



“Moving Kaikōura forward”

Feedback on Proposed Three Waters Reform

PREPARED BY: Kaikōura District Council
96 West End
KAIKŌURA 7300

SUBMITTED TO: Department of Internal Affairs

Contact: Will Doughty, Chief Executive
Will.Doughty@kaikoura.govt.nz

Introduction

1. Kaikōura District Council (Council) welcomes the opportunity to provide feedback on the information released in July by the Department of Internal Affairs (DIA) with regard to the Three Waters Reform proposals.
2. Representatives from Council staff and elected members have actively participated in the various three waters reform fora both at a regional and national level over the last few months. In addition to the information received from DIA we have also considered analysis provided by Morrison Low and PWC. We have undertaken an initial community engagement exercise and considered responses from over 200 residents (three times the number of responses than on our Long Term Plan).

Council resolutions

3. At its meeting on 29 September 2021 Kaikōura District Council considered a comprehensive report and unanimously resolved as follows:

That Council:

- 1) **notes** the Government’s 30 June and 15 July 2021 Three Waters Reform announcements
- 2) **notes** officer’s advice on the accuracy of the information provided to Council in June and July 2021 as a result of the RFI and WICS modelling processes
- 3) **notes** officer’s analysis of the impacts of the Government’s proposed three water service delivery model on the Kaikōura community and its wellbeing, including the impacts on the delivery of water services and water related outcomes, capability and capacity, and on Council’s sustainability and
- 4) **notes** that a decision to support the Government’s preferred three waters service delivery option is not lawful (would be ultra vires) at present due to section 130 of the Local Government Act 2002 (LGA), which prohibits Council from divesting its ownership or interest in a water service except to another Local Government organisation, and what we currently know (and don’t know) about the Government’s preferred option
- 5) **notes** that Council cannot make a formal decision on a regional option for three waters service delivery without doing a Long Term Plan (LTP) amendment and ensuring it meets section 130 of the LGA

- 6) **notes** that the Government intends to make further decisions about the three waters service delivery model after 30 September 2021
- 7) **notes** that the Council resolved on 1 September 2021 that it will not agree to transfer any water, wastewater or storm water assets to any other entity without first undertaking a full consultative or referendum process with the Kaikōura community.
- 8) **requests** the CEO to seek guidance on and/or give feedback to the Government on the aspects identified in section 17 of this report (*) and any others that Council considers necessary.
- 9) **notes** that the CEO will continue to engage with the various reforms forums and will report back further once they have received further information and guidance from Government, LGNZ and Taituarā on what the next steps look like and how these should be managed.
- 10) **notes** that it expects to face severe challenges in respect having a decision making process in relation to this matter that complies with the requirements of sections 76, 77, 78, and 79 of the Local Government Act 2002 because of a lack of reliable information and analysis that is proportionate to the decision being made.
- 11) **expresses the view** that Government has acted in a manner that is contrary to the principles of the Local Government Act 2002 if it requires local authorities to make a decision in circumstances where the requirements of section 79 of the Act cannot reasonably be met, as is believed to be in this case.
- 12) **expresses the view** that the information that has been presented by Central Government on the financial implications of the choice between reform or the counterfactual on the Kaikōura District are unreliable and potentially misleading and that this is likely to be counterproductive to consideration of other broader effects of the reforms.

* Included in further information sought section below.

General comments

4. Council accepts that it is difficult to dispute Central Government's contention that a national case for change exists in respect of the delivery of three waters services. Some of the key elements of that case, such as extensive backlogs of asset renewals and widespread non-compliance with resource consent conditions and Drinking Water Standards (putting aside whether those standards are appropriate or justified) are clearly present at a systemic national level.
5. It is however also important to recognise that the extent to which these and other issues exist at a local level is very variable, and that addressing these issues through an approach that socialises costs is likely to result in a mixture of councils who are financial winners and losers relative to the status quo.
6. Addressing this disparity of benefits in transition to a socialised model is always going to be politically challenging. Councils are tasked with ensuring the wellbeing and best interests of their district, not the region or nation that they are in, making it difficult for them to agree to an arrangement in which they would in effect be subsidising other communities outside of their district.

7. The Kaikōura District's water services are currently in good order and do not at present face significant challenges in respect of those key elements of the Government's case for change that are described above. As such it appears likely that if Kaikōura was to become part of Entity D under the proposed reform it would initially be financially supporting other districts that are not in such a strong position.
8. It is however considered important to recognise that the Kaikōura District has not achieved its current strong position entirely through its own efforts. The District has instead been greatly assisted by the substantial financial support provided by Central Government to rebuild infrastructure following the 2016 earthquake which resulted in the replacement of many waters assets that were approaching the end of their lives or otherwise deficient.
9. Prior to the earthquake Kaikōura had displayed many of the characteristics that have underpinned the Government's belief that a case for change exists, including underinvestment in asset renewals and non-compliant water supplies. Kaikōura District Council has not yet successfully negotiated a major peak of renewal expenditure such as that now forecast to commence in perhaps 30 years time without substantial external assistance, and because of this it is suggested that Council should be cautious about rejecting the concept of socialising three waters costs.
10. Whilst there appears to be a case for change and socialising the delivery of three waters services, it is believed that the way in which the proposed reform response has been presented by Government is extremely poor, unreliable and arguably disingenuous.
11. The information presented in support of the reform proposal paints a picture that despite the significant uncertainties present in future, the household costs of water services in every district in New Zealand would almost certainly be lower under the reform than it would be without it.
12. This remarkable proposition that 'everyone's a winner' is built upon an assumption that the cost of extremely large investments in infrastructure can be offset by a very large improvement in overall cost efficiency.
13. These assumptions, and their use to estimate local financial effects from a model derived at a multi-regional or national level, are considered to stretch the bounds of credibility.
14. For example, the \$9.33 million per year of capital investment suggested to be required for service enhancement and growth in the Kaikōura District during each of the next 30 years (\$280 million in total) seems inconceivable when the total value of all existing three waters assets is estimated to be \$57 million. The financial case for change for our Council seems to be fundamentally flawed and over-stated.
15. Similarly, an assumption of Entity D improving cost efficiency by between 35% and 50% seems so far removed from previous estimates and apparent feasibility in the South Island environment as to make it virtually unbelievable. Much of New Zealand and the South Island in particular is characterised by small very broadly dispersed water services in an environment where economies of scale are generally difficult to achieve. That such gains have been achieved in the UK does not mean that similar results are possible here.

16. The proposal as presented conveniently circumvents the challenge of relative financial ‘winners and losers’ that would normally be expected under a socialisation, but it is believed that how this is being achieved in this case poses an even greater barrier to potential acceptance. It is difficult to agree to something that seems unbelievable.
17. This is perhaps unfortunate, because Kaikōura District Council does and will continue to face some significant risks in respect of its water services, the magnitude of which are likely to increase in future. If issues of potential charge equalisation are put aside there is reason to believe that new larger entities could deliver real benefits in respect of capability, capacity and resilience. Other similar jurisdictions, such as Tasmania, have established similar multi-regional water entities with apparent success.
18. Participation in the reform proposal is however also not without disadvantages or risks, which extend beyond whether the financial estimates prepared to support it are realistic and reliable. These include a loss of local influence on these services, potentially diminished customer experience, a need to absorb stranded overhead costs and – probably the most important of all – an associated threat to continuing broader local democracy.
19. Kaikōura District Council as New Zealand’s 2nd smallest Council is already likely to be subject to ongoing scrutiny regarding whether its scale makes it viable, and a loss of three waters services together with other potential future changes to Local Government could ultimately force an amalgamation with another local authority, which might not be to the benefit of the local community in terms of maintaining a local voice.
20. Because of the many uncertainties regarding both options of with reform and without reform, it will be challenging for Council to effectively consult with the community or make a decision on potential participation in the reforms since the quality of information available to it arguably does not meet what is expected by the Local Government Act for a matter with this high level of significance.
21. That Central Government will be seeking Councils to make decisions in these circumstances does itself appear to be contrary to the intent of that Act.

Initial feedback from the community

22. In response to our initial community engagement with regard to the three waters reforms we received over 200 responses which is significant for our District. The level and quality of feedback is an indicator itself of how important this issue is to our community. The engagement focused around four main questions.
23. 95% of respondents indicated that retaining local influence and say in respect to how their local services are provided was very important. Community views about the importance of improving health and environmental standards appear much more variable, and whilst around 50% of respondents believe that such improvements are relatively important, only about 25% are willing to pay more to achieve this. 76% of respondents were not comfortable with the possibility that by spreading the costs for water services over a very large area that some communities may be substantially subsidising others.

Further information sought

24. There are many aspects of the proposed reform on which further information is desirable, in particular more details of:
- Final rules and standards to be adopted under the Water Services Bill, and what the implications of those would be for Kaikōura District Council services, particularly with regard to required capital investments
 - Entity approach to charging, in particular to what level are charges going to vary to reflect different levels of service, for example on-demand fully treated urban versus trickle feed rural schemes
 - How charges will be recovered; will councils be involved in any way?
 - How the proposed efficiency gains under the new entity are to be achieved?
 - How will the planning of the entity link with the differing growth aspirations of communities?
 - Recent suggestion that divestment of rural schemes from councils back to customers might be made more possible (even though this appears contrary to the objectives of the reforms).
25. It is recognised that much more work would be required by Government to provide such information, and that this is unlikely to be forthcoming in the very near future. The request made by the Canterbury Mayoral Forum to slow the reform timetable would however provide an opportunity to do so.
26. It is also recognised that satisfactory answers are unlikely to be forthcoming to some other questions such as:
- How can our small council have guaranteed influence over the direction of the water services entity and how our growth aspirations will be considered within the context of the wider entity.? We would be deluding ourselves to imagine that a structure could be put in place to deliver services at a multi-regional level that did not compromise localism.
 - How can we be expected to meaningfully consult with our community around a final decision based on the information provided to date.? Especially when the financial case for change presented at a local level seems to be fundamentally flawed and overstated.

Final observations

27. A final decision with regard to the three waters reform is likely to be the biggest decision that all local authorities across New Zealand will have to make in a generation. Kaikōura District Council believes that it currently would not legally be able to make that decision based on information provided to date. We believe that the financial case for change as currently presented for our District is fundamentally flawed and would not allow our community or elected officials to make a well-informed, evidence-based decision.
28. Council is also concerned that Government will introduce a Bill to make the reform mandatory which will not sit well with our local community. We have already heard a loud and clear voice from our community around maintaining a local say.

29. Our Council is fully supportive of the Canterbury Mayoral Forum's request to ensure there is greater clarity with regard to both the proposed economic regulator and the standards and approach expected by Taumata Arowai as the water regulator before a final decision on the three waters reform proposals is required by Council.

30. We hope that our feedback is given due consideration.

Signed



Craig Mackle
Mayor of Kaikōura District



Will Doughty
Chief Executive Officer