

22 July 2022

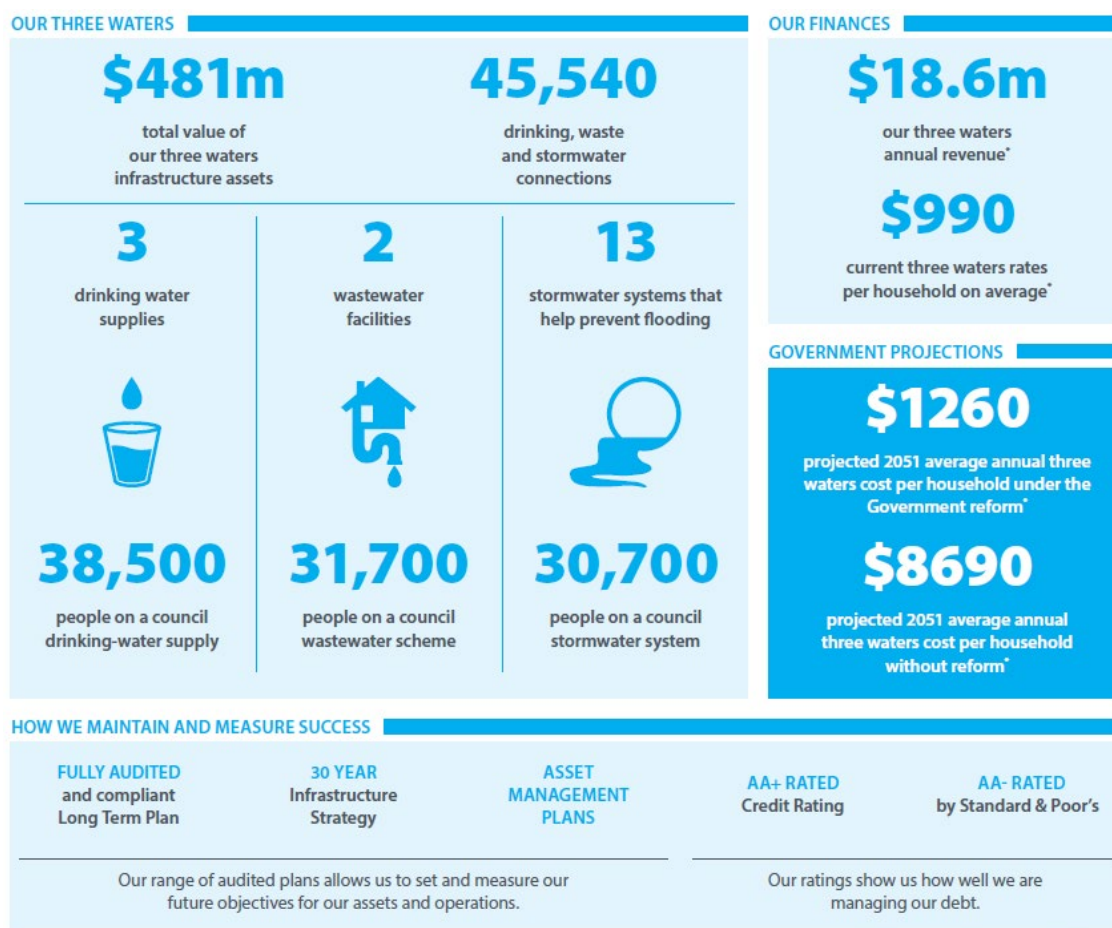
### **Submission on Water Services Entities Bill 1**

1. Thank you for the opportunity to submit on the Water Services Entities Bill (1).
2. We acknowledge Government for taking up the challenge of addressing the significant infrastructure issues apparent across the local government sector.
3. The need for safe, reliable, and affordable water services that support good health and sustainable environmental outcomes are outcomes we can all agree with. We support these outcomes along with partnering with our mana whenua to deliver these outcomes.
4. We wish to present our submission in person to the Select Committee.

### **Snapshot of Te Tairāwhiti**

5. Te Tairāwhiti region comprises approximately 51,500 people. We have a relatively young population with 39% below the age of 25 years of age. We also have a high proportion of our population over the age of 64 years of age. The upshot of this is that we have a smaller economically active population than other regions with more financial pressure on those of working age to over cost of services such as three waters.
6. Our four iwi of Tairāwhiti are Ngāti Porou, Rongowhakaata, Te Aitanga a Māhaki and Ngāi Tāmanuhiri and 53% of our people identify as Māori. There are 71 marae across the region with 68% of these in the rural areas well north of Gisborne city. Our predominantly rural marae are critically important and have complex needs in terms of access to three waters services that are financially sustainable.
7. We rank 60 out of 67 territorial authorities on the NZ Deprivation index (as at January 2022) and have the highest level of deprivation of any region in NZ, with two thirds of the population (65%) living in deciles 8-10. Deprivation is more pronounced by ethnicity with 77% of Māori in Te Tairāwhiti living within deciles 8-10. A high regional deprivation level creates challenges for service providers in striking a balance between meeting needs for services and the affordability of those services.
8. We have a relatively low median household income of \$66,000 per annum compared with the national median of \$80,055. There is considerable variability in median income between areas within the region with Māori living on the East Cape having a median income of \$49,196. It is important to note that 26% of Tairāwhiti households have an income of less than \$30,000 per annum. Another 19% have an income of between \$30,000 and \$50,000. The affordability of service provision for individual households continues to be a challenge in Te Tairāwhiti.
9. We have a shortage of at least 400 homes in Te Tairāwhiti currently with that projected to rise to nearly 3,000 by 2050. The median house price in Gisborne rose 40% to \$570,000 in the year to June 2021, outpacing the nationwide increases. By December 2021 it sat at \$695,000. There is a flow-on effect to the rental market with the average cost of a rental house sitting around \$575 per week currently. High costs of living for our community compound issues of affordability.
10. While we are only 1% of the national population, our land area comprises 3% of New Zealand's national land area. There are 3,200 Māori Freehold Land units in Te Tairāwhiti covering 228,000 km<sup>2</sup> and representing 28% of total land area of land in the region. Developing Māori land for housing (papakāinga) and alternative productive uses will require access to services that are not currently provided, yet the benefits of doing so could be transformational for some communities.
11. Gisborne District Council is a unitary authority with both regional council and territorial authority functions and responsibilities.

12. The figure below provides a snapshot of our three waters assets.



\*All figures are GST exclusive and exclude inflation.

## Benefits of the reforms

13. We acknowledge that safe, reliable, and affordable water services that support good health and environmental sustainability are critical for our people. Partnering with mana whenua to deliver these outcomes is very much supported.
14. The promise of the reforms to improve financial affordability and sustainability in the long term, if achievable, is a significant benefit. Infrastructure and service affordability for all sectors of our community is a challenge we have been grappling with for many years and a major concern for Te Tairāwhiti. We acknowledge that political pressure on councils often leads to prioritising lower rates in the short term at the expense of investment in infrastructure and services where the benefits manifest more in the future.
15. We are hopeful that the reforms will enable the development of a high calibre workforce of technical experts in water services and reduce the need for competition between councils, government and the private sector for skilled labour.
16. In summary, we recognise the benefits of the reforms and support, in principle, the need for change.
17. The remainder of our submission suggests specific amendments to the Bill that would strengthen the reform outcomes, notably around:
  - governance and accountability to local communities
  - functional integration
  - existing co-governance arrangements
  - transition arrangements
  - affordability and costs of arrangements.

## Governance and accountability

18. Privatisation: The Bill offers protection from privatisation in establishing the WSEs as body corporates with territorial authority shareholdings. This protects the long-term investment made by different communities into three waters assets.
19. Representation: We remain concerned about the loss of local voice in the proposed governance arrangements of the WSEs. The Bill has limited mechanisms for local voice in water services delivery with representation spread across massive geographical areas and diverse communities of interest.
20. There are 21 councils in WSE C, at least 31 iwi and more than 250 hapū. Each council, iwi and hapū represents a range of interests and community expectations. Te Tairāwhiti has a unique demography and set of issues (as outlined in the snapshot section above) and there is no guarantee that communities of Te Tairāwhiti will be well-served by the structures and processes proposed. The Bill should contain mechanisms that ensure a diversity of representation on the RRGs reflecting the diversity of councils, iwi and hapū.
21. Accountability: The Regional Advisory Panels may provide opportunities for local voice feeding into RRGs, however, there is no accountability back to these groups. The consumer fora and consumer stocktakes may provide a mechanism for feedback to WSEs but, again, this is one way with no accountability mechanism.
22. Community wellbeing: There is a lack of explicit focus in the objectives, functions, and principles on the fact that the primary role of WSEs will be to meet community needs for water services and that community wellbeing of all people is a paramount driver of WSE activity.
23. In line with community wellbeing, we also have concerns around the way that services are delivered. Council and central government have invested significantly over the past five years in sustainable procurement and ensuring that the way services are delivered has wider positive social, cultural, environmental and economic benefits beyond the development of infrastructure and pure financial bottom lines. Through local procurement strategies, outcomes such as job creation, resource recovery initiatives and local business growth have been an integral part of infrastructure programmes with positive flow-on effects for communities. We are concerned that this effort will be lost with a super-regional delivery model.
24. Affordability: The importance of affordability in provision of water services is also missing from the objective and principles of WSEs, despite Government's messaging that affordability is a fundamental driver of reform. Financial sustainability referred to in section 11 is about the ability of the system to sustain itself financially and is not the same thing as affordability for communities.
25. Investing to rebalance inequity: Aggregation of services to a super-regional (entity) level has the potential to further exacerbate inequities in access to services and affordability for the most vulnerable people in our community. As a region with one of the highest deprivation rankings, many of our people do not have access to adequate three waters services currently and are more vulnerable to changes that raise costs of living (such as increases in rates). Without adequate representation how will we ensure that water services are delivered at a level that all of our people can afford and that do not exacerbate current inequities in access to services?
26. We are also concerned that investment and prioritisation decisions will be based on population where smaller and more isolated communities would not be well-served. Tairāwhiti already has experience of this with the way that our transport infrastructure has been funded and how in recent years Government has had to make additional targeted investment in our roads to bring them to a first world standard.
27. Carbon zero: There is a focus in the objectives, functions, and principles of WSEs on resilience, which we support. However, there is no requirement for WSEs to consider government's wider policy agenda around climate change mitigation and moving to a carbon zero economy. This is a missed opportunity and may put WSEs out of alignment with government and council direction.

## Recommended amendments (governance and accountability)

That the Select Committee:

- Amend section 32 requiring territorial representatives on RRGs to be representative of the different mix of urban, provincial and rural territorial authorities.
- Amend part 4 (accountability) to require RRGs to seek advice from RAPs when developing a Statement of Strategic and Performance Expectations, and when commenting on the draft accountability documents of the WSE Board.
- Amend sections 11 to 13 to add community wellbeing, equity, affordability, and contributing to a carbon zero economy to the objectives, functions and principles of the WSEs.
- Amend section 151 to require WSE boards when preparing funding and pricing plans to consider affordability for communities and how their approach will address inequity.
- Amend section 92 to add that a WSE constitution may stipulate appropriate engagement that would apply to the consumer fora, consumer stocktake, and public engagement on accountability documents.
- Note our support for retaining provisions to engage councils directly in the development of the first constitution to be set out in regulations.

## Functional integration

28. It is unclear how the three waters reforms will interface with the rest of the government's reform programme impacting on local government, specifically the resource management reforms and the future for local government.
29. The Bill is quiet on how the roles and functions of regional and district councils will interact with the roles and functions of the WSEs around matters such as:
  - regional growth and development
  - place-making
  - freshwater planning particularly water allocation and security
  - climate change and resilience planning.
30. Post-transition, councils will still need to carry out strategic planning to inform decisions around growth, land use regulations and investment in other infrastructure such as roads, community facilities and open spaces. It is important to keep the requirements in Schedule 3 to engage with councils in the preparation of accountability documents. We support this.
31. There is extensive opportunity for duplication of effort around the areas of shared interest such as growth planning and resilience planning. This will be exacerbated if there is no clarity around functions and if the allocation of functions does not meet the needs of both parties. It is important to minimise duplication of effort between WSEs and councils so that any efficiency gains from water services centralisation are not lost by mirroring functions.
32. We have significant concerns around how Te Tairāwhiti will be able to meet its obligations under the National Policy Statement for Urban Development to provide sufficient development capacity for residential and business purposes. Our Tairāwhiti Regional Housing Strategy 2022 identifies a current shortage of around 400 houses across the region with that number projected to rise to nearly 3,000 by 2050. It further outlines how infrastructure capacity is a key constraint in housing development already. Our concerns are around how the investment prioritisation processes of WSEs will dovetail with local (and national) needs for infrastructure to increase housing supply and how all of the priorities across an entity will be able to be delivered on to meet wider government requirements like those in the NPS.
33. As a unitary authority, we have first-hand experience of the benefits of providing regional and territorial authority functions as a single entity – that it promotes integrated thinking across inter-related functions as well as streamlining effort (reducing duplication between neighbouring authorities). We want to highlight the unique advantages that a unitary authority may have to potentially deliver on and support functional integration.

## Recommendations (functional integrity)

That the Select Committee:

- Look closely at the opportunities that the pending resource management reforms offer to achieve functional integration through a move to a unitary authority model of delivery, which would provide for more efficient engagement with WSEs and around their accountability documents – asset management plans, funding and pricing plans and infrastructure strategies.
- Note that the second Bill due out in 2022, needs to provide clarity around functions and lead responsibilities.

## **Existing local co-governance arrangements**

34. We have a number of local co-governance and relationship agreements with iwi, hapū and Māori land block trusts that impact on three waters activities. Some of these agreements relate to land that is used for multiple purposes and either has three waters assets on it or is part of stormwater management systems or protecting water supply sources and pipelines.
35. Some of these are part of Te Tiriti o Waitangi settlements or conditions of resource consent. Some of them are not. We consider them to be part of giving effect to the principles of Te Tiriti and how we want to work with Māori now and into the future.
36. It is not a matter of handing over relationships to a new WSE as there are often complex legal and commercial issues with this and/or Council still has other interests beyond three waters in the land and assets.

## Recommended amendments (existing local co-governance arrangements)

That the Select Committee:

- Amend section 4 to require that any existing co-governance arrangements are protected and continue to have effect under the new arrangements, even where they do not have a foundation in a specific Te Tiriti settlement or other statutory mechanism but the council and mana whenua consider their intent is to give effect to Te Tiriti.
- Amend schedule 1 to provide some flexibility around the transfer of assets and liabilities that recognises the multi-functionality of some land and assets and a mechanism for negotiation with councils.

## **Transition arrangements (Schedule 1)**

37. Co-design: The transition process to date has had some key issues most notably that there have been insufficient opportunities to co-design the transition with councils. This fails to recognise the accountabilities councils have to their communities through and after the reforms.
38. The change process needs to have meaningful co-design of how change will occur in practice, so we understand our role in this, ensuring it is practical and that this is sufficiently resourced. The provisions in the Bill do not provide reassurances of this, and appear to further entrench the approach of the reforms being something that councils are takers of rather than partners in.
39. Our preferred approach is one where the Chief Executives of the Department, the NTU, and councils within an entity work with the establishment CE to prepare an establishment plan that enables all parties to meet their responsibilities during and after the transition.
40. Transition powers: We are concerned about some of the transition powers granted to the Department during the establishment period.
41. We do not think it reasonable to grant the Department the powers to compel councils to release staff to be seconded to WSEs to support transition activities. Councils must be able to ensure business continuity. We simply do not have excess capacity and are currently understaffed.

42. Council has already complied with some of these requests from the Department with key staff being represented on national and technical reference groups. We agreed to this on the basis that Council would have an opportunity to feed insights and expertise of the wider staff through these representatives into the working groups. However, several of these working groups have restricted their members from sharing information with their parent councils. So, there has been no benefit in this arrangement for council.
43. We are concerned about the timeliness of decision review processes under Schedule 1, Sub-part 4. There is no timeframe on when a decision on a review is required.
44. Staff transition: There are real concerns of council around which staff will be transferring to the new WSEs. It is common in smaller councils particularly for staff to work across multiple activities ie across all infrastructure functions from roads to three waters to flood protection.
45. We understand that decisions on whether these cross-team staff work 'primarily' in three waters will be determined on a case-by-case basis, which is appropriate. What we take issue with is that the establishment Chief Executive would make these decisions independent of Chief Executives of councils. Cabinet has already stated that its intentions are to not leave councils bereft of staff and unable to deliver remaining services. These decisions on borderline cases need to be made with the Chief Executives of councils.
46. Investment during transition: There are areas where investment planning, pricing and funding is uncertain at this point. There must be a process to integrate the first 3-5 years of Long Term Plan investment planning into WSE investment plans for continuity of service until the entity can deliver its own infrastructure strategy.

#### Recommended amendments (transition arrangements)

That the Select Committee:

- Amend Schedule 1, Clause 7 (2) to require engagement with the Chief Executives of the councils within the entity on the establishment plan.
- Amend Schedule 1, Clause 11 (2) to state that a request will not be considered reasonable if it impacts on the ability of a council to meet its obligations.
- Amend Sub-part 4, Clause 24 to impose timeframes on decision reviews and notifications.

#### **Affordability and costs of arrangements**

47. Affordability for our communities is of utmost concern to council given our socio-demographic profile – the total sum cost of delivering **all** services (roads, regulations, three waters, parks etc) to communities needs to be considered as part of the financial impact of the reforms – regardless of who is delivering the services, the costs will fall on households and businesses.
48. Removing three waters from council delivery will not necessarily see a drop in the amount of rates funding collected annually – there is a loss of economies of scope in the activities that will remain with councils after the transition. There are likely to be limited savings for ratepayers in the short to medium term.
49. We are very eager to see how the second bill will address how funding and pricing decisions will be made, and the issue of affordability. This includes making sure small or isolated communities do not pay disproportionately more.

#### Recommendation (affordability and costs of arrangements)

That the Select Committee:

- Request that Government reassess the economics of the reforms in light of overall affordability for communities ie the costs to communities of all services once other rates and fees are included and the overall scale of the gains to be made. That this revaluation is shared with councils and the public.

## Thank you

50. Once again we thank the Select Committee for the opportunity to provide a uniquely Tairāwhiti perspective on the Bill.
51. We look forward to presenting our thoughts to you in person.

Mauriora

A handwritten signature in blue ink, consisting of a stylized 'N' followed by a long, sweeping horizontal line that ends in a small upward curve.

Nā Nedine Thatcher-Swann  
**Chief Executive**