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Otorohanga District Council Chief Executive
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Tēnā koe,

This letter is to thank you for your council's feedback on the Three Waters Reform proposals, update you where feedback has resulted in changes to the Government's proposals, and answer your council's specific questions.

In October 2021, the Department, LGNZ and Taituarā published a detailed summary of the feedback received during the eight-week engagement period. This feedback has been valuable and continues to influence the shape of the three waters reform. The detailed summary is available alongside all council submissions on the Department's website here: [Council feedback submissions](#)

As you will be aware, following the October feedback there have been some significant changes to the reform process and proposals. We can now provide further detail on some of the areas that have been influenced by council feedback.

Refinements to the Representation, Governance and Accountability proposals

The largest area of feedback related to the representation, governance and accountability of the new entities. In response to feedback received through last year's eight-week period, the Government made a number of changes to the original proposal. In summary, these are:

- greater flexibility for each regional representative group to determine its own arrangements through a constitution – this differs from the original proposal, which required a number of matters to be hard-wired in primary legislation providing limited room for flexibility;
- board appointments and removals to be made by a sub-committee of the regional representative group – the original proposal was for these powers to be exercised by an arms-length 'independent selection panel' which has now been removed;
- direct accountability for duties imposed on the board to the regional representative group – members may be removed for failure to carry out these duties;
- the board is required to give effect to the statement of strategic and performance expectations issued by the regional representative group – this is a stronger provision than originally proposed and enables the group to have more direct influence over the entity's strategic direction.

These refinements are set out in an [exposure draft](#) of the proposed legislation that was provided to the Working Group on Representation, Governance and Accountability for further consideration. The exposure draft also sets out the proposed ownership provisions for the new entities and protections against privatisation.

Working Groups established to consider the top three areas of feedback

Alongside the above changes, the Government also established the Working Group on Representation, Governance, Representation and Accountability comprised of representatives from local government and iwi leaders. This Group is assessing these aspects of the proposals, including the new proposals in the exposure draft, and will shortly provide a report to the Minister of Local Government for consideration.

Since its establishment last year, the Working Group has assessed a range of options for reform, including looking back at the alternatives to reform such as alternate funding arrangements.

The Minister of Local Government and Cabinet will consider the Working Group's recommendations with any changes being reflected in the Water Services Entities Bill. The Working Group's report will be available on the Department's website once it is presented to the Minister: [three waters reform programme working groups - dia.govt.nz](https://www.dia.govt.nz/three-waters-reform-programme-working-groups)

Informed by your feedback, the Government has also established two technical working groups to consider the other areas that received the most detailed feedback. A Planning Technical Working Group will consider questions relating to the interface between the Three Waters Reforms, Resource Management and planning system, and the Rural Supplies Technical Working Group is considering the interface with rural schemes.

You can find out more about these working groups, including their Terms of Reference and papers on the above Working Group webpage.

Indicative legislative timing

Legislation remains on track and expected to be introduced in several phases. The first bill is expected to be introduced by mid-2022, following consideration of the recommendations from the Representation, Governance and Accountability Working Group. This bill will contain the ownership, governance and accountability arrangements for the entities, and the primary relationships between entities and territorial authorities, mana whenua and the Crown.

A second bill is expected in late-2022 informed by the findings of the Planning Interface and Rural Supplies technical working groups. This legislation will provide for the detailed operational duties, functions and powers of the entities including for how they will participate in and give effect to plans.

Separate legislation will be required to provide for economic and consumer protection regulation, for which policy advice is being led by the Ministry of Business, Innovation and Employment. More on this process can be found here: <https://www.mbie.govt.nz/have-your-say/economic-regulation-and-consumer-protection-for-three-waters/>

Receiving updates from the Department of Internal Affairs

The Department will continue its ongoing communications and engagement on the Three Waters Reforms. This will include keeping councils and iwi updated on the progress of the legislation and the work of the National Transition Unit.

As councils, we know you have an important role in representing the views of your communities. If you have not been receiving the Department's regular updates on the reforms, please check your subscription here: [Get the latest updates from Three Waters](#). We encourage you to ensure your staff are registered for these updates as well.

Detailed questions from your council

In addition to the consistent areas of feedback, your council asked some more detailed questions. We acknowledge that many councils have been awaiting responses to these questions. The Department received more than 400 questions from councils. The below table provides the Department's response to these specific questions. The Department will continue to refresh the frequently answered questions on our website as further information becomes available. These can be found at <https://www.dia.govt.nz/three-waters-reform-programme-frequently-asked-questions>

Ngā mihi,



Nick Davis

Acting Executive Director, Three Waters Reform Programme

Question (Note we have grouped some questions as appropriate)	DIA response
<p>Governance, Representation and Accountability</p> <ul style="list-style-type: none"> • How we can influence service outcomes and other issues of importance to our community. • How will people be selected for the regional representative group (RRG) we need a local voice. • Community will still hold Councils accountable for water service delivery. • All Councils should have a seat on the RRG. • Should the reforms proceed, we suggest that Rural Water Supplies be given a voice in the governance structure. This could be by way of a sub-committee and representation on the RRG • The new entity structures look cumbersome and expensive. • [Iwi] Wish to be part of the design not just the governance. 	<p>As noted in the letter above, the Government has established the Working Group on Representation, Governance and Accountability as a result of council feedback and questions relating to this aspect of the Three Waters Reforms. You can find out more about this working group and other working groups established as a result of council feedback here: Three waters reform programme working groups - dia.govt.nz.</p> <p>In response to feedback received through this eight-week period, the Government has already made a number of changes to the proposed oversight and governance structure for the new water services entities. These are set out in an exposure draft of proposed legislation and include greater flexibility for each regional representative group to determine its own arrangements through a constitution. This exposure draft has been provided to the Working Group for consideration and is available at the above link. The exposure draft makes it clear that Regional Representative Groups may choose to include representatives from every council in their service delivery area. In addition, the changes allow for board appointments and removals to be made by a committee of the regional representative group rather than by an arms-length 'independent selection panel. We have also clarified that Water Services Entities Boards are directly accountable to the regional representative group. Additional means of strengthening community voice and influence in the proposed representation, governance and</p>

	<p>accountability arrangements will be considered following receipt of the Working Group report.</p>
<p>Is there a mechanism for Councils to challenge the priorities of the entity?</p>	<p>The Regional Representatives Group, that each council will be a member of, will inform itself of community priorities and will express these priorities through a statement of expectations. Priorities will also continue to be identified through planning processes that councils lead. The Regional Representatives Group will monitor entity board performance in delivering on priorities. A Regional Representatives Group will have a constitution, that will provide for its processes in deciding on priorities.</p>
<p>Planning interface with councils</p> <ul style="list-style-type: none"> • How we ensure there is appropriate integration between our needs, planning and priorities (representing our local community) and the planning and priorities of Water Service Entities. • How will the entity interface with Council planners who are engaging with developers? • Entities must “give effect” in an ongoing way to Council’s LTP/AMPs/IS (ie. beyond the first 3 years of the 2024 Long Term Plan) • Increase in resilience and continued access to capital investment. • How does future growth in towns affect rural supplies, town take priority over the Rural scheme? 	<p>As noted in the body of this letter above, a Planning Technical Working Group has also been established to inform design of operational policy and legislation to give effect to this. Local government will continue to have primary accountability for urban and land use planning. Councils, as owners, will articulate their priorities to entities through Statements of Strategic Performance Expectations. Entities in turn will demonstrate how they will give effect to these priorities in their statements of intent, asset management plans and other accountability documents that will be monitored by the Regional Representatives Group. Councils will also signal their priorities through district and other plans that entities will be required to give effect to.</p> <p>Water Services Entities (WSE) will be expected to be active participants in planning processes led by local government, including by participating in the development and implementation of plans, and ensuring that the development of plans is informed by a full understanding of the cost associated with water infrastructure needed to support housing and urban development. Water services entities will be required to identify and make provision for infrastructure to support growth and development identified in relevant plans. This will enable them to service demand for new strategic capacity, including to meet the three waters needs of all new housing development, and commercial and industrial customers. When providing new infrastructure, the entities will need to work with urban and land use planning authorities, and other infrastructure providers, to ensure that the delivery of infrastructure is sequenced and supports committed development, to minimise the likelihood of redundant assets. Water Services Entities strategies and plans to achieve this will be monitored by Regional Representatives.</p>

<ul style="list-style-type: none"> • How debt or surpluses in operational accounts/reserves be considered. • How our assets will be valued – we suggest this is undertaken by an independent valuer 	<p>The payment to be made by a water services entity in relation to the transfer of water assets, debt and revenue will be, at a minimum, the amount of debt related to three waters investment of the local authority at the point of transfer to the entity. Paying more than the level of debt would effectively see customers of water services entities (current ratepayers) paying twice for assets.</p> <p>To ensure equitable treatment of local authorities, it is important that a robust due diligence process is undertaken to confirm three waters assets, debt and revenue for each council.</p> <p>The National Transition Unit has begun that due diligence process in order to give certainty to councils as soon as possible in advance of the transfer.</p>
<ul style="list-style-type: none"> • Where will the skilled workforce come from? • [iwi] Would like to see some tangible opportunities for upskilling and providing work for their people. 	<p>The People and Workforce workstream within the National Transition Unit is responsible for workforce planning and is currently conducting an information gathering exercise with councils to allow detailed modelling and planning to be undertaken.</p> <p>A large proportion of roles are expected to be filled through transfer of existing staff (where a person's current work is transferred to the new entity). Other roles will be created in the entities to ensure that all work required is staffed, including at management levels. Staff and councils will be offered opportunities to participate in the design of roles and structure.</p> <p>A workforce development strategy is under development to strengthen training and development pathways and attract new staff to the water industry.</p>
<p>Rural supplies</p> <ul style="list-style-type: none"> • Rural Water Scheme resource consents – who “owns” them if they go it alone? • Water is critical to land productivity and our Rural Water Schemes play a vital role. We would like Rural Water Schemes to have the option of opting in or opting out of the reforms, and make that decision themselves. • Different service expectations of RWS <p>Reform’s impact on private rural schemes</p>	<p>As noted in the body of this letter, in recognition of questions such as this related to rural water schemes, the government has established a Rural Supplies Technical Working Group. This group is considering the special characteristics of rural schemes, including mixed use schemes.</p> <p>It is providing input to official’s development of policy on the relationships that entities will have to these schemes and the communities served by them. This will include consideration of ownership and governance, technical and other support to communities served by rural schemes and how any services or support provided by entities would be charged for.</p>

<ul style="list-style-type: none"> • Will the owners get a fair value for the scheme if taken over by the entity? It was paid for by the farmers originally • How can RWS own their schemes under the new model, i.e. outside of the entity? • Limited understanding how the reform will affect the schemes. • Governance – existing scheme committee needs representation at the decision making • Guaranteed supply of water is critical to business and animal welfare. • Ownership of the scheme, possible unified body for all schemes. 	<p>It is only proposed that council-owned three waters assets would transfer to the new Water Services Entities. Assets that are not council-owned (private) will not transfer to the new entities unless by agreement.</p>
<p>Affordability</p> <ul style="list-style-type: none"> • The affordability of water, waste water and stormwater services. • Price of water services has to be affordable realising 90% goes to stock. • What happens if people leave the scheme and the remainder carry more cost, will town upgrades be burden on schemes? • Rural communities concerned they will subsidise urban users, especially wastewater. 	<p>The new entities primary objective will be to provide affordable water services to communities. A major driver of the reforms is the efficiency gains and greater borrowing capacity of the proposed water services entities over local government. These improvements in the capacity of the service providers will make it more affordable for them to meet quality standards and future challenges such as resilience to climate change, drought, and growth. This is supported by the research released last year, available here: https://www.dia.govt.nz/three-waters-reform-programme-national-evidence-base which indicated rural communities would clearly benefit from reform.</p> <p>Without reform, costs for rural communities are modelled to increase between three and 13 times over the next 30 years. Further work is underway to consider the specific characteristics and issues associated with rural schemes such as the ones you describe.</p> <p>The work is being informed by the Rural Supplies Technical Working Group and includes consideration of the characteristics of rural schemes and the implications for how entities will relate to these schemes and their communities. This will include consideration of questions related to ownership and governance, operational support and pricing of entity services to consumers.</p>

<p>The pace of the reforms and how this reform interfaces with RMA and LG reforms.</p>	<p>The Minister has asked the Central-Local Government Three Waters Steering Committee to take a close interest in how to ensure an effective interface between the Three Waters and Resource Management Reforms. We will also be establishing a technical working group to provide support and expertise as the Department and the Ministry for the Environment work through the detailed proposals.</p> <p>Ensuring that the water services entities are involved in the resource consent process will be part of this work, with a focus on the facilitating the ready exchange of information and advice between local authorities and water services entities. We also recognise that, in the transfer of staff from territorial authorities to the entities, councils may no longer be able to rely on the same level of in-house capability to fulfil their resource management functions such as planning and consenting as it relates to water services.</p>
<p>Water rates – will they be equalised across the regional entity? i.e. everyone pays the same.</p>	<p>No decisions have been made on geographic price averaging. Initial decisions will be made by Cabinet over the next few months and feed through into a second Bill.</p>
<ul style="list-style-type: none"> • Affordability for marae to achieve compliance. • Impact on marae • Concerned about the compliance that will be placed on the [rural] scheme. 	<p>The costs of compliance with regulatory compliance are not directly related to service delivery reform but to drinking water standards and their administration by Taumata Arowai.</p> <p>The Water Services Act provides for Taumata Arowai to take a proportionate and risk based approach to its administration and monitoring of compliance with drinking water standards. It also provides for the development of acceptable solutions to simplify and reduce the compliance costs for small schemes.</p> <p>The work of the Rural Services Technical Advisory Group will include consideration of the special characteristics of rural schemes including marae and will advise on the implications for both regulation and water services reform.</p> <p>The work of the Advisory Group will include consideration of the relationships that water services entities will have to such schemes including what obligations they will have to communities served by such schemes to ensure access to safe drinking water.</p>
<p>How do we communicate the change to our community?</p>	<p>The Department will continue to provide factual information on the case for reform and reform proposals, including countering misinformation. Additional material will be made available to support well-informed submissions on the upcoming legislation, following its introduction.</p>

<ul style="list-style-type: none">• How will complaints be dealt with?• How will the entities engage with the community?	<p>Communities will have many mechanisms to be involved in the central decision making of the water services entities. The entities will be required to consult on their asset management plans and their funding and pricing plans, to make those final plans public and to publish a report outlining how community and consumer feedback was taken into account. Each entity will be required to create at least one consumer forum, which will assist with effective consumer engagement and help to reflect those views into the entity decision making. In addition, the water services entities will be required to undertake a stocktake once a year to ensure their consumer engagement is effective.</p> <p>The Ministry of Business, Innovation and Employment (MBIE) also undertook consultation on the economic regulation and consumer protection regime in December last year. We anticipate Cabinet to take and communicate decisions informed by this consultation this year. You can find their consultation documents here: https://www.mbie.govt.nz/have-your-say/economic-regulation-and-consumer-protection-for-three-waters/</p>
<p>The speed in which the reform is taking place and whether they [Iwi] can work within the time frames.</p>	<p>Reform of three waters service delivery anticipates a significant new role for iwi/Māori, including during the transition and establishment process. Therefore, there are a number of programmes in development to ensure meaningful engagement with iwi/Māori is undertaken in a way that upholds a positive Treaty partnership in the new entities.</p> <p>There are two significant Treaty principles applicable to the service delivery reforms: Partnership and active protection.</p> <p>There are a number of core transitions elements that will be required, supporting opportunities and outcomes for iwi/Māori as a consequence of the reform:</p> <ul style="list-style-type: none">• Ensuring iwi/Māori are well supported by the Crown to contribute to the new roles and responsibilities created through the reform programme, including joint oversight of the water services entities, alongside exercising their respective kaitiaki responsibilities under the Te Mana o te Wai mechanisms;

	<ul style="list-style-type: none"> • Ensuring the new water services entities are set up to be effective Treaty partners, which are well-informed and influenced by iwi/Māori – for example, the entities and their boards will be required to give effect to Te Mana o te Wai, and understand, support, and enable mātauranga Māori, tikanga Māori and kaitiakitanga to be exercised throughout their organisations; • Ensuring the new Water Services Entities are continuously finding ways to work in partnership including upholding treaty settlement mechanisms and improving outcomes for iwi / Māori.
[iwi] Being involved in the monitoring of water consents.	Resource consenting sits outside the scope of the Three Waters Service Delivery Reforms, however the Department continues to work closely with the Ministry for the Environment around the resource management reforms and will continue to raise feedback from our iwi engagements with the appropriate team.
Implications for existing JMAs and Treaty settlements.	The Department has commenced a stock take of treaty settlements in order to identify settlement obligations that will transfer from councils to the new water services entities. The intention is to ensure this captures agreements and existing practices between local mana whenua and councils such as Joint Management Agreements.
Education in schools around the importance of water.	The Department agrees that raising awareness about the value of water as a resource and Te Mana o Te Wai will be an important aspect of future work to increase our national approach to water services. The Department will give further consideration to how central government can support such activities as part of the reform programme.
Will this lead to small Council amalgamation?	This is not the objective of the Three Waters Reforms.
Expect clarity and consultation on any proposed change.	In October 2021, following an extensive policy process that considered a broad range of options, the Government decided to progress with reform on a legislated "all in" basis. The Department has undertaken continuous and ongoing engagement with iwi and local government throughout the reform programme. We also understand that councils, through our extensive engagement with you, have also represented views of your communities. As the reforms progress this will require multiple pieces of legislation which will enable the wider public to consider and submit their views on the reforms through the Select Committee process. The Department will continue to provide factual information on the case for reform and

	reform proposals. Additional material will be made available to support well-informed submissions on the Bill, following its introduction.
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