

Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



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Mayor Helen Worboys
Chair, Communities 4 Local Democracy
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Tēnā koe Helen

I am writing to thank you for meeting with me and my officials on Monday 4 April, and for presenting your ideas on alternative proposals for Three Waters Reform. This letter is intended to reflect back what I heard and to respond on several key points.

I understand from your presentation, and the ensuing discussion, that there is much that we agree on including, for example, that:

- the critical outcomes for reform including safe drinking water, improved environmental outcomes, enabling housing and economic development, infrastructure resilience and reliability, housing and economic development, customer responsiveness, equity of service standards, and fair and affordable charges.
- the Three Waters sector has substantial room for improved performance, and the current service delivery arrangements are not fit for purpose. We agree that significant investment is required to meet existing and future water standards.
- there are multiple reasons for the current issues we face with water services delivery as a nation, including decades of underinvestment due in part to a lack of effective regulatory oversight and misalignment of incentives.
- while the issues with three waters service delivery have been understood by both local and central government for at least two decades, there had been little tangible progress to address the issues until the initiation of the Three Waters Review
- effective regulation has an important role to play in ensuring better public health and environmental outcomes, including greater enforcement of quality standards
- in noting that councils, as water suppliers, have a legislative obligation to ensure they meet all appropriate standards, we foresee that stricter enforcement of these standards is expected to have significant consequences for councils, both in terms of:
 - ensuring that council-owned supplies comply with the applicable standards; and
 - as territorial authorities facing statutory requirements to assess private and community drinking water services within their districts, and duties to ensure communities have access to safe drinking water if those existing suppliers facing significant problems meeting their obligations.

We also appear to agree that any sustainable solution needs to have several key features, for example:

- water services should remain in public ownership with strong protections against privatisation
- organisations who are responsible for water services delivery must be accountable to their communities
- there are effective mechanisms for expressing local voice, including in relation to expressed priorities for investment, community preferences for service quality
- iwi/Māori are acknowledged and treated as critical partners, recognising their rights and interests in water services delivery under Te Tiriti
- access to new funding sources will be required to meet current and future investment requirements, and that some form of cross-subsidisation is required to address affordability issues in many rural and provincial communities
- more effective governance and management, including addressing incentives misalignment within the current system, and enabling benchmarking of asset and network performance, more sophisticated asset management, enhanced procurement and supply chain management, and workforce development.

A number of the ideas that Communities 4 Local Democracy have put forward have some merit and have been considered previously as part of the policy development process. For example, officials considered options that placed greater emphasis upon regulation, as a means of requiring compliance and encouraging greater aggregation. Officials also considered central funding mechanisms not dissimilar to the NZTA-style model you have proposed. The Department's assessment of these options is contained within the Regulatory Impact Statement published on its website, and which accompanied the Cabinet papers considered in June and July last year.

The Government considered but ultimately discounted these ideas because it was concerned that these approaches were unlikely to fully deliver the necessary transformation of the service delivery system. To put it simply, the options proposed address some but not all of the problems that are rooted in the way the system itself is designed. I offer the following observations and comments on the C4LD proposals that may help to explain some of the thinking that underpins this view:

- Regulatory levers alone are unlikely to strongly incentivise rapid improvements in decision-making within existing governance and management structures. Council-owned water services operate within a local political context, in which investment decisions are made by elected representatives who need to balance competing community interests. As representatives of C4LD acknowledged in our discussion, this has unfortunately resulted in inadequate investment in water infrastructure over a sustained period, and the accumulation of a large deficit that will not only fall on future generations to address, but also restrict the economic, cultural and environmental aspirations of current generations. While the proposed 'regulatory backstop' may create additional pressure to achieve compliance, this would be unlikely to deliver the scale and pace of improvements needed and would almost certainly result in a slower and more costly process of achieving the necessary change.

- National funding solutions, such as that proposed by C4LD, may provide short-term benefits for investment but would require additional taxes and revenue sources that will themselves be costly to raise and collect. Without accompanying improvements in the efficiency and effectiveness with which services are delivered, water customers and/or taxpayers would be likely to face higher costs under this approach. In addition, we know from past experience that central government subsidies for water services infrastructure are not in themselves enduring and are often prone to political interference by the Government of the day. And lastly, central government subsidies are likely to exacerbate the misalignment of incentives in the provision of water services.
- Options that seek to retain the existing scale of water services provision, or cement aggregation at a regional level, are likely to perpetuate existing challenges and inequities that make it difficult for service delivery entities to improve governance and management, and undertake more strategic asset management planning, achieve procurement efficiencies, and develop a more sophisticated workforce. I am aware of several examples of work undertaken by councils in parts of the country that show a service delivery model based on existing regions is cannot address the affordability challenges in several parts of the country.
- Reform options that rely on voluntary service delivery reform have been slow to deliver results, often with politically compromised outcomes. Setting to one side the question of incentives and how effective a 'regulatory backstop' might be, for example if it is not seen as credible, there is a practical question as to how quickly and effectively the sector can organise to move to more effective and efficient structures itself. International experience suggests that accelerating structural reform is key to realising benefits early. Delaying this process simply increases the costs to ratepayers.

In short, the Government considers there are a number of prerequisites for obtaining the benefits of reform, including improved governance and management, operational and financial independence, effective public health, environmental and economic regulation, and water services delivery entities that have sufficient scale to operate efficiently. Solutions that have some but not all of these features are unlikely to meet our aspirations as a country.

I understand and am sympathetic to the view that some councils have done a better job at managing their assets than others. This is apparent in the variation that can be observed across councils in terms of the quality of information on their assets, network performance, regulatory compliance, service coverage and standards. However, when taking a long-term view, I am conscious that at some stage over the next 30 to 40 years, all districts will face the pressure of needing to maintain and upgrade ageing infrastructure, tackle issues of water quality, water security, resilience and climate change and provide for future growth and development. It is my strong belief that all communities stand to benefit from these reforms, and I do not consider that the existing inequities in service coverage, access and cost are justified for these essential services.

No system will ever be perfect, but it is my view that the Government's proposals have been thoroughly tested and, indeed, have been developed in close partnership with Local Government New Zealand and Taituarā, including via the Joint Steering Committee, and with the input of a large number of people from the local government sector. An important part of the partnership arrangements with Local Government New Zealand, as set out in the Heads of Agreement, is the commitment to an ongoing process of working constructively through issues. For example, the agreement provided the basis for the two-month engagement process, during which significant feedback on the proposals was received.

Many of the issues and concerns that C4LD councils raised through the engagement process are similar to those raised by other councils, including concerns about loss of control, workability of the joint oversight arrangements with mana whenua, accountability to communities, and local voice and prioritisation.

I heard these concerns and is why I established the Working Group on Representation, Governance and Accountability. I understand that you had an opportunity to present your proposals to the Working Group, alongside those of other groups who also had ideas about alternative models. This group had the opportunity to look at a range of alternative models, including several that went beyond a strict interpretation of the terms of reference, and I have been assured by the Chair and others involved in the process that no options were taken off the table without due consideration. In my view, the Working Group's recommendations and report are well-considered and go a long way to addressing these concerns.

I appreciate that C4LD has critiqued aspects of the Working Group's proposals, but I would note that these were consensus positions reached after many days of meetings and robust discussion, informed by independent expert advisors. This was not the Government's working group, and nor was it controlled by the Department of Internal Affairs. Local Government appointees were nominated by Local Government New Zealand, following a call for expressions of interest from the sector, and the Group appointed its own advisors.

In my view the Working Group has done a commendable job and considering the issues and concerns raised by the sector. Its proposals seek to further clarify ownership, add further to the layers of protection against privatisation, strengthen accountability of the entity boards to the representative oversight group, and strengthen mechanisms for local voice. Importantly, the Working Group also strongly endorsed co-governance, and submitted recommendations to further strengthen the Government's proposals in this regard.

There will be further opportunities for councils and the public to express their views on the reform proposals and to seek to continue to influence and shape them, including by making submissions on the Water Services Entities Bill following its introduction in the middle of this year. I understand that C4LD requests more time to consider alternative approaches to reform, however from my perspective we have been engaged in active discussion on these matters since the Three Waters Review was initiated in 2016. Now is the time for action.

I remain open to discussing these matters with you, and to receiving any points of clarification that you would like to make, including if you feel I have misunderstood aspects of your views.

Heoi anō

A handwritten signature in black ink, appearing to read 'N. Mahuta', with a long horizontal flourish extending to the right.

Hon Nanaia Mahuta
Minister of Local Government

Copy to: Rt Hon Jacinda Ardern, Prime Minister
Hon Grant Robertson, Minister of Finance
Mayor Dan Gordon, Deputy Chair, Communities 4 Local Democracy
Stuart Crosby, President, Local Government New Zealand