

Three Waters Reform Formal Feedback to Government

This feedback is provided to give focussed feedback to the Government on Council's areas of concern on critical success factors the Council has previously identified. The Feedback does not focus on the positive aspects of the Government's proposal.

There has been no opportunity for detailed formal consultation with the community on a complete reform proposal. As this is the Government's reform Council expects clear information which would include a formal proposal and opportunities for councils to formally consult with their communities.

Overview

1. Hamilton City Council supports the Government's goals of ensuring safe, sustainable, and economically efficient delivery of three waters services but notes effective transition to any new structure must be in full and equitable partnership with local government.
2. Hamilton City Council has sought to work with its neighbours on waters activities for many years. In 2015-16 we undertook a significant investigation for a Waikato Water CCO proposal where the benefits of working together with our neighbours were clear and there was a strong case for change. Despite support from two of three councils, this didn't proceed. Council also works well with its neighbours in the very successful Waikato Regional Airport Ltd community owned CCO. Our learnings from that waters and airport CCO journey and have been applied to this reform proposal.
3. The Government's current reform proposal has been developed following nationwide systemic failings identified through inquiries into a water contamination issue in Havelock North in 2016. A wide-ranging reform programme to address compliance, regulatory frameworks and investment in infrastructure was developed. In August 2020 Council committed to engaging with the Government on Three Waters Reform and has responded with feedback to Local Government New Zealand in June and August 2021. On 10 June 2021 we identified 11 key areas that are critical to the reform's success. This feedback on the government's three waters reform proposal focusses on those crucial success areas that need more work.
4. The Government has foreshadowed a [new future for local government](#). A future with flexibility and incentives to adapt to the future needs of local communities and to provide better social, environmental and cultural and economic wellbeing to these communities.
5. In this Feedback document we have looked at the Government proposal in detail and have given feedback on those critical success factors that need work. There will be detail more appropriate to feedback to the Select Committee process when the legislation is drafted.
6. In the spirit of partnership, we have provided feedback on improving the proposed governance structure as proposed. However, getting the governance structures right is a big critical success factor. The current proposal needs work to be a successful model for central and local government and our communities. We have separately addressed this below.

The Big Critical Success Factors

7. **Council has identified that effective communication, governance and aligned delivery with other reforms are the big critical success factors that need work.** Council is concerned the Government's governance proposals provide no guarantee that local governance would be preserved in any meaningful way. For the reforms to be successful to following matters are required:
 - a. **Consultation:** We require absolute assurance that formal, effective and transparent consultation with our community will be undertaken before any structural changes to Council's management of Three Waters services.
 - b. **Local Voice:** Councils and communities must have meaningful input and influence over strategic directions, investment plans and service delivery standards of 3 Waters entities, especially as these relate to specific communities.
 - c. **Ownership:** There must be proper rights of ownership for councils as the owner. Nominal ownership by councils, without any of the benefit of ownership is meaningless without the rights of ownership and accountability of the entity to the owners, and thereby to the owner's community.
 - d. **Placemaking:** There must be a strong connection to councils' roles in placemaking and supporting thriving communities and the future of local government reform.
 - e. **Other Reforms:** There must be a strong connection to the existing resource management framework (e.g. the National Policy Statement on Urban Development), future of local government and resource management reform.
8. Crucial to success is community support for the reform. Council has not been able to consult formally and has found informing our community problematic due to poor quality information, information gaps and insufficient central rebuttal to national and regional misinformation.
9. The future of local government review states the following areas of focus. *"The Review's initial focus will be on how local government will be a key contributor to the wellbeing and prosperity of New Zealand and **an essential connection to communities in the governance of New Zealand in the future.**"* The Minister of Local Government said, "Local government plays an important role in our democratic system, giving people a voice in the leadership of their communities and in the governance of services and publicly owned assets." The proposed governance structure does not support the Government's own recognition of the role of local government.
10. It appears the governance model is compromising ownership rights and accountabilities in order to fund the \$185B forecast spend from debt. This places too much emphasis on the finances and not enough on the social and cultural needs of communities in the design of the governance model.
11. Is the proposed structure the best governance model for success? We cannot assess this. The Regulatory Impact Statement includes five alternative governance structure models. The comparison and information sharing of these models has been insufficient for councils to conclude which is the best model. Our Waikato Water CCO study showed significant financial savings and greater investment could be achieved with a CCO structure. Waikato Regional Airport Ltd demonstrates councils can be shareholders of a community owned company that thrives.
12. Resource management reform and its links to three waters investment is critical to placemaking and building thriving communities. A strong voice for the local community would support greater alignment with other community planning mechanisms (e.g. RMA and its successors, responding to growth, Council investment planning in 10 and 30-year plans) and community driven solutions to water conservation, climate change, price allocation and other social and cultural matters connected with waters.
13. Council is proposing that part of the potential governance solution sits in having strong links to the outcomes of the resource management reform in the entities' objectives and operating principles. These provide the foundation for what must be embedded in all aspects of the waters business, not just the waters entities but the waters regulators as well.

14. POTENTIAL SOLUTION:

There must be an opportunity for formal consultation with our community before any proposal is implemented.

Hamilton City Council is not satisfied with the Government's proposed governance structure. Council is looking for an improved structure that meets financial and community objectives better, provides for localism and placemaking and strongly integrates with other reforms.

Council would like to explore alongside government an opportunity to understand, review and evaluate alternative ownership models including the Tasmanian, Welsh and other company models (like a CCO, joint ventures or other off-balance sheet funding models) that use well established governance and business structures. Council would like to explore regional and sub-regional options with the Government.

Central and local government must come together to share knowledge and experience and wholly redesign the governance structure.

Introduction

15. Council supports the Government's goals of ensuring safe, sustainable, and economically efficient delivery of three waters services but notes effective transition to any new structure must be in full and equitable partnership with local government.
16. On 10 June 2021 Council provided feedback to Local Government New Zealand (LGNZ) on the three waters reform. In that feedback we identified 11 key areas that are critical to the reform's success. On 15 July 2021 LGNZ and the Government signed a Memorandum of Understanding on the three waters reform. Further feedback was provided to LGNZ as an addendum in August 2021.
17. To assist LGNZ's discussions with the Government on the three waters reform programme, we have considered the current status of our 11 key areas. We have found that the status of these key areas can change positively or negatively as the reform continues depending on both new information and community perceptions. The 11 keys areas and their status are shown in the table below.

Key Area for success	Overview	Status
Governance	see The Big Critical Success Factors para. 7-14 Governance para. 19-60	NEEDS WORK
Community ownership	see The Big Critical Success Factors para. 7-14 Governance para. 19-60	NEEDS WORK
Enabling Legislation and other reforms	see The Big Critical Success Factors para. 7-14 Governance para. 19-60	NEEDS WORK
Financial	see para. 61-98	NEEDS WORK
Community engagement and information	see para. 98-101	NEEDS WORK

Geography	Any entity in our region should include the Waikato and Bay of Plenty regions in their entirety, even if the entity included Taranaki. 'Our region' includes Thames-Coromandel and Hauraki and ensures areas of common interest and lifestyle make a cohesive whole.	Neutral
Iwi participation	<p>Hamilton City Council has built enduring and mutually-supportive relationships with iwi/Maori in our region. Any waters decision-making in our region must be directed by the vision and principles of Te Mana O Te Wai, recognise treaty settlements and give effect to Te Ture Whaimana/the Vision and Strategy for the Waikato River.</p> <p>Council acknowledges and supports the need for greater efforts in sustainability of healthy water and increased awareness of the precious and finite nature of this resource.</p> <p>We will be working with our iwi partners throughout the reform but need clear guidance from Government on what aspects of the reform are for councils to respond to, and what aspects will be managed by centrally. Establishing mechanisms for iwi co-management is best framed consistently at a national level rather than entities attempting to create potentially disparate bespoke arrangements.</p> <p>We support, as has been made clear by the Government, the Entities are not owned by mana whenua, although they have representation on the proposed Regional Representation Group.</p>	Neutral
Early transition	<p>A long transition process will increase costs and create uncertainty.</p> <p>Incentives for early adopters of the transition process would allow development of transition plans even ahead of legislation for those entity areas willing and able to do the work. The early creation of a transition entity and transition Board would enable regional decision-making in the same way as the Auckland Transition Agency enabled the creation of what is now Auckland Council.</p> <p>Council supports a trial transition governance arrangement. This would enable testing of governance models and representation to identify and resolve issues of localism, control and accountability.</p>	Proposal largely acceptable
Model	<p>We understand the Government favours a model with deemed participation by councils who could choose to opt out.</p> <p>A fragmented approach to establishing regional entities would undermine the benefits to community health, the environment and efficiencies. Therefore, a collaborative approach to a model would be more efficient.</p> <p>If a council(s) can demonstrate individually or collectively that they can demonstrate a cost effective, safe, and sustainable service which achieves all of the reform outcomes then they should retain the ability to opt out.</p>	Next steps unresolved.
Staff Welfare	<p>Staff are our greatest asset and reform places impacts our waters specialists as well as on staff in the remaining Council activities.</p> <p>We strongly support the Government on their announcements regarding the transfer of waters staff.</p> <p>Waters roles will remain with councils until transition to a new entity in June 2024, should reform proceed on the planned timeline. Council</p>	Proposal largely acceptable

	<p>staff will be impacted in ways that will have both positive and negative wellbeing implications for them.</p> <p>It is essential there is clear direction and communication from the Government and its agencies, as well as government and funding support for councils to transition, retain and develop all affected staff (waters and outside the waters business) over the next three years.</p>	
Data-led decision-making	<p>Councils must have access to clear, timely and accurate data to make informed decisions within the Governments timeframes.</p> <p>One example is the methodology to calculate and transfer financial assets, debt and cash reserves in a way which is understandable and acceptable to councils and communities. Council wishes to avoid a situation where Government timelines are impacted because a lack of data means Council is unable to make an informed decision.</p>	<p>Information supplied largely acceptable however there are many gaps in the data. See Financial.</p>

Detailed Feedback

18. The following are the concerns and potential solutions of Hamilton City Council to the proposed Government three waters reform. We have focussed on four critical success factors that need work:
- a. Governance
 - b. Financial
 - c. Timetable
 - d. Communication

Governance – Key Success Factor

19. Council requires that the principle of localism (working with local people to solve local issues) is not lost and the community has a voice, particularly in regard to:
- a. service level,
 - b. waters investment
 - c. rates, fees and charges.
20. Resource management (RM) reform and its links to three waters investment is critical to placemaking and having thriving communities. Hamilton City is a big growth council and Three Waters services are essential to growth. The community having a strong voice in the waters entity is essential to aligning council and waters community planning mechanisms (e.g. RMA and its successors, national policy statement e.g. NPS-UD, and Council investment in 10 and 30-year plans) and community driven solutions to water conservation, climate change, price allocation and other social and cultural matters connected with waters.

Overall governance concerns

21. **CONCERNS:** Council acknowledges that the entity structure is highly influenced by the benefits of balance sheet separation (to achieve significant financial opportunities for the entity and council) and protection from privatisation.
22. Governance structures are complex, needing to address a mix of financial, cultural and social matters. The impact of focusing on the financial matters has virtually remove all community influence in governance, based on the role of the Regional Reference Group as represented in Clause 17 of Cabinet Minute (CAB-21-MIN-0227).

23. The multi-tiered governance structure, which requires an additional structure for 22 councils and another for mana whenua so that they each can select their six representatives is cumbersome, opaque and distant from the owners (the councils on behalf of the community).
24. Furthermore, Council does not accept the proposed concept of statutory ownership of the asset, where we have no rights of ownership. We are not aware of another example of this type of ownership structure in use anywhere else in New Zealand. Company models using well established governance and business structures are successful in Australia.
25. The Regulatory Impact Statement refers to 5 other governance models. The comparison and information sharing of these models has been insufficient for councils to conclude which is the best model. Our Waikato Water CCO study showed significant financial savings and greater investment could be achieved with a CCO structure and Waikato Regional Airport Ltd demonstrates councils can be shareholders of a community owned company that thrives.
26. Council expects that the three water assets will always remain in public ownership. New Zealand is a country where the legal framework for Parliament prevents a government from binding future government. Given this reality, achieving community governance objectives (including influence, localism and wellbeing) and the financial objectives (associated with the governance structure) should come first.

27. POTENTIAL SOLUTION:

Council has provided solutions below to improve the current proposal, however Council continues to look for a better overall structure that can meet the financial and community objectives better. See the *Big Critical Success Factors* para. 7-14

As part of the solution, Council proposes the following matters are considered:

- a. **A shareholders' forum, where every asset-owning council is represented, and where strategic directions are discussed and recommended back to councils before going to the Board/company for approval. This could include iwi in an advisory capacity.**
- b. **Councils and iwi develop a skills matrix and approve Board members.**
- c. **A requirement for direct negotiation with individual local councils or groups of councils should they choose (such as the 3 currently working on the Future Proof wastewater plans) over service delivery levels and infrastructure investment plans in their respective areas.**
(Also see para. 29-38)
- d. **Accountability through annual reporting to each council and iwi within the entity.** (Also see para. 50-60)
- e. **Local council decision-making over the method/split of charges, once the water is delivered, or the wastewater 'uplifted' at the city/district boundary.** (Also see para. 50-60)
- f. **Plans that correspond to the timing of each Council's 10 and 30 year plans.** (Also see para. 50-60)
- g. **Required involvement of the entity in spatial planning groupings (e.g. Future Proof, Smart Growth), where alignment with environmental/conservation measures, transport and stormwater issues, community wellbeings, etc. can be better assured.** (Also see para. 50-60)
- h. **Protection against privatisation is required** (also see para. 26).

Purpose and objectives of the Entity

28. **CONCERNS:** We have two main concerns with the purpose and objectives of the entity:
 - a. Weak integration with the Government's Resource Management (RM) reform.
 - b. Weak integration with the Government's Climate Change response.
29. **Resource Management Reform (RM reform)**

30. Water services entity objective 15.7 and operating principle 20.5 (from Cabinet Minute CAB-21-MIN-0226) need work:
 - a. “15.7 Supporting and enabling housing and urban development.”
 - b. “20.5 Cooperating with, and supporting, other water services entities and infrastructure providers, local authorities, and the transport sector – including in relation to infrastructure planning, and development control and land-use planning processes.”
31. These important strategic references will guide the entities direction and priorities. The link to the suite of proposed RM reform documents needs work.
32. We note the Government recognises these important links, but with multiple reforms happening at once and an often-siloed public sector, we are uncertain that the links are being built in as the programme develops.
33. It is essential that there are strong connections between all planning, which by implication has strong linkages to growth, the current housing challenges and government policy such as the National Policy Statement for Urban Development.
34. RM reform is not providing any certainty of sub-regional or local growth and spatial plans (like the Hamilton Urban Growth Strategy (HUGs), Hamilton-Waikato Metropolitan Spatial Plan (MSP) and Future Proof | Te Tau Tiitoki) nor recognising Hamilton’s high growth demands (giving it tier 1 status under the National Policy Statement for Urban Design (NPS UD)).
35. This uncertainty creates significant risk that three waters investment needs will not be appropriately recognised in the new RM reform plans. With Entity B straddling 3.5 regions and potentially needing to work with 4 RM entities, the three waters investment risk for NPS UD tier 1 areas is further increased. If these links fail NZ Inc goes backwards, housing shortages exacerbate and GDP growth shrinks.
36. Managing these risks starts at the drafting of the legislation for both reforms and is essential. In the case of waters reform, building strong links with the entities purpose and its objectives is the start of accountability for getting this right.
37. The uncertainty of the future of these reforms makes determining the costs of future asset investment for councils and water entities difficult and challenging. As a result assumptions have been made about future costs and revenues that are rebuttable.
38. We are proposing that part of the potential solution sits in having strong links to the outcomes of the RM reform in the entities’ objectives and operating principles. These provide the foundation for what must be embedded in all aspects of the waters business, not just the waters entities but the three waters regulators as well.

39. Climate Response

40. Three waters reform presents an opportunity to embed a low-carbon approach in entity planning from the outset. It is critical that action in this area is consistent with, and supportive of, Government’s wider climate action goals. Building resilience to climate change is commendable but a failure to implement benchmarks to transition toward a net zero carbon future would be an opportunity missed.
41. Water services entity objective 15.5 and operating principles (from Cabinet Minute CAB-21-MIN-0226) need work:
 - a. “15.5 delivering and managing water services in a sustainable and resilient manner, which seeks to address climate risks and mitigate the negative effects of natural hazards.”
42. We are very concerned that the environment or climate change mitigations are not referenced in the operating principles. These could be added to “20.2 being innovative in the design and delivery of water

services and infrastructure” as it is likely that improving the environment and reducing carbon emissions will best be achieved by innovation.

43. The Ministry for the Environment promotes the Carbon Neutral Government Programme set up to accelerate the reduction of emissions within the public sector. Three waters entities should be ambitious in reducing their carbon footprint.
44. We support the Government’s objective to increase the resilience of three waters service provision to climate change risks. However, more emphasis needs to be put on rapidly reducing the significant carbon footprint of water services. This includes emissions from capital delivery, such as the embodied carbon in concrete and steel; operational emissions from electricity and fuel use; and waste gases (methane and nitrous oxide) from wastewater.
45. As highlighted by Waters NZ in its submission to the Climate Change Commission, the reforms open a “window of opportunity” for reassessing past practices and design philosophies to re-orientate the sector towards low carbon approaches. This includes contributing to the circular economy by capturing the energy contained in wastewater and bio-solids.
46. There needs to be a clear commitment to transitioning the sector to net zero carbon. Given both the public nature of the water entities and the serious risks that climate change poses to water services, targets for reducing emissions should be ambitious.
47. In 2018/2019, the treatment of Hamilton’s wastewater produced more than half of the organisation’s emissions. Council has already committed in its 2021-2031 10-year Plan to switch away from natural gas at its wastewater treatment plant.
48. We are proposing that part of the potential solution sits in having strong links to climate change outcomes in the entities’ objectives and operating principles. These provide the foundation for what must be embedded in all aspects of the waters business.

49. POTENTIAL SOLUTION:

The entity must ensure that Council’s aspiration for growth and spatial planning outcomes (including any Special Purpose Vehicle or Infrastructure Funding and Financing solutions) has surety that any waters entity will prioritise and give effect to our long term local, sub-regional and regional plans.

Objective 15.7 and operating principle 20.5 (from Cabinet Minute CAB-21-MIN-0226) must provide stronger support or Resource Management planning (spatial planning and natural and built environments planning) its development and implementation.

Objective 15.5 and operating principle 20.2 (from Cabinet Minute CAB-21-MIN-0226) must provide strong expectations to climate change mitigation including supporting the expectations of government to be carbon neutral.

Regional Governance Group

50. **CONCERNS:** Council considers that the Regional Governance Group does not support our critical success factor for good governance. It does not provide councils with the benefits of ownership, nor does it provide councils with the ability to influence the entity and provide a link to communities on waters matters. We have addressed these and other concerns about governance in the *Big Critical Success Factors* para. 7-14.
51. Council has considered ways to improve the proposed Regional Reference Group, should this feature be included in the reform. We note that these solutions do not meet all our concerns or expectation of an appropriate governance structure that will deliver good governance to Hamilton.

52. Entity B has 22 councils that need to appoint 6 representatives. We require that the legislation provides for appropriate processes for this diverse group to appoint these representatives. We recognise that a solution for Entity B may not work for other waters entities. Key items that could be included in a schedule to the Entities founding legislation include:
- a. A democratic process to ensure the members are representative of the populations. This could include the legislation creating a permanent joint committee, with a single representative of each council and voting based on population. For example, the *Joint Committee of Owners of Entity B*.
 - b. We acknowledge it is perverse to add another structure into an already overly complex structure, but perhaps this is representative of the flaws in the proposed structure.
 - c. There is no legislative confirmation the Entity will fund all activities including but not limited to: meetings costs, independent expert advice, communication, engagement and consultation with councils and mana whenua, and meetings costs of councils and mana whenua in the selection and replacement of RRG members.

53. POTENTIAL SOLUTION:

We would prefer the legislation includes a schedule that defines the process by which the 22 councils come together to make decisions with regard to their representatives and to hear from their representatives on the Regional Reference Group.

The entity should fund all three waters governance meetings and engagements for the councils, the group of councils, mana whenua and the regional representative group.

Strategic Documents to be delivered to Regional Governance Group

54. **CONCERNS:** We are concerned that:
- a. the legislation provides only for the *Board Appointment and Remuneration Policy* to be delivered to the Regional Representative Group.
 - b. Other strategic documents are not required to be delivered.

55. POTENTIAL SOLUTION

56. **We would prefer that the legislation should require the Entity Board to report the following to the Regional Representative Group:**
- a. **Their response to the Statement of Strategic and Performance Expectations.**
 - b. **The Statement of Intent**
 - c. **The Engagement Policy (currently not required for Entity)**

Consumer, Community and Council Engagement

57. **CONCERNS:** Council is concerned that we will be treated as a customer and not as a trusted partner in the development of the city. There is no evidence in the proposal that the principles of localism and working with communities to find solutions that fit with the values and aspirations of those communities are recognised. There must be alignment with council planning processes and planning documents.
58. Councils provide a unique perspective of local community wellbeing (economic, cultural, social and environmental). Councils have the benefit of having managed waters activities, own or manage a significant part of the stormwater network and are intimately involved in the planning for the shape of their communities, housing, business development and growth. This perspective across the multidisciplinary activities of councils cannot be provided by community and consumer engagement alone.

59. To improve the opportunity for local input and better alignment policies and plans we have developed the following process improvements.
- a. That the entity should be required develop an Engagement Policy and engage with councils, communities and consumers on the proposed policy within 12 months of 1 July 2024 and reviewing and re-consulting no less than every 6 years.
 - b. That the entity must adopt by 1 March 2025 the following documents which have been audited and reviewed in line with Council long-term planning cycles:
 - a. Prioritisation methodology that informs the asset management plan;
 - b. Asset Management Plan; and
 - c. Funding and Pricing Plan.
 - c. That the above plans provide sufficient information for councils to be clear on the service levels in their communities, the investment in assets, rates, fees and charges that the entity intends to levy within Council boundaries.
 - d. That the entity consults with each council on the above policies prior to consulting with consumers and the community.
 - e. That a council may prepare a written statement, expressing a view on the entities proposals, to be included by the entity in its community and consumer engagement information.
 - f. That having regard to its own long term planning and other strategic documents a council's statement would state whether each plan (see para 56):
 - a. Is supported by the council, and
 - b. If part of the plan is not supported by the council, the council's views on why it is not supported and a potential solution to the issues identified by the council.
 - g. That the entity will be required to include the statement in the community and consumer engagement.
 - h. That the entity may express its own views on the matters raised by the council and include those views in their engagement material.

60. POTENTIAL SOLUTION:

We strongly prefer that individual councils are treated individually and with priority by the entity.

We have developed a proposed process that gives each council the opportunity to participate in an engagement process and work with the entity on its strategic documents, as representatives of their community to ensure alignment with that council's plans. This pre-engagement is prior to the entity undertaking its own consumer consultation or engagement

Financial – Key Success Factor

61. Council requires an absolute guarantee that, from 2024, its community and consumers are financially better off with waters reform than they would be should Council continue to operate three waters activities.
62. Council requires that the transfer of assets and liabilities and revenues is designed so that Council and the community are no worse off.
63. Council requires that the cost of the Government's Three Waters Reform is fully funded by the government allowing council and the community to:
 - a. fully participate in the reform;
 - b. transition assets, liabilities, and revenues and staff to EB; and
 - c. transform (right size) council, including stranded costs and a new direction.

Financial Implications for our Community

64. **CONCERNS:** Council's have been provided with significant amounts of data. It is spread across many reports, dashboards and the occasional spreadsheet. Some of the data was sourced from council direct or

indirectly from audited annual reports and plans. Most of the data is based on significant assumptions, which in some cases have been peer reviewed and accepted as reasonable for the purpose of long term forecasting.

65. Council however has been unable to get answers to many questions as the data either does not exist, has not been shared or has not been found in the mass of data provided at short notice.
66. Council is particularly concerned in the immediate years after the transfer. These are questions the community will expect answers to when the time to consult occurs.
 - a. What will happen to pricing at day one of the Entity?
 - b. Has the cost of reform been added to the price of services in these early years?
 - c. When will harmonisation start and what cost does that Hamilton ratepayers?
 - d. Does harmonisation mean a loss of capital value rating for waters?
 - e. When will the community see the benefits of economies of scale on pricing?

67. POTENTIAL SOLUTION:

More information for the community on how it impacts the community them in the short term is required for all models considered.

Better Off Package

68. **CONCERNS:** Providing financial support to councils is a critical success factor for waters reform. Hamilton has been disadvantaged by the allocation formula of population, deprivation and area. The government formula has not taken account of growth and the placemaking role of future councils to invest in community infrastructure to build strong and resilient communities.
69. For more than a decade Council has been challenged by growth. Information supplied in the RFI in late 2020 and early 2021 indicated Council has a waters debt to revenue ratio of 522%, illustrating the large investment that has been made in waters infrastructure predominantly driven by growth. This has come at a considerable cost to the community infrastructure investment (as demonstrated by the high waters debt to revenue ratio).
70. The funding allocation has not recognised this investment of waters infrastructure to enable growth, at the expense of community infrastructure.
71. It is a key goal of waters reform to increase housing availability. Hamilton's investment has been large to achieve this. However, our investment in community infrastructure is less than desirable and delivered later than the community needs due to financial constraints and other waters investment needing to be prioritised. Also, Hamilton's investment in three waters infrastructure to support the government's growth and freshwater agenda must be financially recognised.

72. POTENTIAL SOLUTION:

We request that additional funding of \$15M is provided to contribute to the necessary community infrastructure for placemaking and build strong, resilient new communities.

Worse Off Package

73. **CONCERNS:** Providing financial support to councils is a critical success factor for waters reform. Councils have not budgeted for waters reform in their 10-year plans at the request of the government. Councils' ability to fund participation, transition and transforming (right sizing) council is a critical success factor for the reform. Without this funding, councils' ability to represent and/or invest in their communities would

be restricted as funds are diverted or are not available. The success of implementation of findings from the Future of Local Government review relies on an efficient transition and transformation.

74. DIA have advised they estimate \$8M would be paid to Hamilton in 2024 to fund stranded costs. This is a small fraction of the expected 2024 stranded costs that Council will carry for a number of years until it is able to right size the council.
75. In the Waikato Water CCO project (2016) it was proposed that the waters entity would pay the councils for stranded cost on a decreasing scale over five years. This provides time for councils to shed or absorb those costs.
76. A fair and appropriate funding of stranded costs would be:
 - a. 2024/5 75% of waters overheads
 - b. 2025/6 50% of waters overheads
 - c. 2026/7 25% of waters overheads
77. After 2027 Council would then fund all costs itself.
78. Based on the audited 10-year plan allocations to waters activities and applying the formula in paragraph 70 above, Council expects a contribution of \$29M for stranded costs. Adjusted for the estimated \$8M contribution Council is underfunded for costs incurred by the government reform by \$21M.
79. This gives councils the opportunity to right size for the smaller authorities that they must become after removing such a large portion of their business. It also gives council a reasonable opportunity for the community not to be funding costs, bought about only because of the government waters reform.

80. POTENTIAL SOLUTION

We request that additional funding of \$21M be provided to fund ALL costs created by government waters reform that leave stranded costs in Council after 1 July 2024 on a declining basis of Year 1 75%, Year 2 50% and Year 3 25% of the forecast overheads budgeted in the 10-year plan.

Transformation Costs

81. **CONCERNS:** \$296M was allocated in the 2021 budget for transitioning costs. We have been advised that this funding becomes available when the decision to reform is made. This is anticipated to be between 2 October and before the parliamentary summer recess from 16 December 2021.
82. We have heard from DIA that this funding will be for:
 - a. The creation and funding of an overall transition entity;
 - b. The creation of 4 shadow entity transition entities;
 - c. Increased training for waters staff;
 - d. Costs of transitioning waters staff and activities out of councils (including significant legal costs associated with contracts) into new entities.
83. The Water Industry of Scotland (WICS) forecasts included \$1B of transition costs in the new entities. We expect the new entities would pay for the costs of:
 - a. New computer systems and technology for asset management, financial management, people management, billing and customer service and engagement.
 - b. Transitioning assets, liabilities, revenues and employment records into these new systems.
 - c. Establishing the new corporate structures.
84. We expect that all work undertaken by Department of Internal Affairs (DIA), LGNZ and other government entities will be funded from other than the above allocations.
85. Council estimates, based on its investigations in relation to the Waters CCO project, show that over the next three years Council could spend between \$5M and \$8M, participating, transitioning and

transforming the Council. We understand that all of this cost would be funded from the \$296M allocated in the budget.

86. It is not clearly obvious that sufficient funding has been made available to support participation, transition and transformation costs driven by government.
87. Council has been funded to participate in the reform with an allocation of stimulus money requested in the original stimulus package. The government has until now denied the opportunity for many of our Entity B (EB) partners (including Iwi) to be funded to participate in reform. It is clear that those funded to participate are better informed and more able to influence better outcomes for the sector. Waikato/BOP have been regularly congratulated on the high level of participation as a result of working together in the consortium. This is a small head start on other parts of the country that if capitalised on, should lead to better outcomes for EB and the EB communities.
88. Formal consultations are expensive and in the case of this reform more so due to the complex nature of the proposal. It is estimated that if consultation is undertaken by Council, that the expected cost would be between \$100,000 and \$150,000 preparing consultation information, running a consultation process and hearings. This is a cost not budgeted for by Councils and a cost directly driven by the government reform which should be paid for by the government.
89. Council stimulus funding runs out in March 2022 and there is no guarantee of any funding availability after that date to cover participation and transformation costs.
90. Attracting and retaining resources will become critical with the massive amount of work this reform will require in the next 33 months.

91. POTENTIAL SOLUTION

We request that the government guarantee that it will fund all reasonable costs of council participating, transitioning and transforming from now until 2027 (the end date for stranded costs), including the costs of any formal consultation with our community.

Owners' Representative Costs

92. **CONCERNS:** The cost of ownership of the entity should be funded and supported by the entity. This includes the following costs:
 - a. Operating the Regional Representative Group
 - b. Meetings of the owners
 - c. Owners' communications and engagements with their communities.
93. As discussed in our governance section of this feedback, the Regional Representative Group will need financial support from the Entity to fund independent advice and consultation and engagement with councils and mana whenua. We expect that to be funded by the entity once it is established. We are unclear where the funding for that comes from during the transition stage.

94. POTENTIAL SOLUTION

We request that the government guarantee funding for all reasonable costs of the Regional Representative Group during the establishment phase-up until Entity B can fund its activities.

Timetable – Key Success Factor

95. Council requires a detailed and clear timetable to 30 June 2027 (the end of the final funding), is developed to cover all significant elements of the reform, from next steps to final payments for stranded costs. It should make it clear as to when councils will be expected to formally consult with their communities.
96. **CONCERNS:** The reform timetable was first published in December 2020 and slightly modified in a presentation “Three-Waters-Reform-Programme-March-Engagement-slides” and is now archived on the Department of Internal Affairs Three Waters Reform Programme website. Dates on this timeline have not been achieved. Council as part of implementing its 10-Year Plan, a significant work programme, on the Government’s instruction councils have not budgeted for this reform. A clear timetable to fit the business of council with the business of government is urgent and essential.

97. POTENTIAL SOLUTION:

- a. **The government must develop and maintain a detailed timetable from next steps after the eight-week period to final payments for stranded costs.**
- b. **Within that timetable it must be clear when councils will formally consult with their communities.**

Communication – Key Success Factor

98. Council requires that Government dramatically improves its communication on three waters reform.
99. Council requires the Government to own its reform and communicate either directly or through its agencies (including transition agencies and waters entities) clearly, consistently and concisely.
100. **CONCERNS:** Communication by the Government and its agencies has been poor and has created significant confusions and misunderstanding. Councils appear to have had no, or limited, opportunities to review and comment on public material before release. The Three Waters official social media account has been allowed to host nonfactual posts without rebuttal, media have been released council information before councils have received it (or in parallel), official statements on the waters reform page have been verbose, inconsistent and unclear and there has been too much emphasis on economic wellbeing and grossly insufficient emphasis on cultural, social and environmental wellbeing outcomes of reform. There has been no attempt to correct misleading information in the public domain, despite that information being demonstrably false.

101. POTENTIAL SOLUTION

We request that:

- a. **The Government develop and share a communication strategy and timeline that clearly distinguishes the roles of government and its agencies, transition entities, local government through to 30 June 2024.**
- b. **The Government commits to engage with councils on the content of any public collateral or campaign prior to release, and actively work to respond to, and address, concerns raised by Councils regarding that communication.**
- c. **Communication should be balanced to focus on all the benefits of reform including all the wellbeings - economic, social, cultural and environmental.**
- d. **The Government funds communication in the transition costs, recognising that councils will need to communicate / engage with staff (waters staff and stranded costs) stakeholders (e.g. significant water users) and the community from now until the transfer.**
- e. **The government shows its contribution to the partnership by releasing information concerning the reform and waters matters to local government prior to releasing to media or general public.**