

**1. Addition to CE Report - Three Waters Reform Update****2. Purpose**

- 2.1 The purpose of this report is to update Elected Members on the new government's repeal of the three waters reform legislation, the key features of its replacement policy 'Local Water Done Well' and provide an update on the work to establish the viability of a regional response to that to inform decision making in the future.

**3. Executive Summary**

- 3.1 Three Waters reform represents one of the most significant challenges to local government. The then-Labour government's policy reset in April 2023 brought the proposed Entity into alignment with the Horizons boundary, making the Mayoral Forum an appropriate place to consider this issue of regional importance and facilitate collaborative work to respond to this regionally significant challenge.
- 3.2 In December the Mayors wrote collectively to the Minister for Local Government setting out their commitment to exploring a regional approach in line with the Local Waters Done Well policy.
- 3.3 In December the Mayoral Forum endorsed continuing to explore a regional approach to water services delivery to understand its options and receive regular reports to consider the issues in relation to the possibility of a regional or sub-regional approach. Work to assess those options has been delayed as the National Transition Unit has only begun to release information and analysis of Entity E data in mid-March.
- 3.4 In February the government repealed the Three Waters reform legislation and also provided further information regarding the development of its new policy 'Local Water Done Well'. This includes the intention to introduce a new class of financially separate council-owned organisation, and the timing of the introduction of two pieces of replacement legislation over the next 18 months. The replacement framework will move from 10 mandatory entities to Council's having the control to choose how to manage water services as well as streamlining process for Councils to regionalise if they choose to.
- 3.5 Councils across the region are now in a phase of appraising our options, both as individual councils and as a region or sub-region. Any eventual recommendation to proceed with a regional or sub-regional approach would be subject to Council oversight and approval.
- 3.6 This options appraisal work is expected to conclude in July. We are moving at pace to minimise uncertainty for staff and be ready to respond to the government's planned changes. The shape of any possible change and the timing of it, is expected to be clearer in the second part of 2024, but the government has stated its intention is to pass legislation in the middle of the year which will require Councils to develop a Water Services Delivery Plan (WSDP) by mid-2025, commencing July 2024. The regional work is intended to inform the decision-making of each individual council as to whether it would like to proceed on a (sub) regional basis or not.
- 3.7 Information we have received from DIA suggests that councils need to decide by approximately September 2024 whether they will be developing their Water Service

Delivery Plans by themselves or in conjunction with other neighbouring Councils and hence their preferred service delivery model by then.

- 3.8 Council have already considered a range of relevant criteria upon which they can base their assessment and decision on.
- 3.9 We also understand that failure by Council to decide its preferred delivery model and how and with whom it will develop its required WSDP by this approximate date will see DIA-appointed facilitators be appointed to do so. It is therefore considered far more preferable that Council determine its preferred service delivery model and arrangements than be told of an outcome determined by others.
- 3.10 Council must therefore proceed with haste on developing its preferred delivery model.

#### **4. Legislation, Policy and Engagement with Government**

- 4.1 During the first 100 days of the new government, the detail of the Government's 'Local Water Done Well' policy has become a little clearer. The Minister wrote to Mayors and Chief Executives setting out the key principles of the government's future direction for water services. These were:
  - 4.1.1 Introducing greater central government oversight, economic and quality regulation.
  - 4.1.2 Developing fit-for-purpose service delivery models and financing tools, such as improving the current council-controlled organisation model and developing a new class of financially separate council-owned organisation.
  - 4.1.3 Setting rules for water services and infrastructure investment.
  - 4.1.4 Ensuring water services are financially sustainable. Financial sustainability means revenue sufficiency, balance sheet separation, ring-fencing and funding for growth.
- 4.2 At the same time as the repeal legislation the Government provided more information about its plans for a replacement framework and announced it has established a Technical Advisory Group to provide advice on development of policy and legislation.
- 4.3 The replacement framework will be brought forward in two Bills: a 'Transitional' Bill, which they plan to pass by the middle of this year; and a 'Replacement Regime' Bill which they plan to introduce in December 2024 and pass by the middle of 2025. It is hoped there will be an opportunity to petition Select Committee as part of the legislative process, which for the first Bill would probably be in April or May. Councils could choose to do this collectively or individually.
- 4.4 The Transitional Bill will provide a framework for councils to self-determine future service delivery arrangements via a water services delivery plan (to be submitted within 12 months). It will also establish foundational information disclosure requirements (as a first step towards economic regulation) and streamline requirements for establishing council-controlled organisations if they wish to do so.
- 4.5 The second Bill will set the long-term requirements for financial sustainability, provide a new range of structural and financing tools, including a new type of financially independent council-controlled organisation.
- 4.6 The second Bill will also introduce the new economic regulation regime, establish regulatory backstop powers for the Government to make sure all Councils are delivering

financially sustainable or safe water services and make the necessary amendments to the Taumata Arowai legislation to ensure the regulatory framework is efficient, effective and fit-for-purpose, and standards are proportionate for different types of drinking water suppliers. Government has also signalled it intends to refine water service delivery system settings to support the new system, such as consistent industry standards.

- 4.7 The NTU is currently being substantially wound up, with most staff due to finish at the end of March, with a full closedown by 31 May 2024. The Water Services Policy, Legislation and Stewardship function will be retained to provide policy support, including support for new legislation as required.
- 4.8 The clear direction of travel is that there will be neither financial nor in-kind support from central government for Councils to carry out any work to develop their plans under this new Framework.

## 5. Developing and Assessing a Regional Approach

- 5.1 The Mayoral Forum is facilitating the consideration by all seven councils of the options for establishing a (sub) regional approach to water services delivery to understand our preferred approach and inform future discussions with government and evidence based decision making by Elected Members.
- 5.2 Three Waters Transition Managers from the seven councils have formally established a 'Regional CCO Feasibility Project' and developed a project brief which recognizes that the priority is to give effect to the Government's new requirements and strike a balance between high level overview and sufficient detail to enable evidence-based decision-making. The Chief Executives are providing joint operational oversight of the project team.
- 5.3 The purpose of the Manawatu-Wanganui Three Waters – Regional CCO Feasibility Project ("Regional CCO Project") is to *"equip Chief Executives and Elected Members with sufficient information to make an informed decision as to whether they would recommend to their individual Councils to proceed with some form of regional asset-owning Council Controlled Organisation for the future delivery of Three Waters services, or not."*
- 5.4 It is intended that the bulk of the work will, where possible, use existing data sources, in particular the analysis of Entity E carried out by the DIA/NTU, and not recreate data or analysis.
- 5.5 The Project has four short phases which will establish the feasibility of setting up a (sub) regional asset owning CCO, consider how similar are the charges, asset condition, and debt levels of each of the seven councils, and establish what it could look like and what would need to happen for it to come into being. How iwi across the region might wish to be engaged will form part of the appraisal. The phases are:
  - 5.5.1 Establishing and agreeing the decision-making criteria to assess the suitability of a regional CCO. RDC has already considered the following as relevant selection criteria:
    - Effects on overall rates and charges within the community
    - historical outlook and associations
    - cross-district iwi associations

- Critical mass considerations in relation to other regional clusters likely around NZ balanced against the desirability for local identification and ownership
  - Like Districts – and the desire for the balance of both similarity and diversity in industry, employment, geography, demographics
  - The desirability of Horizons Regional Council consistency in consenting approaches
  - Where water and wastewater infrastructure can be either connected or made common to realise synergies and cost and operational efficiencies in both major projects and day to day operations
  - Liabilities and opportunities arising from current and planned capital projects in adjacent districts and associated cross-subsidy risks and opportunities
- 5.5.2 Baseline assessment of the seven Councils and the regional position in relation to water service delivery.
- 5.5.3 High Level Modelling of what a regional CCO model might look like; this would identify the efficiency savings and impact of normalisation of charges, high-level costs to establish, and sensitivity test sub-regional options; it will also develop options for Governance arrangements and outline the high-level establishment programme. It will only consider the existing CCO model expected to be streamlined by the first Bill; it won't consider the option of setting up a new 'Financially Separate CCO' as details of this are not expected to be available before June.
- 5.5.4 Decision-Gate on proceeding in-principle with recommending to individual councils some form of regional CCO, and the form of that. Individual Councils are and will remain the decision-makers when it comes to them joining any (sub) regional CCO.
- 5.6 Work Package 3 will consider sub-regional variations to sensitivity test the viability of a regional approach if one or more of the councils was to choose not to pursue a regional approach within the Manawatu-Whanganui (M-W) region. The previously agreed scenarios are:
- 5.6.1 M-W minus Horowhenua
  - 5.6.2 M-W minus Whanganui
  - 5.6.3 M-W minus Tararua
  - 5.6.4 M\_W minus Ruapehu
  - 5.6.5 M-W minus Horowhenua, Whanganui, Ruapehu and Tararua
  - 5.6.6 Two halves: a) Ruapehu, Rangitikei, Whanganui; and b) Horowhenua, Manawatu, Tararua and PNCC
  - 5.6.7 M-W in conjunction with the 3 Taranaki region district councils
- 5.7 It is expected that each Council would want to consider the impact on their own operations of choosing to pursue a Regional CCO model and other options for working with neighbours outside the Manawatū-Whanganui boundary. That work is out of the scope of this project, and each individual Council is expected to consider for themselves

the options that sit outside a M-W Regional or Sub-regional approach to ensure they can make a recommendation to their own Councils at the decision gate that concludes this project.

- 5.8 The project is expected to take until July. Progress with this work will be reported back to the next meeting of the Mayoral Forum in June and the final report will be presented at either a Mayoral Workshop or an extraordinary meeting of the Mayoral Forum in mid-July. CE's will retain oversight of progress through the previously established Three Waters CE meeting.
- 5.9 If Mayors choose to recommend a (sub-)regional approach to their individual councils, and they choose to pursue this, there would be time for approximately three months of formal decision making, and nine months for Councils to develop a joint Water Services Delivery Plan by the likely deadline of end of June 2025, or their own, dependent on the decisions made.

## 6. Risks

- 6.1 Proceeding with the revised project approach to assessing regional and sub-regional options for future waters service delivery will enable Councils to make informed decisions as to how to proceed with developing their 'Water Services Delivery Plans'. It is expected that it will be a legislative requirement to produce these by June 2025.
- 6.2 There is a risk that proceeding with this work now will be ahead of the policy development, so is not able to consider the viability of the proposed new financially separate CCO model. The negative consequences of this are considered to be outweighed by the risk of not having sufficient time to do this work and develop a Water Services Delivery Plan by the expected legislative deadline. Each Council is expected to have a number of choices to make in relation to the future of its water services delivery, and these discussions and decisions will be harder without a high-level understanding of the financial and other implications and opportunities of a regional or sub-regional approach.
- 6.3 Each individual Council is expected to consider for themselves the options that sit outside a M-W Regional or Sub-regional approach and consider the impact on their own operations of choosing to pursue a Regional CCO model to ensure they can indicate a preference at the decision gate that concludes this project. There is a risk that each Council does not do this, and delays the other Mayors being able to recommend to their councils that a regional or sub-regional approach be adopted, delaying all the Councils developing a Water Services Delivery Plan.
- 6.4 There is a risk of insufficient agreement for a regional or sub-regional approach meaning each Council will need to develop its own Water Services Delivery Plan and reconsider collaboration at a future point. This could be a very uncertain strategy, as currently there is little information about what a WSDP has to contain or how often it can be changed or updated. However, this might be partly mitigated if the councils agree a consistent format to develop their respective plans. This would then allow the plans to be consolidated so that the Region's councils could collaborate on common matters and develop policy recommendations to advocate as a joint voice to Government.

## Recommendation 8:

That Council notes the key principles of the 'Local Water done Well' policy (section 4)

**Recommendation 9:**

That Council notes the government's intention to develop a new class of financially separate council-owned organisation.

**Recommendation 10:**

That Council proceed at pace on developing its preferred service delivery model and continue discussions and negotiations with neighbouring councils to achieve this.