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Tēnā koe e te Rangatira

Three Waters (3W) Reform Programme

Thank you for providing the information on the reforms and the model that was utilised to inform the case for change.

I send this with the full support of our Councillors with the hope we will receive prompt feedback and detailed answers to our questions. There is growing community interest about the reform and we need to, not only satisfy ourselves, but, more importantly, have accurate information to engage with our community.

Ōpōtiki District Council (ODC) owns and operates Three Waters Assets to serve the local community. The assets have been paid for by the community over many years, mainly through rates, fees, and charges. Council has an obligation to the community to ensure we empower them with information to make an informed decision.

Council fully supports that there is a need for change in the way Three Waters are managed. Ōpōtiki has responded to this need with approximately $52.5 million of investment being allocated in the Ōpōtiki District Council 2021-2031 Long-Term Plan (LTP) for Three Waters. This investment aims to improve drinking water safety, wastewater treatment, and reduce flood risks in our District.
We also support the need for an independent water authority but think that this reform should take place first, before any other changes are made to the way Councils deliver the three waters.

The Three Waters reform programme has the potential to significantly change the way critical water infrastructure and services are delivered in our District. So much of our data was given (in good faith) when asked by DIA for the request of information but before we had revalued. The data put back to us from DIA does not reflect our information put forward.

As part of our due diligence Council commissioned an independent review of the financial modelling that has been undertaken by the Department of Internal Affairs (DIA). Through this process many questions have risen about the data used to inform the case for change. How can we make such a big decision on behalf of our community with so few answers to relevant questions raised?

There are major assumptions within the model that have been flagged as risks to its accuracy, specifically to Ōpōtiki. For example, the model includes enhancement investment of over $300M within the 30-year modelling horizon. Our total asset replacement value is only $86M. We discharge our effluent to land and our water is predominantly sourced from bores. We have estimated our liability regarding private schemes and the figures presented in the model, for enhancement, are significantly higher than our assessment.

The reason we raise this specific example is that this may not be isolated to Ōpōtiki and there may be a risk that the model has overestimated the enhancement costs across all of New Zealand.

The Mayor, Chief Executive and Three Waters Lead attended a Hui in Taupō on Thursday 5 August 2021 for councils who have been grouped in the proposed Entity B. It was well attended and informative. There was consensus that change is required but there was evidence that this is already happening with a significant increase in Three Waters investment in Entity B council's 2021 LTPs.

The gap between the 2021 LTP investment uplift, already made by councils, and what really needs to be done on the ground to sustainably manage Three Waters locally, may be closer than that reported in the Water Industry Commission for Scotland (WICS) model.

These insights have prompted questions which have been articulated below. Please provide in depth responses to each question. Thank you and we look forward to your prompt response.

Thank you.

Yours faithfully

Lyn Riesterer
MAYOR

ŌPŌTIKI DISTRICT COUNCIL DUE DILIGENCE QUESTIONS

Introduction

The preliminary review of Department of Internal Affairs (DIA) Three Waters (3W) reform proposal and the dashboard financial model has left a number of unanswered questions. Before the Council can make an informed choice on whether to support 3W it needs better information in the following:

1. Implications for the Council organisation structure and finances.
2. Implications for the citizens and ratepayer of the Ōpōtiki District.

The Council recognises that there may be an inherent conflict between these perspectives and there may be elements of the reform that are good for the citizens but bad for the Council organisation and vice versa.

Due Diligence Examination Questions

1. How does the government plan to engage with local Iwi and what will the government do if Iwi do not agree with the proposed reform?

2. What engagement has DIA undertaken with Mana Whenua, specific to Ōpōtiki?

3. Why were Councils not given the opportunity to work in partnership with DIA prior to the release of the dashboards on 30 June, as per the Memorandum of Understanding (MOU)?

4. How will the provision of 3W assets be linked to development within the Local Government Act (LGA)?

5. The 3W assets held by the Ōpōtiki District Council (ODC) are both the Council's property and public property of the citizen and ratepayers of the Ōpōtiki District. The Council's assets (and the associated property rights) are constitutionally protected from confiscation by the Crown. If the Crown wishes to take the Council's 3W assets for a public purpose, then it must pay fair compensation in accordance with the long established Principle of Equivalence under the English common law doctrine of "Eminent Domain"

   Please comment on why it is not proposed to apply "Eminent Domain".

6. Considering Three Waters are New Zealand's second biggest asset in Land Assets (after roads), how is the Office of the Auditor General (OAG) involved in the reform process?

   Furthermore Water Industry Commission for Scotland (WICS) have used averaging assumptions based on Australian and United Kingdom data. What is the quality (confidence and reliability) of those datasets to allow for an appropriate comparison?

7. We understand that the Entity will own the 3W assets. Please provide details to support the statement that Councils will still own the assets.

8. This does not appear to be the case as Councils will not be able to show them on their balance sheet or assert any direct control over the assets or services within their District. This does not appear to meet the definition of ownership.

a. Does DIA have legal advice to support the statement that the assets will remain in Councils' ownership, and can we have a copy of that advice confirming the proposed model meets the legal definition of ownership?

9. How will the priorities of each community be taken into account by the proposed Entity?

10. How will communities be able to influence or have a say in decision-making of the proposed Entity as they do now?

11. In the new Entity six Council and six Tangata Whenua representatives are proposed - how was this number decided?

12. What are the implications for the proposed reforms if some Councils opt-out, including governance and compliance compared to opt-in?

13. Is there a risk to Councils who for now choose to sit on the fence because of a lack of clarity and fair concerns raised of losing the "better off' funding?

14. There are examples overseas where Councils / water authorities effectively and sustainably manage 3W. If Councils determine that this is a model more aligned to them will DIA work with Councils to achieve this?

15. There is significant investment proposed to be delivered by the entity which will attract Tier One contractors and consultants. How will profits be kept in New Zealand and not taken offshore? Although there may be some inefficiencies using local contractors the profit is generally spent in the local economy and not taken offshore or out of the region.

16. How will the water entity know what the future water needs are within Ōpōtiki District?And how will that link with Councils' strategies?

17. Can you please clarify what process was undertaken to confirm that the proposed model is the best fit for Ōpōtiki?

18. We want to understand the source of the efficiency improvement from amalgamation of the antecedent entities into Scottish Water:

    a. In the three years prior to amalgamation what were:

        i. Disaggregated cost of goods sold, operating costs and selling general and other for the antecedent entities?

        ii. Capital expenditure costs for the antecedent entities?

    b. Since amalgamation, what have been the costs and capex that correspond to (a)(i) and (a)(ii) above?

    c. Please provide any independent studies of the efficiency improvement.

    d. Please provide Management Discussion and Analysis (MDA) of the efficiency improvement.

19. What are the key assumptions underlying the predicted 45% efficiency gain by 2051 and how have these been determined in the Ōpōtiki context?

    a. Please provide analysis that shows the percentage gain attributed to each component of the assumptions.

    b. Has modelling been done on the timeframes when the efficiencies are provided? Please provide the modelling of the costs and efficiencies broken down over time. What are the assumptions that underpin the efficiency profile?

    c. Do these assumptions recognise the efficiency gains that have already been achieved by the sector through amalgamation of schemes, use of technology, procurement processes, Ministry of Business, Innovation and Employment (MBIE) procurement and operational efficiencies (including Supervisory Control and Data Acquisition [SCADA], network BAU self-management, and generator optimisation)?

    d. Are the factors that make up the efficiency gains only achievable through the new entity scenario? Or can some of the efficiencies proposed be gained under the current model?

    e. How has our context been considered in efficiencies?

20. Currently there are efficiency gains having all asset classes managed by Council. The splitting of assets e.g. 3W and Roads, will require additional resources to travel to remote locations to deliver similar services. Currently one Council officer delivers both 3W and Roads services to our remote locations.

    a. Please confirm the quantity of this loss in efficiency specific to Ōpōtiki and to all New Zealand councils?

    b. Has this efficiency loss been accounted for in any modelling?

21. What adjustments are proposed to the DIA top-down model for geographic differences around the country and in comparison, to Scotland?

22. Why is it considered appropriate to apply the methodology based on population used in Scotland to New Zealand, when New Zealand is over three times the size of Scotland in land mass with Scotland more densely populated in narrow corridors?

23. Why has a factor of 2.7 people per household been applied over the population to determine the number of households? This is not consistent with 2018 census information for Ōpōtiki which suggests 2.84.

24. In Scotland there is a connection rate of 95%.

    a. How is a 95% connection rate achievable in the New Zealand setting?

    b. How has this been considered in the WICS model?

   c. How is this achievable in Ōpōtiki when our population density is only 3.2 people per km square?

25. How has water usage between Scotland and Ōpōtiki been considered?

26. Council's Long Term Plan (LTP) sets out its intentions for water and the underpinning assumptions:

    a. What adjustments to the LTPs are needed to reflect extra capital expenditure and operating costs required by the following:

       i. Higher future drinking water standards?

       ii. Higher future service levels to households?

       iii. Higher future wastewater and storm water standards?

       iv. Private water schemes?

       v. Growth higher than assumed by Councils?

       vi. Replacement of aged end-of-life assets?

       vii. Deferred earthquake damage repairs?

27. With reference to the Ōpōtiki 2021 LTP, what specifically have you determined that Ōpōtiki cannot afford to deliver?

28. The reforms seek to improve the national management of 3W. Councils have an obligation to its community, ahead of the national interest. If the data presented by DIA does not support the transfer of our assets to a new entity, the community may not support the reform.

    a. What is the government's position if the evidence confirms that the reform is not in the Councils best interest?

    b. Will the government accept this position and work with specific Councils to come up with an alternative model that still achieves the targeted outcomes?

29. The proposal will remove from the Council around a quarter of its revenue and assets.

    a. What is the assessment of the impact on the Council's creditworthiness and ability to borrow?

30. In Scotland, storm water is not managed by Scottish Water. Instead, the 32 Councils manage storm water and flood control etc.

    a. Why is it proposed to include storm water and separate it from flood control in the proposed 3W reform?

    b. How has this been accounted for in the WICS modelling and how has costs been assessed?

31. Scottish Councils are all unitary authorities so carry out more functions that district Councils in New Zealand. The three smallest, Highland, Shetland and Orkneys are much bigger by population than the smallest councils in New Zealand.

    a. What consideration has been given to the organisational sustainability of New Zealand's small Councils without their 3W functions?

32. Scottish water was formed by the amalgamation of three (large) antecedent water authorities. There was no preceding demerger of water-related functions:

    a. What consideration has been given to the legal, technical and managerial implications of demerger of 3W functions on a council-by-council basis?

33. The Mayor, Chief Executive and Three Waters Lead attended a Hui in Taupō, Thursday 5 August 2021 for Councils who have been grouped in the proposed Entity B. It was well attended and informative. There was consensus that change is required and there was evidence that change has already been planned by a step change increase in investment in Council's 2021 LTPs. This shows that Councils have responded to the need for change.

    a. Please confirm what the total 3W investment is, for all Councils, as reported in their 2021 LTP?

    b. Please confirm the difference in this investment from the 2018 LTPs?

    c. Has this uplift in investment by Councils been considered in the determination of what level of change is required?

34. It has been indicated that there is no guaranteed cross subsidy figure that will be applied across the new Entities.

    a. Can you please confirm what the cross-subsidy amount will be for Ōpōtiki if it is included in Entity B?

35. DIA have indicated that current staff, who work on 3W, will be retained in the new Entity and located within Ōpōtiki. This is very important because these positions offer a range of local employment opportunities for the district and provides locals, particularly school leavers, skilled employment opportunities and pathways. These roles ensure skills such as engineering and water experts are retained in the district and locals who wish to take this career path have the option to do so locally.

    a. Can you please confirm what the guaranteed period of employment will be following the formation of the new Entity?

    b. Can you confirm if the Entity will have a local office operating within Ōpōtiki District which will house the staff?

    c. Will customers have access to this office to visit and ask questions as they can in the current Council owned and operated delivery model?

d. Can you please confirm what the additional 9,000 jobs are that are proposed to be created by the new Entities? Please provide the detailed breakup of what the skills and job types are that make up the 9,000 jobs.

e. Please confirm how many new jobs are proposed to be created in Ōpōtiki?

f. Please confirm how many jobs will be lost through stranded overheads, assuming councils cannot fund these positions after the end of the transition period?

g. The modelling predicts an efficiency improvement of 45%, what guarantee is there that the Entity will not cut jobs to aid in achieving this 45% target.

h. What guarantee is there that the Entity will not restructure and remove jobs from Ōpōtiki after they have formed?

i. Will executive or senior management positions be retained within Ōpōtiki to ensure there are executive and senior career pathways available for local professionals?

36. The dashboard analysis presented gives the impression that the figure shown is what each household will be charged on an annual basis (currently as rates), under the reforms as a water bill.

    a. In the calculations informing the dashboard it is assumed that 70% of required revenue will come from households. Does this 70% of income from households therefore exclude:

        i. 3W Rates from Commercial and Industrial Properties?

        ii. Income from Development Contributions (DC/DCs)?

        iii. Rural Properties (Farms)?

    b. The dashboard figure also includes cost for growth-related infrastructure that is paid for by Development Contributions. Are these, and/or third party contributions, factored in to the amount payable by each household (shown on the dashboard)?

    c. Will the Entity set up and charge Development Contributions for new infrastructure to serve growth? Or will this be added to and paid as a rate? This is important to understand in order to understand the difference between what is referred to as a 'household' vs. each connection cost.

    d. How has a cost increase of 60%, 40% and 30% from 2022 to 2024 been determined? Please provide assumptions and calculations.

    e. How will the cost of Level of Service improvements be funded?

    f. Please provide details of the proposed capital and operational works that will be carried out in Ōpōtiki District that are over and above what is currently forecast in our Long Term Plan and Infrastructure Strategy.

g. Has the increased level of service been quantified and defined both for our District and Entity B?

h. From the Roadshow provided by the DIA, it is understood that the Councils will be the collection agency for revenues, including rates, post 1 July 2024.

   i. If this is correct, what revenue streams can Councils expect to recover from set-up costs to collect revenue and debt collection?

   ii. How long are Councils expected to support revenue collection and systems to support the new Entities?

   iii. Specifically, please confirm whether depreciation will be built up in renewals accounts under the proposed model? We ask as this will make clear if there will be funding available at the end of the asset life to replace it.

   iv. Or, alternatively please confirm whether this cost will not be funded now and will be left for future generations to pay for by taking out loans to fund renewals at the time of replacement?

i. What credit rating will the proposed Entities achieve, and what is the credit rating used by DIA in their comparison of what is achieved via the current Local Government Funding Agency (LGFA)?

j. We understand the Entity will have limited ability to tax which LGFA currently rely on for good credit rating.

   i. How credible is it, without an express guarantee from local government?

   ii. If it is could the gains be achieved by giving the same guarantees to local authorities?

k. What is the expected LGFA credit rating going to be, post Three Waters services and assets being transferred to the new entities? Further detailed questions include:

   i. What are the 'cost of lending' assumptions for the new Entity, including the respective interest rates compared to those being used for Councils as displayed in the dashboard figures?

l. It appears that Debt to Revenue forecast uses different parameters to those used by Standard & Poor's Global Rating and LFGA particularly in the determination of revenue. How has the revenue number been determined to calculate the Debt to Revenue ratio?

m. Why have Debt to Rates as well as the Debt to Revenue formula and other ratios that the Credit agencies and LGFA use to provide affordability and credit worthiness not been followed in presenting the information?

37. In relation to Performance Indicators, we note that ODC has been assessed at Level 3 of the four levels which indicates 'performing in line with expectations'.

a. Can the parameters, weightings, underlying information and assessments be provided which have been used to determine our performance indicator level?

b. How has the current performance of ODC been compared to the assumed performance of the new entity?

c. What KPI measurements have been used to assess this?

d. What capability deficiencies specifically relate to Ōpōtiki?

38. Is Great Britain's starting base considered the same as New Zealand's current state in terms of infrastructure condition and estimated value of investment?

39. Please confirm whether Ōpōtiki will receive any further financial information or analysis specific to our District, or the proposed Entity B? Information we are seeking includes:

    a. Detail on the breakdown of the extra-investment required in our District, other than what has been derived from the Scotland example?

40. Can you provide rationalisation, evidence and source for stating an ideal population of 600,000 to 800,000 for each entity?

41. In determining a cost benefit analysis for a transfer of assets to the new entities, has the MBIE Business Case model been followed?

42. How does the reform propose that storm water discharge be managed within the urban environment? Specifically where run-off from private sections discharges to the network, often via the road, in addition to road run-off that also enters the drainage network via kerb and channel. It is difficult to delineate the two discharges occurring within the same environment. Would private storm water be required to be separated from roading storm water discharge?

43. Is the extra spend across New Zealand for drinking water, sewage treatment and storm water infrastructure and treatment predicated on all properties, whether urban or rural, receiving the full 3W services?

    a. For Ōpōtiki this would be a considerable extension to the services provided at present. In other words, is the scope of the 3W Reform to deliver the present 'urban-standard' infrastructure across the entire District and the entire country? And to bring the discharges from those water services up to a standard which meets the National Policy Statement for Fresh Water (NPS FW) 2020?

44. Will the proposed 3W Entities ensure all fresh, marine and groundwater receiving environments meet the NPS Freshwater 2020? If not, what is the contaminant level for fresh, ground and marine receiving waters inherent in these reforms and where can we find this information?

    a. Does the cost allowance in the dashboard include achieving NPS Freshwater standards for all waterways in New Zealand?

45. How will local contractors, who are currently engaged with Ōpōtiki, either via a term contract or ad hoc engagements, be impacted by the reform? How will the capacity of local contractors be retained in Ōpōtiki?

46. How will the centralised entity ensure there is not an increase in response times locally?

47. How does the proposed reform manage the risk of a lack of ownership and coordination between different agencies? For example storm water assets which inherently include private structures, council structures, road structures, regional council structures. This will make it difficult to coordinate. How will the customers experience be managed effectively when faced with this complexity?

48. Currently Councils have oversight of household costs and the ability to pay.

    a. How will this be managed when 3W will be separated from Council and managed by a separate entity?

    b. What happens if communities no longer can afford to pay for all the services?

    c. Who needs to cut costs, the Entity or Council?

49. Technical jobs will be removed from Council. How will technical jobs be retained locally?

50. How will Councils stay viable if support services such as finance, communications, HR etc leave Council to work in the new entity? What consideration and processes will be provided to manage this risk?