

Three Waters Reform

Tauranga City Council, Community and Tangata Whenua Feedback

30 September 2021



APPROACH

The Government has asked that Councils, as the primary deliverers of three waters services for Aotearoa, provide feedback on its Three Waters Reform proposal by 30 September. This report provides the response requested from Tauranga City Council governance and staff; a summary of matters raised by our community through an informal online survey and direct communications with Commissioners; and a statement of support from Te Rangapū Mana Whenua o Tauranga Moana Partnership (an autonomous body made up of 17 representatives from each of the hapū and iwi in the Tauranga City Council area).

The community survey referred to above, and related website content, were initiated in response to intense community interest in the reform proposal.

1. TAURANGA CITY COUNCIL FEEDBACK

Tauranga City Council (TCC) wishes to make the following submissions, which are consistent with our responses to the recent Entity B survey.

TCC is committed to delivering the best possible outcomes for our community, should the Government decide to implement Three Waters Reform. However, our view is that there is not enough information available about the current proposal for the Council or the community to provide definitive feedback on the reforms, as the proposal stands.

1.1 Viability of the status quo

With regard to the national context, TCC strongly agrees that there is a case for change and that the current, dispersed model for three waters delivery is not a viable option into the future. While some councils (including TCC) are well-placed to continue delivering quality waters services in the near-term, it's clear that others are not and that based on the current operating and funding model, future service costs will become increasingly unaffordable for many, and eventually all communities, Tauranga City included.

The cost of continuing to deliver three waters services is projected to increase significantly into the future, as a result of the cumulative impacts of a number of changes. Most councils, including TCC, are managing an ageing network infrastructure, parts of which are nearing end-of-life status and require significant investment. Increased environmental standards will require significant upgrades to meet national standards and local community expectations. Multiple pressures from climate change also mean that the delivery of existing levels of service will become progressively more expensive, due in particular to more frequent heavy rain events, an increase in the severity of drought conditions and a transition to a lower carbon economy. In addition, sea-level rise will have significant cost implications for communities and there is currently no nationally-approved funding approach to address the issues involved.

In the Tauranga Moana context, the cost implications of funding the investment required to futureproof our services and keep pace with our rapid population growth is imposing a growing burden on ratepayers. As signalled in our 2021-31 Long-term Plan, high three waters debt levels mean we will need to increase waters-related charges in order to reduce debt and deliver the services and infrastructure our community needs over the next 10 years. Transferring our assets and debt to a public entity may therefore help us to address our significant funding and financing challenges.

The efficiency gains set out in the reform proposal seem realistic, given the ability of the supply entity to access 'smart' metering technology, secure the required water utility skills and expertise and deliver procurement gains based on regional asset maintenance and construction contracts.

1.2 Transition timeline viability

TCC believes the Government's timeline for transition to the proposed regional service entities is ambitious and presents risks. We would submit that there is a clear need for the community concerns highlighted later in this report, and those of local government, to be addressed and resolved. Tauranga Moana tangata whenua have expressed concern with timelines that place significant pressure on a largely voluntary, part-time workforce. The pace demanded by Central Government needs to be supported by strong engagement processes and resourcing to support participation.

1.3 Taumata Arowai

We agree that the creation of Taumata Arowai as the national regulator of three waters services is a prudent approach and will improve the safety of drinking water and environmental outcomes relating to wastewater and stormwater.

1.4 Proposed governance arrangements

The proposed number of entity board members appears to be adequate for an organisation of this scale and complexity and the accountabilities signalled for individual board members should lead to sound governance. However, the process for determining board representation seems overly complex and will make effective local input difficult to achieve. TCC believes the arrangements currently proposed will make it unlikely that ratepayers and iwi will be able to achieve appropriate representation across the country.

We also submit that there would be an unacceptable level of uncertainty that councils, as owners of the entity, would be able to influence the appointment of appropriate people to the selection panel, and therefore the appointment of board members who can adequately represent our local interests.

From the information currently available, it is unclear how the governance arrangements representing the shared interests of councils and mana whenua will work. TCC strongly supports mana whenua involvement, but there is a lack of clarity in how the process proposed will ensure appropriate representation and safeguard local interests in the Council and community's three waters assets. Work will be required to identify and define how our shared interests are built into the entity statement of intent; and this must include ensuring that consenting arrangements recognise the role of tangata whenua in decision-making.

Currently, there is not sufficient detail to make a judgement on how effective the proposed governance arrangements would be in delivering the entity's objectives, or in providing a board which would recognise and meet local priorities across the entity area.

TCC believes the proposed governance arrangements could be improved by establishing a full utility business that is not subject to local political interference. Entity governance should be subject to competency standards and diversity targets and work to a statement of intent that guarantees local interests are recognised and appropriately prioritised.

1.5 Entity B boundaries

Significant synergies exist between Waikato and the Bay of Plenty, in terms of managing common economic priorities and growth challenges. How the proposed entity boundary would work for the wider region, in the context of Resource Management Act and Local Government Act reform is questionable. Inter-iwi relationships across such a broad area are also untested, which risks dilution of kaitiakitanga.

1.6 Stormwater

Stormwater infrastructure includes a mixture of hard and soft assets. Many 'soft' stormwater assets contribute to community amenity and have significant biodiversity, urban form, sustainability and recreational values. Further detail is required on how management of these assets would be integrated between the entity and the council functions which currently manage them.

Clarity is required around asset ownership and operating and financial responsibilities.

1.7 Engagement with Mana Whenua

Council has initiated engagement with Mana Whenua through Te Rangapū Mana Whenua o Tauranga Moana Partnership and has shared information, with the intent of being able to jointly advocate on three waters reform matters. Our understanding was that informing Mana Whenua was to be a Government responsibility, but we are not aware of the extent of any engagement which may have happened. Te Rangapū has acknowledged that some engagement has taken place but has also indicated that there is significant room for improvement.

1.8 WICS Analysis

TCC has undertaken in-house analysis of the WICS analysis and is satisfied that on a local and regional level, it is fit for purpose.

1.9 Community understanding of the proposed reform

TCC has shared Government collateral on the reform proposal on our website and invited community feedback via an online survey (results are detailed in section 2). It is evident from the feedback received that there are many areas of concern and that in general, our community feels that it has not been adequately informed or consulted with. The level of understanding around key aspects of the reform is also lacking and local government has been placed in the difficult position of trying to keep our community informed about a process we are not leading and do not have full information about. While it is not specified in the concerns outlined in section 2, it is our view that the advertising campaign undertaken to raise awareness of the reforms was a missed opportunity. Community comments relating to the campaign described it as 'infantile', 'insulting' and 'misleading'.

There has been a void of community information since August. A release of quality and easily-consumed information on what the reforms are all about would have been ideal through this time.

1.10 'No worse off'/'Better off' arrangements

Details of the 'no worse off' funding package are unclear at this time, but if the reforms proceed, this will need to cover all 'stranded costs' relating to the transfer of assets and activities to the proposed entity.

TCC does not consider the 'better off' arrangements are fit for purpose. Apportionment of funding on the basis of population, deprivation and land area is likely to disadvantage some councils and communities and does not objectively reflect the value of the assets which would be transferred. There is also a lack of community understanding about this payment, evidenced in the perception that it is to purchase the community's assets at a fraction of their real value.

1.11 Delivering on growth needs and aspirations

Uncertainty exists around the capability of the proposed entity in terms of timely decision-making. A strong alignment will be needed between Council and the entity to ensure that the priority and timing of investment fits our fast-growing city's needs.

Removing the debt associated with three waters infrastructure from councils' balance sheets would allow investment in other infrastructure required to enable growth, but there would need to be certainty that the three waters component of that equation would be delivered when and where needed.

1.12 Improvements to the proposed model

If the proposed reform proceeds, TCC would want to negotiate safeguards to ensure that there would be a fair transfer of debt and hedging arrangements.

A clear roadmap is required to demonstrate how TCC's workforce capability would be retained and developed through the reform process.

The potential for community and economic wellbeing impacts, as a result of any misalignment of investment priorities and timing, must be addressed through governance arrangements and the entity's terms of reference. Our community needs assurance that investment will be available to cater for growth through new housing development, intensification within the city's existing footprint and redevelopment of the inner city.

1.13 Key issues and challenges

Key issues to be addressed if the reforms progress as proposed include:

- The development of measures to deliver accountability to the community;
- Action to address the governance concerns highlighted earlier, and in the following community feedback section;
- Assurance that the potential impacts on Council and the community will be addressed;
- Assurance that any potential for future privatisation will be specifically excluded;
- Assurance that the city's growth and development needs will be met;
- Integration of spatial planning processes between councils and the entity.

1.14 Key benefits of reform

TCC believes three waters reform has the potential to enable sustainable, affordable and consistently high-quality waters services on a national, entity and local council level.

Removal of current and future three waters debt from TCC's balance sheet would strengthen Council's financial position and might allow us to better deliver other services, infrastructure needs and four wellbeing benefits to our community on a long-term, sustainable basis.

2. COMMUNITY FEEDBACK

To keep our communities informed, TCC created a Three Waters Reform webpage providing the information available on the reform proposal and providing links to relevant content on the Department of Internal Affairs website, for those who wanted further detail. We also provided a survey for people to record their support, opposition or concerns. This took the form an undirected expression of opinion.

The survey opened on 18 August and closed at 5pm on Monday, 27 September. During that period, 295 individual responses were received.

2.1 Analysis of overall support or opposition

Responses were classified into those that clearly supported or opposed the proposed reform, with a third category being people who expressed concerns or had unanswered questions, but did not express a view on whether the reforms should or should not proceed.

Note that the percentage calculations below re rounded to the nearest whole number.

Total responses received	295	100%
Supportive of reform	16	5%
Opposed to reform	183	62%
Conditional responses with expressions of concern	96	33%

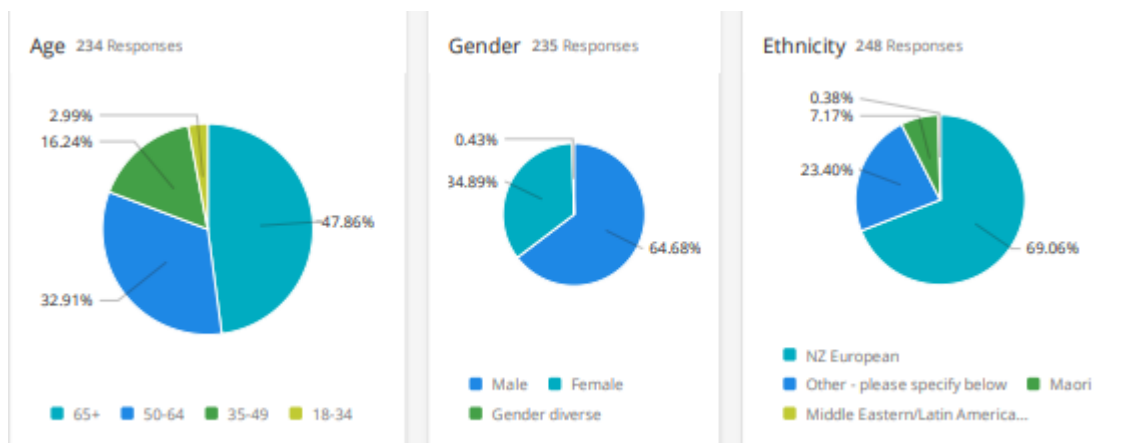
2.2 Survey results

<i>Response themes (in order of frequency)</i>	<i>Number of responses</i>	<i>% Respondents</i>
Referendum required to determine participation	89	30%
Concerns relating to iwi input or control	79	27%
Loss of local say/control/accountability	78	26%
Concerns about the efficiency and cost of services	61	20%
Tauranga has good infrastructure and should continue to provide its own waters services	57	19%
Assets belong to ratepayers and should not be taken	55	18%
Lack of trust in Government	49	16%
Concerns about undemocratic process/role of unelected commissioners	45	15%
Assets should be paid for in full	44	15%
Lack of consultation/information	30	10%

Other concerns expressed included: concerns about increased bureaucracy (9% of respondents); the potential for future privatisation (6%); rushed process (5%); insufficient business case for reform (3%); and that rates will not decrease and ratepayers will end up paying twice (3%).

2.3 Survey demographics

Demographic information relating to the survey responses is set out in the graphics below.



2.4 Direct contacts with Commissioners or Council

A number of people also contacted Commissioners or the Council directly to express their views. Up until close of business on Monday, 27 September, 84 direct contacts had been received. Of these, none supported reform; 67 (80%) opposed reform; and 17 (20%) had unanswered questions or concerns, but did not express a view on whether reforms should proceed.

The range of concerns expressed was very similar to that evident in TCC's online survey responses, as indicated in the table below.

<i>Response themes (in order of frequency)</i>	<i>Number</i>	<i>% contacts</i>
Referendum required to determine participation	63	75%
Concerns about undemocratic process/role of unelected commissioners	26	31%
Concerns relating to iwi input or control	22	26%
Loss of local say/control/accountability	19	23%
Lack of trust in Government	13	15%
Tauranga has good infrastructure and should continue to provide its own waters services	10	12%

2.5 Conclusions from community feedback

Because it relies on the unprompted views of interested people, the online survey information presented above does not provide certainty that the levels of support/opposition and concerns expressed are representative of the wider community.

However, the feedback provided is comprehensive and highlights the issues which will need to be addressed in future community engagement.

Key matters which the community will need to be better informed about include:

- What opportunities there will be for communities to have input into councils' involvement in three waters reform (formal consultation/local or national referendum)
- How the governance arrangements will work, including the role of iwi
- How councils and local communities can influence entity decision-making
- Entity ownership
- Transparency around the ownership and transfer of assets
- Transparency around 'better-off' payments, including the rationale for payments
- Future service costs.

3 TE RANGAPŪ MANA WHENUA O TAURANGA MOANA

Te Rangapū Mana Whenua o Tauranga Moana is an independent advisory committee of mandated representatives nominated by 17 iwi and hapū in the TCC area. They have had a very short period of time and hold the same concerns about a lack of clarity and information. Their feedback should be taken as a snapshot of progress to be revisited on a regular basis. Notwithstanding this, Te Rangapū has formally indicated support for the TCC response, with additional feedback below.

Tangata whenua confidence is dependent on delivering the co-governance and decision-making participation that has been promoted by Central Government and Council. Current confidence is reasonable, given the recent actions of the Commissioners, and that difference should be noted.

The timeline puts extraordinary pressure on tangata whenua, especially with the trickling down of information and resourcing. Tauranga Moana acknowledges roles for both iwi and hapū so canvassing feedback across 17 entities is not an easy task in the timeframes provided. The lack of certainty and clarity also makes the timelines difficult to gauge.

Please note that the use of a Māori name for the regulator can mislead that the entity is Māori-led or owned, and this causes confusion. The sooner Māori participation is clarified, the better understood the role of the regulator will become.

Tangata whenua participation in governance remains unclear and we are therefore unable to gauge appropriateness. This lack of clarity also leads to pressure on tangata whenua by those who find the uncertainty threatening. The signals are encouraging, but the proof remains to be seen. The strong support for mana whenua inclusion by Council is duly noted and appreciated.

Due regard needs to be given to the principles previously advocated as key issues for Tauranga Moana (as outlined earlier) and these can only be truly governed by direct participation. As such, tangata whenua representation and participation needs to be clarified.

As per the Council response, appropriateness of the proposed Entity B at a tangata whenua level is as yet unknown and we respect that some iwi leader conversations are taking place. We also note that the first principle advocated previously through to Wellington and the Commissioners was to take due regard of tangata whenua relationships and the size of the entity area immediately puts this principle under pressure.

Tangata whenua see great opportunity in a more environmental-focused management of stormwater reserves, rather than them being treated as private property by neighbours, for example.

We acknowledge that there has been engagement with at least some iwi, as confirmed by the Ngāi te Rangi representative. However, hapū engagement has been harder to confirm and the communication from DIA to Council has not assisted in closing the loop, making it harder for Council to support these engagements. As such, Rangapū acknowledges the engagement efforts, but if the question is whether this is fit for purpose and proper, then there are significant gains to be made.

There is a high degree of uncertainty across the community. We commend the efforts of Central Otago Council with their videos and encourage both Central Government and Local Government to follow that lead on communication channels and style.

We do wish to note that layers of protection for Māori interests are always valuable, although we acknowledge an Ombudsman service is available generally, without necessarily the need for a specific Water Ombudsman.

Finally, despite the tight timeframes, Te Rangapū Mana Whenua o Tauranga Moana expressed their gratitude to the Commissioners and Council for committing to input from tangata whenua. It is in keeping with the LGA and more importantly, demonstrates a commitment to actually improving participation directly. With the recent ramping-up of demands for consultation, we will rely on fair distribution of resources to support proper consideration and feedback that helps avoid compromising tikanga. We are committed to working with Council to keep improving in this space, with a view to giving the highest quality feedback possible.

In addition, Te Rangapū has indicated the following key issues from their perspective.

- Have a commitment to bringing into action the principles of Te Tiriti o Waitangi.
- Ensure regionalisation takes proper account of natural Māori alliances.
- Discharge to whenua is more appropriate than discharge to wai – how will reforms bring priority to this tikanga?
- Protect kaitiakitanga – iwi and hapū must be supported to maintain guardianship over their taonga – including flora and fauna.
- Prioritise supporting the utilisation of Māori land in the delivery of infrastructure, now and into the future.
- Plan for better alignment with the natural form and function of the taiao.

On behalf of Tauranga City Council and the Tauranga community,

Anne Tolley
Commission Chair

Marty Grenfell
Chief Executive