drinking water and meet drinking water standards, and clear obligations to act when water is not safe or fails to meet standards • Key provisions include: <ul style="list-style-type: none"> ○ Suppliers need to register with Taumata Arowai ○ Local authority suppliers will need a drinking water safety plan and a source water risk management plan ○ Water suppliers must give effect to Te Mana o te Wai • Taumata Arowai will have significant compliance and enforcement powers, including powers to direct suppliers and enter into enforceable undertakings with suppliers • Officers, employees and agents of suppliers will have a duty to exercise professional due diligence • Complying with these new requirements is expected to require significant capital and operating expenditure by local authorities (including paying levies to Taumata Arowai for operation of the regulatory system) 	<ul style="list-style-type: none"> • Local authorities will have a duty to ensure communities have access to drinking water if existing suppliers face significant problems in complying with drinking water standards including: <ul style="list-style-type: none"> ○ Requirements to work with suppliers and consumers to identify solutions ○ Intervention responsibilities if a supplier is unable to meet standards, including potentially taking over management and operations of private or community supplies • In rural communities, this could represent a significant risk (contingent liability) for local authorities • Local authorities will be required to make assessments of drinking water, wastewater and sanitary services to ensure communities have access to safe drinking water • Local authorities will need to assess drinking water services available to communities at least once every three years, including private and community supplies (excluding domestic self-supplies)

Attachment 2 – the Government’s conclusion that the case for change has been made

1. The modelling has indicated a likely range for future investment requirements at a national level in the order of \$120 billion to \$185 billion, an average household cost for most councils on a standalone basis to be between \$1910 and \$8690 by 2051.
2. It also estimated these average household costs could be reduced to between \$800 and \$1640 per household and efficiencies in the range of 45% over 15-30 years if the reform process went ahead.
3. The efficiencies noted are underpinned by evidence across a range of countries based on joined up networks (the conclusion is that 600,000 to 800,000 connections achieve scale and efficiency), greater borrowing capability and improved access to markets, procurement efficiencies, smarter asset management and strategic planning for investment, a more predictable pipeline and strengthened benchmarked performance, governance and workforce capabilities.
4. The [briefing to the Minister](#) notes that this “investment is what WICS has estimated is necessary for New Zealand to meet current United Kingdom levels of compliance with EU standards over the next 30 years, which in its assessment (and confirmed by Beca) are broadly comparable with equivalent New Zealand standards.”.
5. However, this is caveated as a conservative estimate that does not take into account iwi goals and aspirations, higher environmental standards or performance standards that are anticipated in future legislation, uncertainties in asset lives, seismic and resilience risk, supply chain issues, and the current workload to manage and deliver improvements as well as address renewal backlogs.
6. For councils with non-council drinking water suppliers in their areas there is additional risk if they are unable to consistently provide safe drinking water to their consumers, including the potential for council to have to take on the water supply. Council operating on expired consents or with consent renewals in the next 15 years also face uncertainty over the standards they will need to meet in the future and therefore the level of investment that needs to occur.
7. Councils could also add to the above list of uncertainties and challenges their business as usual workload, the workload associated with delivering on stimulus packages and associated with responding to other government reform initiatives such as reform of the Resource Management Act, and general workforce retention and attraction issues, which are exacerbated by public sector competition for talent and skills.
8. The modelling indicated that between one and four water services entities would provide the most efficiencies and reduce costs to individual households.
9. When this is added to
 - a. known variations across the nation in water suppliers’ compliance with drinking standards, including permanent and temporary boil water notices
 - b. evidence of poor health and environmental outcomes, including expired resource consents for wastewater treatment plants (and the need for 110 of these plants to go through the resource consenting process in the next 10 years)
 - c. stormwater overflows and other challenges
 - d. climate change

- e. Te Tiriti obligations and the need to uphold Te Mana o te Wai
- f. the size and scale of current service delivery units and workforce issues
- g. the obligations and responsibilities that councils (and other water suppliers) will face when the Water Services Bill and associated regulations are enacted
- h. the Government has concluded that the status quo is not sustainable and that the case for change has been made.

10. The four entities and their proposed boundaries (which may yet change) and the proposed structure for the system are as follows:

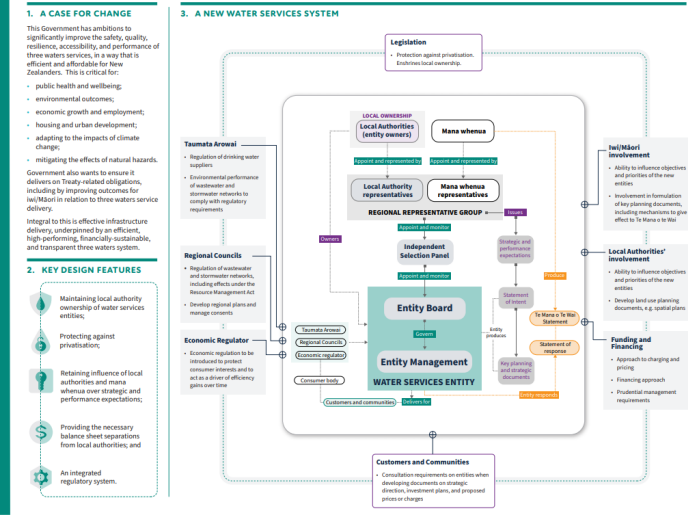


Attachment 3 – DIA two-page summary

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A new system for three waters service delivery

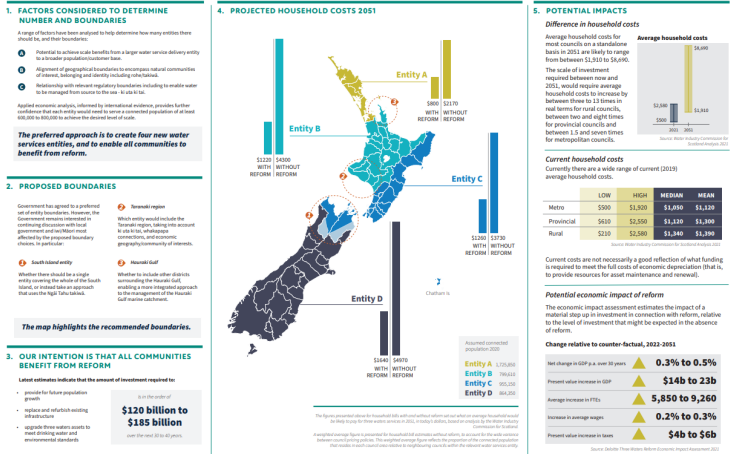
DIAGRAM 1
JUNE 2021



A new system for three waters service delivery

The number and boundary of entities needs to balance scale with other factors

DIAGRAM 2
JUNE 2021



LGNZ two-page summary

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THREE WATERS 101.

The Government is proposing major reform of New Zealand's drinking water, wastewater and stormwater system. Here LGNZ synthesises the issues, the opportunities and what it means for local government.

1. What's the problem?

Councils currently own and operate three waters services, which cover drinking water, wastewater and stormwater. More investment is needed in water infrastructure to meet the environmental and public health aspirations of our communities. The Government has estimated that dealing with 30 years of systemic failure will require an investment of more than \$10b over the next 30 years.

This scale of investment would be extremely challenging for councils to fund on their own. Climate change will only exacerbate this challenge.

- Significant investment needed in water infrastructure
- Councils can't carry future costs
- The current system lacks:
 - Economic regulation
 - Consistent data collection
 - Enforcement of standards

2. Government's proposed solution

The Government has told us it wants to deliver water services more cost effectively. It also wants to deliver them in an equitable and sustainable way. It proposes changing the whole system:

- A new water regulator called Taumata Arowai
- A smaller number of large, specialist water service entities
- Water services are delivered on a significantly larger scale
- Water entities remain publicly owned
- Water services providers meet standards or face significant penalties for noncompliance
- Entities have strong strategic links to councils and mana whenua

3. Impact on councils

The Government's proposal would mean significant change to the delivery of water services. For a start, councils would shift their focus from delivery to kaitiakitanga of water services. Requirements on local authorities to ensure safe drinking water for private and community supplies would transfer to new entities.

For most councils, removing water-related debt from their balance sheets would improve their financial position. It would potentially create more opportunity to focus on delivering wellbeing to their communities.

- Three waters kaitiakitanga focus
- Water-related debt removed from balance sheet
- Increased capacity to borrow to fund community services

We know there's not universal agreement on the case for change. But to meet councils' own RFI projections, spending across New Zealand as a whole would need to increase by 50 percent annually for the next 10 years. With strong regulatory enforcement, the picture would be very different for councils, creating difficult trade offs if large investments are required to meet water standards.

We are. LGNZ.

Te Kāhui Kaunihara o Aotearoa.

LOCAL GOVERNMENT CAN HELP SHAPE THREE WATERS REFORM.

What's important to the sector in this reform?

- Everyone has access to safe drinking water and the same level of three waters service.
- Infrastructure and systems are resilient and well-funded.
- Three waters are delivered in partnership with iwi.
- Delivery is responsive to climate change.
- Catchments are managed from the mountain to the sea.
- Districts retain high-paying, skilled jobs.
- Any transition is well-managed and people are looked after.
- Local voices are heard and local priorities are responded to.

What the sector needs from central government

- Transparency about the process and what's on the table.
- A robust transition plan that makes sure the benefits of reform are delivered.
- Government to support councils so they can keep delivering. This means making sure councils are economically sustainable without water.
- A fair deal, including that councils are not financially worse off, and that communities are better off.
- To support and grow effective local democracy.
- That any new system reflects the relationship with mana whenua under Te Tiriti o Waitangi

Find out more

We encourage you to stay informed and up to date of the reforms as they evolve. We'll be with you every step of the way. Here's where you can start:

Read what DIA has published: www.dia.govt.nz/three-waters-review

Check out the info on our website: www.lgnz.co.nz

Get in touch if you have questions: feedback@lgnz.co.nz



LGNZ is working for councils

Our work on Three Waters is guided by the principle that we need to seize any opportunity to create the best possible outcome for local government.

We're using our influence to work with the Government on a model that better includes the perspective of our communities. Representatives from local government are helping to steer this work and pose the hard questions. We are also actively working with government on what a package to go with reforms might look like. We'll work to optimise this package before decisions are made.

Attachment 4 - funding to invest in the future of local government and community wellbeing

1. On 15 July, in partnership with LGNZ under a [Heads of Agreement](#)¹³, the Government announced a package of \$2.5 billion to support councils to transition to the new water entities and to invest in community wellbeing.
2. The **‘better off’ element**: an investment of **\$2 billion** into the future for local government and community wellbeing.
 - The investment is funded \$1 billion from the Crown and \$1 billion from the new Water Services Entities. \$500 million will be available from 1 July 2022. The funding has been allocated to territorial authorities (which includes unitary authorities)¹⁴ on the basis of a nationally formula that takes into account population, relative deprivation and land area.
 - The funding can be used to support the delivery of local wellbeing outcomes associated with climate change and resilience, housing and local placemaking, and there is an expectation that councils will engage with iwi/Māori in determining how to use their funding allocation.
3. The **‘no council worse off’ element**: an allocation of up to around \$500 million to ensure that no local authority is in a materially worse position financially to continue to provide services to its community as a direct result of the reform.
 - This element is intended to ensure the financial sustainability of councils and address reasonable costs and financial impacts associated with the transfer of assets, liabilities and revenues to new water services entities.
 - Up to \$250 million is available to meet the unavoidable costs of stranded overheads and the remainder for other adverse impacts on financial sustainability of territorial authorities (including future borrowing capacity).
 - Of this \$250 up to \$50 million is allocated to Auckland, Christchurch and Wellington Water councils, the remainder is available to other councils.¹⁵ This funding is not available until July 2024 and is funded by the Water Services Entities.
4. Council’s funding allocation is \$18.6M.

¹³ [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/heads-of-agreement-partnering-commitment-to-support-three-waters-service-delivery-reform.pdf)

¹⁴ Please note that any allocation to Greater Wellington Regional Council (the only regional council affected by the proposed changes) is not clear at this stage.

¹⁵ Due to their size and in the case of Wellington Water and Auckland’s WaterCare having already transferred water service responsibilities (to varying degrees)

5. The package is in addition to the \$296 million announced in Budget 2021 to assist with the costs of transitioning to the new three waters arrangements. The Government will “meet the reasonable costs associated with the transfer of assets, liabilities and revenue to new water services entities, including staff involvement in working with the establishment entities and transition unit, and provision for reasonable legal, accounting and audit costs.”¹⁶
6. The Government is also encouraging councils to use accumulated cash reserves associated with water infrastructure for this purpose. There are likely to be practical limitations on a council’s ability to do this set by councils’ own financial strategy and policies (including conditions on the use of the reserves ie targeted reserve funds must be used for the purpose they were collected for in the first instance e.g. if collected for capital works).
7. There are also political and / or community acceptance challenges with this approach - if the assets are transferred under a voluntary or mandatory process the reserve balances are expected to be used to invest those funds in the communities that paid for them, consistent with the conditions under which they were raised rather than pooling as a general fund. Councils and communities are unlikely to embrace using these funds instead to enable the transition.
8. The proposed national allocations are as follows:

¹⁶ 15 July 2021 FAQ [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/three-waters-reform-programme-support-package-information-and-frequently-asked-questions.pdf](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/three-waters-reform-programme-support-package-information-and-frequently-asked-questions.pdf)

Council	Allocation
Auckland	\$ 508,567,550
Ashburton	\$ 16,759,091
Buller	\$ 14,009,497
Carterton	\$ 6,797,415
Central Hawke's Bay	\$ 11,339,488
Central Otago	\$ 12,835,059
Chatham Islands	\$ 8,821,612
Christchurch	\$ 122,422,394
Clutha	\$ 13,091,148
Dunedin	\$ 46,171,585
Far North	\$ 35,175,304
Gisborne	\$ 28,829,538
Gore	\$ 9,153,141
Grey	\$ 11,939,228
Hamilton	\$ 58,605,366
Hastings	\$ 34,885,508
Hauraki	\$ 15,124,992
Horowhenua	\$ 19,945,132
Hurunui	\$ 10,682,254
Invercargill	\$ 23,112,322
Kaikoura	\$ 6,210,668
Kaipara	\$ 16,141,395
Kapiti Coast	\$ 21,051,824
Kawerau	\$ 17,270,505
Lower Hutt	\$ 38,718,543
Mackenzie	\$ 6,195,404
Manawatu	\$ 15,054,610
Marlborough	\$ 23,038,482
Masterton	\$ 15,528,465
Matamata-Piako	\$ 17,271,819
Napier	\$ 25,823,785
Nelson	\$ 20,715,034
New Plymouth	\$ 31,586,541
Opotiki	\$ 18,715,493
Otorohanga	\$ 10,647,671
Palmerston North	\$ 32,630,589
Porirua	\$ 25,048,405
Queenstown Lakes	\$ 16,125,708
Rangitikei	\$ 13,317,834
Rotorua Lakes	\$ 32,193,519
Ruapehu	\$ 16,463,190

Selwyn	\$ 22,353,728
South Taranaki	\$ 18,196,605
South Waikato	\$ 18,564,602
South Wairarapa	\$ 7,501,228
Southland	\$ 19,212,526
Stratford	\$ 10,269,524
Tararua	\$ 15,185,454
Tasman	\$ 22,542,967
Taupo	\$ 19,736,070
Tauranga	\$ 48,405,014
Thames-Coromandel	\$ 16,196,086
Timaru	\$ 19,899,379
Upper Hutt	\$ 18,054,621
Waikato	\$ 31,531,126
Waimakariri	\$ 22,178,799
Waimate	\$ 9,680,575
Waipa	\$ 20,975,278
Wairoa	\$ 18,624,910
Waitaki	\$ 14,837,062
Waitomo	\$ 14,181,798
Wellington	\$ 66,820,722
Western Bay of Plenty	\$ 21,377,135
Westland	\$ 11,150,183
Whakatane	\$ 22,657,555
Whanganui	\$ 23,921,616
Whangarei	\$ 37,928,327
Total	\$ 2,000,000,000

Attachment 5 - Transition

1. Consideration is being given to establishing a national transition unit and local establishment entities mirroring the boundaries of the (proposed) Water Services Entities and supporting, through a reprioritisation of stimulus funding if required, council staff costs related to reform and transition, enabling staff to participate in transition priority working groups, gathering and sharing data.
2. Current considerations, in addition to funding for backfilling and / preparing for change, are:
 - support for three waters workers – including:
 - if a staff members role is primarily three waters related, an automatic transfer to the new Water Services Entity in a similar role on the same salary at the same location with the same conditions
 - advice, including Employee Assistance Programmes, legal and union representation
 - the need to increase staffing levels to implement the transition, continue business as usual and deliver current and increased infrastructure investment
 - staff and contractor retention in a time of uncertainty (and competition for resources)
 - the speed of change and the risk of mistakes and service interruptions
 - stranded overheads and the no worse off element of the funding package
 - asset transfers and valuations
 - existing contracts and contractors and any residual liabilities
 - development and financial contributions
3. What isn't clear (but will be worked through) is:
 - where the bulk of managerial and support staff (eg communications, financial, asset management) will be located, although the presumption is that they will be (at least notionally in post COVID flexible working world) located in the regional headquarters of the Water Services Entities
 - what the principles and any threshold would be for a staff member that does some three waters related work (say 50% of their time) and whether it would be their choice to move to the Water Services Entity and the implications for their employment situation
 - if all three water services are included and will transfer at the same time

Attachment 6 – Further Questions and Areas of Concerns from Wairoa District Council

- Our community is telling Council they do not want to lose ownership of their community owned assets.
- What would Wairoa's staffing situation be under a new entity? At the moment we have specialised staff based in Wairoa so if there are breakdowns/emergencies/issues we have people on the job to keep our infrastructure working. Under a centralised system we may not have people based in Wairoa which would mean delays in sorting issues and less specialised staff living in Wairoa.
- The Wairoa District Council manages all three Waters infrastructure assets on behalf of the owners, i.e., our ratepayers. So far, the government has given Wairoa District Council \$11 million as part of the post-Covid stimulus, plus they are now offering another \$18 million. That does not fairly represent the asset value of the publicly owned assets. Will our ratepayers be reimbursed fully? If the assets were transferred to another entity, would ratepayers be fully compensated or is this a confiscation of ratepayer owned assets?
- Wairoa's remoteness will mean higher costs for our people to receive these services.
- Is this the start of the removal of other services from local government and a loss of localisation?
- We are told we will be better off, but the figures that are being used and supplied by Central Government simply do not stack up. Figures we have been given by Central Government as part of the Three Waters review indicate that Wairoa District Council would need to spend \$1.6 billion on Three Waters, over the next 30 years. Council believes this figure is way too much and is eight times what Council is forecasting on spending and six times what Council indicated in the Request for Information paperwork it filled out for the Department of Internal Affairs at the beginning of this process.
- Under the proposal Wairoa would be part of a collective debt currently just shy of \$1 billion, income would be \$485 million. This will negatively skew Wairoa as Wairoa District Council currently has little debt and good investment.
- Under the government's proposal, Wairoa District Council would be part of an entity that runs from the East Coast down to Wellington and the top of the South Island. Wairoa's current debt, Three Waters staff, and income would make up one percent of the combined 21 local councils in the entity. How are we ever going to have a say, have our local voice heard and our priorities prioritised when we only make up one percent?
- Why can't the government prioritise and fund the issues and develop a future plan for the whole country that doesn't involve the cost of creating new entities?

- How will this new entity even work without totally duplicating the services Councils already provide? Currently, Council's rates carry a UAGC (Uniform Annual General Charge) which is apportioned across the entire district for services that most residents benefit from irrespective of property value. Administration of billing etc is absorbed within the UAGC – how will billing be charged out by the new entities? How will this even be administered? There are so many anomalies, such as Māori land, DoC land, etc. which is currently all sorted by local Councils and all on one rating bill.
- Will it be the people who are directly connected to Three Waters who will pay, i.e., water metering? For Wairoa it will predominantly be those who live in town, who will pay more? Wairoa has equalised much of its three waters whereby the same cost applies regardless if you are connected to a smaller rural scheme or the larger town scheme. These costs become prohibitive for smaller rural communities who have a very small rate base to apply these costs too, i.e. Tuai, Mahanga, Mahia etc.
- Presently rural septic tank owners pay an annual fee and a whole of district charge of 10% towards Three Waters. What will this charge look like under a new entity?
- Mahia residents personally invested millions of dollars into the Mahia sewage scheme - will they be fully reimbursed?
- In Wairoa, AFFCO receives a reduction in its water rate based on the significant contribution it made to the town's water supply. Without AFFCO, town water would be more expensive. Will a new Three Waters entity recognise this contribution? If AFFCO deemed it unaffordable for them to operate within the Wairoa District due to the new three waters regime, they would likely move to a more affordable location. As the largest employer in the district, this would be death knell for Wairoa.
- New Zealand's Three Waters performance issues are due to the lack of a consistent national regulator and lack of investment by central government. The lack of a consistent national regulator has been remedied through the formation of Taumata Arowai (which Wairoa commends). Why can't Central Government give local Government the necessary funding without creating new unwieldy centralised entities. i.e the Waka Kotahi funding model (Funding Assistance Rate)
- What happens when our assets get taken over by these four large entities and then privatisation occurs? Who will benefit from the sale of our assets? No government can promise that privatisation won't happen, look at the electricity reforms.
- We cannot see Wairoa wanting to subsidise other areas or other areas wanting to subsidise us.
- We have had no significant decision makers visit our town to see our unique situation. You should not make radical change like this by just looking at averages.
- The Government's national three waters investment funding package, of which \$50 million was set aside for Hawke's Bay's four local authorities, demonstrated how extra funding can completely change the outcome of Three Waters.

- Our national Three Waters situation is the result of a legacy of under investment from the government of at least 40 years which continually changes the rules yet does not provide any additional funding to ensure Councils can meet the new requirements.
- We have experienced with centralisation, that huge savings are often at the sacrifice of small and isolated communities like Wairoa. And if 8000 jobs are going to be created, why can't they be created and funded by Central Government right now?
- We have seen no information that the government is increasing its investment in Three Waters. These new entities will have to borrow money to develop infrastructure and provide services and the only way this money can be paid back is by residents paying for it- so effectively another rates account.
- At least with the electricity reforms of the past, even though electricity didn't get cheaper, as was promised at the time, the grid was connected throughout the country. Water supply is not connected within districts and regions, let alone the whole country.
- We were told there would be huge savings and new jobs when the councils amalgamated to form the greater Auckland super council. These savings never happened and ironically Auckland doesn't want to be part of this new Three Waters proposal.
- We already know the Government is not great at delivering at a local level. Just look at the housing crisis, the care of our children and mental health services. Based on those examples, we are concerned that Central Government wants to take Three Waters away from Local Government.
- We note that Treasury warned the government earlier this year that its contentious Three waters reform programme was complex and there was a risk it would not achieve what it set out to do. We also note, there has also been similar commentary from the LGFA and the banking sector generally. Given these views, how can we have confidence in the Governments proposal, particularly the economic case which is predicated on the proposed entity's ability to borrow?
- Wairoa District Council adheres to rigorous financial controls and our Financial Strategy provides for significant borrowing headroom to achieve our investment objectives. Therefore, borrowing capacity as a factor is irrelevant for Wairoa and we are concerned that our financial sustainability would be diluted through an Entity C type organisation as proposed through the Government's Three Waters Reform proposal.