

2 July 2021

Hon Nanaia Mahuta  
Minister for Local Government  
By email: [nanaia.mahuta@parliament.govt.nz](mailto:nanaia.mahuta@parliament.govt.nz)

Dear Minister

**Re: Better water is better for everyone | Three Waters Reform Programme NZ**

Further to providing feedback to your officials in DIA, I have reflected on whether I should proceed to lodge a complaint with the Advertising Standards Authority for the advertisement that has been playing on television in support of the three waters reform programme.

I am aware that several of my colleagues have since raised this with you. I have seen your reply to Mayors Broughton and Cadogan, which unfortunately misses the mark when it comes to the television advertisement potentially breaching the trusted relationship we have built up with you.

I have looked at all the material online and there is no concern with the overarching programme, which is in fact the government's case for change:

*The Three Waters Reform Programme is a major, intergenerational project. It aims to ensure that New Zealand's three waters—our drinking water, wastewater and stormwater—infrastructure and services are planned, maintained and delivered so that these networks are affordable and fit for purpose. The current situation does not achieve this.*

*Today, on behalf of their communities, 67 different councils own and operate the majority of the drinking water, wastewater and stormwater services across Aotearoa.*

*Our plan is to establish a small number of new publicly-owned multi-regional entities that benefit from scale and operational efficiencies and reflect neighbouring catchments and communities of interest. Central to this plan is our ongoing partnership with the local government sector and mana whenua.*

*We're taking a long-term view, building a system that will deliver better health and wellbeing outcomes for our communities and that protects our environment for generations to come.*

However, it is the television advertisement, ([https://youtu.be/1c1RF\\_DeuK8](https://youtu.be/1c1RF_DeuK8)), which is patronising, inaccurate, scare-mongering and borders on prejudicial stereotyping.

*“Imagine Aotearoa without water. What a stink as place that would be. Trout would be grumpy, boating no fun, and dirty ducks a sad sight to see. Mean as manus wouldn't be mean, showers a complete waste of time, bathrooms would be just rooms, togs just undies, and our awa all filthy with slime. That's why we've got a plan because we're water's biggest fan. So let's make it better than fine. Better water is better for everyone.”*

As I said, the broad message of the campaign are unquestioned.

*“All New Zealanders deserve safe, reliable and affordable water services that support good health and sustainable environmental outcomes. But Aotearoa's drinking water, wastewater and stormwater – our three waters – networks **are facing a crisis** and will continue to do so without big changes. The Government is proposing to build a better system for our three waters that is still owned by the communities it serves.”*

Unfortunately, with the television advertisement, which was not shared with the national Steering Committee or LGNZ before release, a totally misleading picture, albeit inadvertently, has been created. This cannot be the backdrop to our conversation with our communities.'

We are not facing a crisis that would see our country without water and all our rivers filthy with slime.

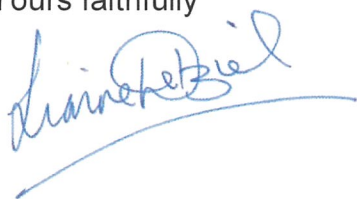
The looming crisis relates to the new drinking water and freshwater standards and the differing levels of investment in our infrastructure that would enable us to meet them. Gaining the reassurance the government requires, is hard to address across 67 different councils.

My point is that you have a case. However, the advertisement stands in the way of an honest and open appraisal of the best way forward for each council and New Zealand as a whole.

We are all committed to working through what is a massive challenge.

I urge you to withdraw the TV advertisement, or at the very least re-write the script so that it focuses on the real issues.

Yours faithfully



Hon Lianne Dalziel  
**Mayor of Christchurch**

# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



19 August 2021

Hon Lianne Dalziel  
Mayor of Christchurch  
Civic Offices  
53 Hereford Street  
Christchurch 8011

Tēnā koe Lianne,

## **Better water is better for everyone | Three Waters Reform Programme NZ**

Thank you for your letter of 2 July 2021 regarding the Three Waters Reform Programme public information and education campaign (campaign). I appreciate the time you have taken to bring your views on this matter to my attention. I am heartened by your continued engagement on, and support for, addressing the major challenges we face to ensure our three waters services are future-proofed, affordable and fit for purpose.

Unfortunately, as I'm sure you are aware, many New Zealanders take our drinking water, wastewater and stormwater services for granted. While good quality water continues to be a top issue for most, many do not see or understand the challenges our three waters networks are facing and will continue to face if we do not address these.

The public information and education campaign was conceived to address this so that New Zealanders appreciate the context and need for these major reforms. Local government representatives on the Central/Local Government Steering Committee firmly advocated the need for the government to communicate with the general public on the reforms.

The campaign itself asks New Zealanders to imagine a future without good water and seeks to find the sweet spot between using common tourism-type images of pristine rivers and lakes and confronting images that show actual pictures of the worst of New Zealand's water outcomes. The animated approach was chosen to achieve maximum cut through in a space crowded with issues calling for New Zealanders' compassion and care and it translates easily across different demographics, from age groups to ethnicities. It takes a quirky approach to a dry and difficult subject matter.

The campaign has been designed to create a sense of shared responsibility and to look at the issues from a New Zealand-wide perspective, centred around the message that 'better water is better for everyone', to emphasise that the challenge, and the solution, relies on all of us coming together to address the issue.

The campaign is divided into phases. Phase one of the campaign was designed to raise awareness of the issues while building a greater understanding of and support for the reform programme. The television advert you refer to in your letter is from Phase one and is no longer in rotation.

Phase two of the campaign communicates key Government decisions. I agree that the challenges are primarily about infrastructure and services, but also that in many places, poor wastewater and stormwater network performance does affect water bodies. Specifically, the second television advert is focused on such infrastructure and supports the Government's policy proposal to establish four new multi-regional water services entities.

As a matter of record, the creative agency that developed the visual material presented the key concepts, characters and the developing script to the Central/Local Government Steering Committee. In response to feedback from local government about the campaign, key local government representatives were also shown the final video for the second television advert and script changes were made after working with them.

The campaign is not intended in any way to denigrate local government in its stewardship of our three waters services, nor the efforts of the many dedicated council officers throughout the country committed to this mahi. To date officials have not had any indications from the general public, at whom the campaign is aimed, that it has been interpreted in this way.

That said, as Minister of Local Government, I hear your concerns and I want to assure you that officials will continue to work with key representatives of the local government sector to ensure that their inputs and advice are heard, and that future material is focused on our shared objectives.

Again, I welcome your continued commitment to addressing the challenges in front of us and I sincerely hope that we can continue to work together to give these reforms the best chance of success.

Heoi anō



Hon Nanaia Mahuta  
**Minister of Local Government**

16 September 2021

Hon Nanaia Mahuta  
Minister for Local Government

By email: [n.mahuta@ministers.govt.nz](mailto:n.mahuta@ministers.govt.nz)

Tēnā koe Minister,

## Re: Q + A Three Waters Interview 12 September 2021

I am sending you this letter after having watched your interview on Q+A on Sunday, which traversed Government's decision-making on the Three Waters Reforms. It was your response to the question regarding mandating the Three Waters Reform proposal that has led me to write ahead of our Council's formal feedback, which we will confirm at a meeting on 27<sup>th</sup> September. It sounded as if Cabinet could make the decision to mandate next month, which would be a mistake in my view.

In January 2020, Cabinet agreed to continue to support local government making voluntary changes to service delivery arrangements and set a one-year deadline by which the local government sector needed to demonstrate that it had made progress with voluntary reform.

At that time, we were completing a Section 17A review of our Three Waters service delivery, as well as working collaboratively with the Canterbury Mayoral Forum looking at regional and multi-regional models of service delivery options. We have also worked collaboratively with Ngāi Tahu to ensure that any model gives meaning to their rangatiratanga over the takiwā (see our draft shared priorities attached).

COVID-19 intervened, and in April, the Government called for 'shovel-ready' projects in order to keep the wheels of industry turning throughout the country. As part of our feedback, we shared our experience of the post-earthquake cost-sharing arrangements, which included water and wastewater infrastructure (60%/40%). We said in our letter to Crown Infrastructure Partners:

*"It would be enormously helpful if Government could be advised to rethink the issue of cost sharing arrangements for Three Waters in the light of what has occurred, and the major benefits that could accrue nationally in terms of our Three Waters infrastructure."*

It was in July that we were invited to sign a Memorandum of Understanding (MOU), which gave us access to stimulus funding for Three Waters, in return for a commitment to work constructively together to support the objectives of the Three Waters service delivery reform programme.

We were reassured by the statement in the MOU that any changes would *“provide for the exercise of ownership rights in water services entities that consider the interests and wellbeing of local communities...”*.

Balance sheet separation was identified in the MOU, but it wasn't apparent that this was the single-minded focus of the model, (as well as the protections against privatisation such valuable assets would require), until this year. It is this model that strips all councils (and thus their communities), of the control of and decision-making about their Three Waters assets, regardless of the standards they are either meeting or capable of meeting in the future.

You made it clear on Q+A that Cabinet will make the decision as soon as you have all councils' feedback. Hence this letter.

When you received your first report from DIA (November 2017) on the Three Waters Review initiated by the previous government, you were told that the information they had reviewed suggests that *“many councils are delivering high quality water services that comply with requirements, are monitored and managed by capable people, and subject to effective governance and decision-making processes”*.

Christchurch is one of those councils.

We have invested heavily in our drinking water, wastewater and stormwater systems.

I want to share what this means to a large number of our residents by using the example of an issue that has not been resolved despite us raising it at every forum.

We decided to bring forward a major upgrade to our wellheads to bring them all above ground so as to meet the increased obligations imposed after the Havelock North incident. We were required to chlorinate our drinking water, and were gradually removing it, until the regulator stopped signing off on the removal.

We understand our obligations to provide safe drinking water. We always have. Because our source of supply is from our aquifers, we have always taken a multiple barrier approach, which includes a level of testing that far exceeds our legal obligations.

We have introduced even more protections to ensure that we provide safe water. Despite this, we have before us a model that prevents us from requiring the new water delivery entity from working towards or maintaining an exemption from mandatory residual disinfection (as provided in Water Services Bill). This is unacceptable.


It is in fact one of the reasons that our communities are becoming increasingly agitated by the threat of losing all say over Three Waters assets. They know how much has been invested. This will feel like central government is telling them that they are not entitled to value the quality of the drinking water alongside its safety.

We also have a serious issue with the inclusion of stormwater. In the MOU we were told that the delivery of drinking water and wastewater services was the priority, with the ability to extend to stormwater service provision only where it would be “effective and efficient” to do so. There has been nothing provided to us to date that in any way substantiates such an approach. I will deal with this when I write formally.

In summary, I believe the multiple calls for a pause in the reform process have really arisen in response to the proposed model, along with the order of reforms. There is no question that the future for local government needed to lead these and the RMA reforms. Our communities were told they would be consulted after you had led a public advertising campaign which would explain the reforms. You already have my views on that advertising campaign. If Cabinet were to mandate, when it was you who indicated that we could opt out after consulting with our communities, there would be a significant loss of trust. There are other ways of bringing about meaningful change and introducing co-governance.

As I said, Councillors will be considering these issues on the September 27, but I didn't want to leave you with the impression that we have not been working hard to engage with the reform process and have done so in good faith from the outset. We are expecting that good faith to be honoured.

Ngā mihi nui



Hon. Lianne Dalziel  
**Mayor of Christchurch**

CC Hon. Megan Woods

Attachment – Draft Entity D Shared priorities

18 February 2022

Hon Poto Williams  
Executive Wing Parliament House  
WELLINGTON

By email: p.williams@ministers.govt.nz

Dear Minister

I am writing to you to respond to the comments you made on the radio on Friday 4 February and in the Press the following Monday in relation to the Council's delivery of drinking water and wastewater services, and by implication, stormwater services.

Although I originally assumed you were speaking as a local Member of Parliament, you were specifically challenged about your comments by the host as a Cabinet Minister. You did not question that status, so I am writing to you in that capacity. I am hoping that what you said did not reflect the government's view of Christchurch's Three Waters services, so I will be seeking a response from the Minister for Local Government as well.

There have been many inaccurate and inflammatory comments made in relation to the Three Waters' Reforms by a range of Mayors and councillors throughout Aotearoa, and I excuse none of them. I have personally played the issues with a straight bat, seeking to focus on the need for reform at the same time as critiquing elements of the particular model chosen. As you know, I am participating in the Ministerially appointed Working Group on Representation, Governance and Accountability of new Water Services Entities in good faith, even though the Council itself voted by majority to join a splinter group of Councils opposing the reforms.

This is a time for constructive debate, and I am concerned that your comments have added fuel to an already highly charged environment.

Given that I have personally briefed local MPs on several of the issues you raised, I am very disappointed that you chose to undermine our present capability to deliver safe drinking water that's good to drink (subject to our statutory and regulatory obligations), as well as to meet wastewater levels of service, despite the constraints imposed by repairs on a gravity network across the city after the earthquakes of 2010-11.

With these concerns in mind, I have set out below Council staff responses to some of the key claims you made.

- You claimed that *you had to sit your glass of water on the bench for two minutes to wait until the cloud disappears and all the chemicals come out of it*

It is incorrect to state that this 'cloud' is caused by chemicals. Christchurch's water comes from bores and is pumped around the city under pressure. The 'cloud' that slowly dissipates is simply the release of bubbles of air once the water is no longer under pressure.



The only chemical that is added to the Christchurch water supply is sodium hypochlorite, as the single ingredient to provide chlorination. This is because temporary chlorination is required under our Water Safety Plan for some parts of the city while we continue to work hard to fully address what are deemed to be unacceptable risks of contamination in the distribution network. While we may be in a position to gain an exemption from permanent chlorination from Taumata Arowai, these exemptions are not being considered before March 2022.

- You claimed that *in your electorate... whenever it rains, there are sucker trucks that need to go and empty out the pump stations*

The Council does not typically engage sucker trucks at pump stations during wet weather unless there is a power outage. If you are referring to our vacuum sewer systems in Shirley and Aranui, then it is correct that sucker trucks are occasionally used during wet weather to avoid wastewater overflows in the streets and streams. These are very low-lying areas where the water table is close to the surface and can easily get into the wastewater network through small cracks in the pipe network. Council is currently working on improvements to reduce the level of infiltration, which will result in enhanced performance and reduced need for sucker trucks.

- You claimed that *in your electorate you have a couple of pumps stations that were rebuilt after the earthquake to pre-earthquake standard*

It is incorrect to state that the pump stations were re-built to the same standard they were pre-earthquakes. While some may have been like-for-like in terms of capacity, the equipment was updated with better pumps and better electrical and control systems put in place. If you are referring to the design of the replacement systems, it is correct that vacuum sewer systems (designed and built by Stronger Christchurch Infrastructure Rebuild Team (SCIRT)) were designed for a standard residential suburban density, and these are unable to accept additional homes under the new medium density standards.

- In the Press, you claimed that *we should have put extra capacity in place because there were now areas where there was not enough capacity to cope with additional demand created by the building of more homes*

As stated above, the vacuum sewer systems in Shirley and Aranui were designed and built by SCIRT. They advised us that our current District Plan could zone part of Shirley as Residential Medium Density. However, the actual performance of the systems does not support this decision and the systems do not have spare capacity. We strongly advise that these areas are not developed using the new medium density residential standards.

While SCIRT replaced a significant amount of infrastructure post the Canterbury Earthquakes, and completed a mix of repairs, renewals and improvements (primarily in the wastewater system), we acknowledge that there are indeed capacity constraints in some older parts of our city, mostly in the wastewater network. This is one of the reasons we have tried so hard to engage with central government on the resource management reforms. Central government decisions have unintentionally exacerbated the challenges across the city, with the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act being a key concern for us.

- *... they are not being open and honest with our community about the level of debt that's attached to our water infrastructure... I don't know that the Council has been up front with the level of debt that the ratepayers of Canterbury, Christchurch have on the water infrastructure. You know, close to a billion dollars of debt... and how we're going to repay that? Is there any discussion about that in the public? No, there is not...*

I would like to address your insinuations that the Christchurch City Council is being dishonest about the level of debt that's attached to water infrastructure.

The Council signals and publicly discusses its overall debt levels in consultation documents for Annual Plans, Long Term Plans, Annual Reports (all under the watch of the Office of the Auditor-General) and in regular quarterly public reporting to our Finance and Performance Committee. The \$1.0- \$1.1bn estimated Three Waters related debt that you mentioned, was disclosed under the DIA instigated 'Request for Information' process for the Three Waters Reforms<sup>1</sup>. These figures were discussed publicly with Councillors as part of briefings with them on Water Reform in 2021 and have been cited in media coverage. We were also very clear that the debt was intended to be transferred to the water services entity.

I believe it is irresponsible, as a Cabinet Minister, to suggest that elected members and local government officials have been withholding information from their residents when we have been totally transparent, based on our public planning processes and the information-exchange with officials and Ministers.

In conclusion, and despite my disappointment in your approach, I will personally continue to advocate for a resolution of key issues facing Three Waters Services in New Zealand, utilising the knowledge and experience I have gained in both central and local government. I honestly believe a solution can be found. However, we are running out of time.

I am happy to meet with you or any other local MPs again to discuss any questions you may have, so that you have the most robust information to-hand for any future public conversations on Three Waters Services in Christchurch.

Yours sincerely



Lianne Dalziel  
**Mayor**

Cc: Hon Nanaia Mahuta, Minister for Local Government

Dawn Baxendale, Chief Executive, Christchurch City Council

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<sup>1</sup> The Council's debt levels are calculated on a corporate basis i.e. loans are not taken out for specific activities, and therefore cannot be simply attributed to any one activity. However, the methodology for determining the level of debt associated with Three Waters infrastructure was transparently provided in response to DIA's 'Request for Information'.

9 May 2022

Hon Nanaia Mahuta  
Minister of Local Government  
Private Bag 18 888  
Parliament Buildings  
WELLINGTON 6160

By email: [n.mahuta@ministers.govt.nz](mailto:n.mahuta@ministers.govt.nz)

Tēnā koe Minister

I write in relation to the offer to apply for the first tranche of the so-called “better off” funding, designed to ameliorate the disruption of the mandated Three Waters Reforms programme on our Council.

Our Council has not yet considered this issue, however I have two concerns that I wish to raise in advance of our consideration of this matter.

First, I am deeply concerned about the proportion of the total ‘better off’ funding package that will be allocated as debt to the Water Services Entity, in our case Entity D, even though it could have no alignment to the work of Entity D. I am keen to understand whether this has been assessed by the Office of the Auditor General. I cannot understand how a public entity could be assigned debt that cannot be attributed to its operation.

My second is more of an irritation, but one that demonstrates a complete disregard to the principle of partnership to which the Heads of Agreement clearly only pays lip-service.

Clause 2.10 (Part 2 – General Terms) states:

*“The Recipient [of the funding] must not at any time do anything that could reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of DIA or the New Zealand Government. The Recipient must keep DIA informed of any matter known to the Recipient which could reasonably be expected to have such an effect”.*

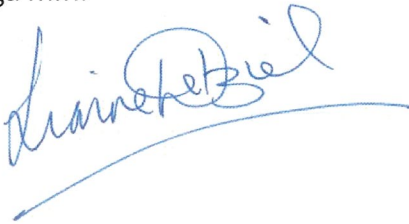
I understand this is a standard phrase in DIA Funding Agreements – usually as I understand it with NGOs – but for heaven’s sake! Why anyone would think that this would be acceptable, anytime, let alone in an election year, is beyond comprehension.

As I have communicated before, the DIA's cartoon advertising campaign that heralded the Three Waters Reforms 'case for change' was disgraceful. If anything was designed to have an '*... adverse effect on the reputation, good standing or goodwill...*' of every council in the country, it was that campaign. It is hypocritical to demand that Councils sign this clause.

I am copying this letter to the Executive Director of the Three Waters Reform Programme, who wrote in regard to the funding package.

Due to my concerns, I felt it important to raise this with you as Minister and I look forward to your response.

Ngā mihi



Hon Lianne Dalziel  
**Mayor of Christchurch**

Cc: Hamiora Bowkett, Executive Director Three Waters Reform Programme

Released under the Official Information Act 1982

# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



23 May 2022

Hon Lianne Dalziel  
Mayor of Christchurch  
Lianne.Dalziel@ccc.govt.nz

Tēnā koe Lianne

Thank you for your letter dated 9 May 2022 that noted your comments and concerns about certain aspects of the design and administration of the Better Off support package.

The Better Off funding is a \$2 billion investment into the future for local government and community wellbeing, the details of which were negotiated with Local Government New Zealand and announced by the Prime Minister at the LGNZ Conference in July 2021.

As you note, the first \$500 million tranche of funding, which is Crown funded, is currently open for Councils to access. The remaining \$1.5 billion, which will become available from 1 July 2024 when the new water services entities are anticipated to be established, is to be funded through a mix of \$500 million of Crown funding and \$1 billion from the new water services entities. It is intended that the provision of funding by the Water Services be enabled in legislation.

It is appropriate for the water services entities to bear some of the costs associated with the support package given that future water customers stand to benefit most from reform through improved services, more resilient infrastructure, and more efficient and affordable service delivery. From the perspective of future water customers, the size of these benefits are significantly greater than the cost associated with providing some of the funding for the Better Off support package. Moreover, given most future water customers are also current ratepayers and local citizens, they stand to benefit from the additional investment into community wellbeing.

I also note that the proposed Crown support arrangements for the water service entities (i.e., a Crown liquidity facility on similar terms and conditions to that provided to the Local Government Funding Agency, and the extension of the Civil Defence and Emergency Management Act 2002 arrangements to the assets of the water services entities), will strengthen the credit profile of the water services entities and reduce their borrowing costs. The value of the enhanced borrowing terms is estimated to be greater than the \$1.0 billion of funding provided by water service entities through the Better Off support package.

Thank you for raising your concerns regarding Clause 2.10 of the Better Off funding agreement, which I understand you have also raised with my officials. As a result, I understand officials will be offering greater clarity to the sector on this shortly. Regrettably, the implications of this clause appear to have been misunderstood by a number of local government elected members despite contrary advice and guidance issued by the Department and Taituarā, and assurances that I gave to attendees at the recent LGNZ sector hui on Wednesday 11 May.

As you note, this is a standard clause in Crown funding agreements and is viewed as a prudent provision (regardless of recipient) in relation to the use of Crown funds. There are several recent examples where this clause has been used in agreements signed by councils, and which attracted little if any comment.

We draw your attention to the funding agreement that applied recently to the Three Waters Infrastructure Stimulus package, which all local authorities agreed to and which in no way constrained local authorities' ability to express their views on the reform programme. This agreement can be found here: [https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/\\$file/Three-Waters-Stimulus-Funding-Agreement.DOCX](https://www.dia.govt.nz/diawebsite.nsf/Files/Three-waters-reform-programme/$file/Three-Waters-Stimulus-Funding-Agreement.DOCX).

Additionally, this clause has been included in Provincial Growth Fund agreements, an example of which can be found here at clause 3.12: <https://www.growregions.govt.nz/assets/content/public-information/provincial-growth-fund-development-phase-grant-funding-agreement-template.pdf>.

Another example is the General Terms and Conditions for grant funding from the Ministry of Housing and Urban Development, found here at clause 4.10: <https://www.hud.govt.nz/assets/News-and-Resources/Publications/614d0aaf10/Conditional-grant-funding-Terms-and-Conditions.pdf>.

I have consistently acknowledged the right of councils and their elected members to express their views about government policy, including the Government's three waters reform programme. My position is clear that nothing in the Better Off funding agreement prevents or prohibits councils from doing this. For the avoidance of doubt, publicly criticising or expressing opinions on reform cannot reasonably be expected to have an adverse effect on the reputation, good standing or goodwill of the Department or the New Zealand Government, and would not represent a breach of the funding agreement.

I wish to reiterate my thanks to you for your constructive engagement with the reform programme, including your participation in the Working Group on Representation, Governance and Accountability. In my view, the Working Group did a commendable job and its proposals to further clarify ownership, add further layers of protection against privatisation, strengthen accountability for the entity boards, and strengthen mechanisms for local voice, add significantly to the proposals. I look forward to progressing these recommendations through the Water Services Entities Bill to be introduced by the middle of this year.

Heoi anō



Hon Nanaia Mahuta  
**Minister of Local Government**

Copy to: Rt Hon Jacinda Ardern, Prime Minister  
Hon Grant Robertson, Minister of Finance

Ngaati Whanaunga Incorporated Society  
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30 September 2021,

**Nanaia Mahuta**

Minister

Email: [n.mahuta@ministers.govt.nz](mailto:n.mahuta@ministers.govt.nz)

Copy to: Allan.Prangnel

Email: [allan.prangnell@dia.govt.nz](mailto:allan.prangnell@dia.govt.nz)

Copy to: Stuart Crosby, President LGNZ

Email: [Stuart.Crosby@boprc.govt.nz](mailto:Stuart.Crosby@boprc.govt.nz)

Tēnā koe Nanaia,

### **Re: Preliminary Feedback on the Three Waters Reform**

Thank you for the opportunity to provide preliminary feedback on the Three Waters Reform. We understand the Department of Internal Affairs is currently seeking preliminary feedback on the Three Waters Reform Package.

### **Our Understanding of Key Drivers and Core Objectives**

We understand the Government launched a programme to reform local government three waters service delivery arrangements in July 2020. Currently, 67 different councils own and operate the majority of the drinking water, wastewater, and stormwater services on behalf of their communities; and that the Government proposed to establish four new publicly owned multi-regional entities (four) to deliver these services.

Reviews into the delivery of three waters services in New Zealand have identified significant ongoing challenges and a considerable level of underinvestment in three waters infrastructure

We also understand that the reform programme is being progressed through a voluntary partnership-based approach with the local government sector, alongside iwi/Maori as the Crown's Treaty Partner. The Three Waters Reform Programme is a major intergenerational project.

The over-arching aim is to ensure that New Zealand's three waters – our drinking water, wastewater, and stormwater – infrastructure and services are planned, maintained, and delivered in a way that improves the health and wellbeing outcomes to benefit all communities in New Zealand and to ensure that these networks are affordable and fit for purpose

Specifically, to:

1. Improve the safety, quality, and environmental performance of water services
2. Ensure all New Zealanders have access to affordable three waters services
3. Move the supply of three waters services to a more financially sustainable footing, and address the affordability and capability challenges that currently exist in the sector

4. Improve transparency about, and accountability for, the delivery and costs of three waters services
5. Improve the coordination of resources and unlock opportunities to consider New Zealand's water infrastructure needs at a larger scale and alongside wider infrastructure and development needs
6. Increase the resilience of three waters service provision to both short and long-term risks and events, particularly climate change and natural hazards
7. Provide mechanisms for enabling iwi/Maori rights and interests

Following extensive work since July 2020, we understand the Government has decided to pursue an integrated and extensive package of reform to the current system for delivering three waters services and infrastructure. The package comprises the following core components:

1. Establish four statutory, publicly owned water services entities to provide safe, reliable, and efficient water services
2. Enable the water services entities to own and operate three waters infrastructure on behalf of local authorities, including transferring ownership of three waters assets and access to cost-effective borrowing from capital markets to make the required investments
3. Establish independent, competency-based boards to govern each water service entity
4. Set a clear national policy direction for the three waters sector, including expectations relating to the contribution of water services entities to any new spatial / resource management planning processes
5. Establish an economic regulation regime to ensure efficient service delivery and to drive the achievement of efficiency gains, and consumer protection mechanisms
6. Develop an industry transformation strategy to support and enable the wider three waters industry to gear up for the new water services delivery system

We also understand the Government has committed to working closely with local government and treaty partners to help increase chances for success and ensure the new water service entities are operational by 1 July 2024. Further to the initiatives (above), we also understand that in mid-July 2021, the Prime Minister and Minister of Local Government announced a comprehensive \$2.5 billion three waters support package. The package has three financial components.

- 1) Support for local government to invest in communities wellbeing. This part of the investment totals \$2 billion, with \$500 million being available from 1 July 2022. It will be allocated between councils according to a nationally consistent formula, reflecting population (75%), deprivation (20%), and land area (5%).
- 2) Targeted support to ensure that no councils are financially worse off as a result of transferring their three waters assets. This is designed to protect councils from any negative financial consequences of the asset transfer.
- 3) Cover of reasonable transition costs. This is intended to make sure council service delivery (including water services) during the transition isn't compromised by the work needed to make the transition happen.

We understand that no formal decisions are required at this stage. However, that the Department of Internal Affairs is seeking preliminary feedback on the: 1) potential impacts of the proposed reform; and 2) how it could be improved.

### **Our Approach and Methods**

To evaluate requirements, we are currently undertaking a comprehensive package of works that includes undertaking a detailed literature review of local government legislation and requirements relating to the management of water and wastewater (Watercare Services Limited) and stormwater in the Auckland



Region; and review the efficacy of water, wastewater, and stormwater delivery in Northland ie areas pertaining to the proposed “Entity A.” We are currently working closely with all Mana Whenua Entities in the Auckland Region (19), and Auckland Council. Our intention is to broaden our discussions with Te Tai Tokerau and Waikato over the coming weeks.

### Our Preliminary Feedback

Given the breadth of the Three Waters Reform Programme, we are *currently* focusing our feedback on four Potential Impacts and associated Areas for Improvement (see **Table 1** below).

**Important Note:** These Potential Impacts and Areas for Improvement (also see **Table 1** below) are based on our *preliminary* work; and we anticipate identifying additional feedback areas as we work through the proposal.

**Table 1:** Identified Potential Impacts and Areas for Improvement

Potential Impacts	Topic	Areas for Improvement
1	<b>Governance and Entity Boundaries</b>	<ul style="list-style-type: none"> <li>Partnership arrangements</li> <li>The degree to which Iwi Mana Motuhake has been acknowledged</li> <li>The degree to which water is recognised as a taonga</li> <li>The degree to which the reforms protect Treaty Settlements and initiatives</li> <li>Rectifying inherent flaws in the broader Strategic Management Framework</li> <li>Boundary issues and rationale relating to Entity A – Taamaki Makaurau and Te Tai Tokerau</li> <li>Boundary issues need to consider water supply</li> <li>Assumptions underlying development of the Entities are fundamentally flawed</li> <li>Engagement to date has been poor, the expectation is that the Crown will work closely with Mana Whenua entities</li> <li>Will need to make provision for significant resourcing to help ensure the proposed model is workable</li> </ul>
2	<b>Te Mana o te Wai</b>	<ul style="list-style-type: none"> <li>Statutory, regulatory, and policy definition of Te Mauri / Te Mana o te Wai</li> <li>Engagement with mana whenua relating to the National Policy Statement – Freshwater</li> <li>The Crown has refused to address Maaori interests in water, contrary to recommendations of the Waitangi Tribunal</li> <li>Failing to do so risks further Treaty breaches by the Crown</li> </ul>
3	<b>Proposed Reform Alignment and Intent</b>	<ul style="list-style-type: none"> <li>The degree to which proposed reforms work together to achieve desired outcomes</li> <li>Scoping Key Drivers (and related constraints and opportunities)</li> </ul>
4	<b>Local authorities</b>	<ul style="list-style-type: none"> <li>Concern at public statements and submissions of councils</li> <li>Apparent patch protection and reluctance to share powers with Mana Whenua</li> <li>The Crown has dictated that councils are not the Crown, as a consequence council assets have not been available for Treaty settlements</li> </ul>

		<ul style="list-style-type: none"> <li>• Mana Whenua may have substantial interests in council water assets and properties, compensation to local authorities should be available instead to be paid to Mana Whenua</li> <li>• The Crown should strongly consider compelling councils to participate, Auckland Council in particular</li> </ul>
5	<b>Operational Preparedness</b>	<ul style="list-style-type: none"> <li>• Three Waters servicing outcomes</li> <li>• Management of constraints and opportunities</li> <li>• Lack of engagement with mana whenua to help manage change</li> <li>• Feasibility of achieving proposed reforms and their associated requirements by 2024</li> </ul>

### Key Messages

Please note our key messages:

1. Water as a taonga needs to be central to all decision-making
2. The Three Waters Reform need to be founded on a holistic framework that captures social, economic, cultural and environmental aspirations of both partners and it needs to be founded on a robust framework for success
3. Maaori interests in water and Treaty of Waitangi obligations have not been fully addressed
4. We are keen to work closely with the Department of Internal Affairs as Treaty Partners to achieve mutually beneficial outcomes, please contact us directly
5. We expect to be adequately re-imbursed for our time and resources to work with you on developing mutually beneficial outcomes.

### Next Steps

It is our intent that we form a highly collaborative working partnership with the Department of Internal Affairs for the benefit of people and the environment. We expect your staff to make direct contact with us.

To this end, please contact us anytime to discuss how we can move forwards. Please feel very welcome to contact me if you have any queries. The best way to contact me is via mobile 9(2)(a) or email 9(2)(a)

Ngaa mihi,  
Michael Baker

**Michael Baker**  
Environmental Manager,  
Ngaati Whanaunga Incorporated Society

Out of Scope

From: Michael Skerrett <sup>9(2)(a)</sup>

Sent: Saturday, 2 April 2022 5:33 PM

To: J Ardern (MIN) <j.ardern@ministers.govt.nz>; N Mahuta (MIN) <n.mahuta@ministers.govt.nz>

Subject: letter of support for 3 waters reform

Tena kōrua

Please find attached my letter of support.

Nga mihi

Michael R Skerrett

Released under the Official Information Act 1982

M R Skerrett  
24 Ayresdale Road  
RD 2 Invercargill  
2 April 2022

To:

Prime Minister Right Honorable Jacinda Ahern and the Honorable Minister Nanaia Mahuta

Tēnā kōrua ōku Rangatira

Nei rā te mihi ki a kōrua me ngā mema o te Rōpū Repa ōu koutou mahi e pa ana ki ngā wai e toru.

I am writing to you to urge you and Minita Mahuta to press on with your three waters proposals in their entirety.

In my view the proposals provide sensible options to address the huge issues we face regarding water.

One of the main issues is that small communities can't finance the needed infrastructure to address their issues properly and only a holistic approach can solve that.

In my opinion the detractors of the proposals have too narrow a focus, mostly on their own patch, and not properly considering the big picture.

Kia kaha, kia manawanui, haere tonu



Michael R Skerrett QSM. JP, Hon SIT Fellow, Upoko Waihopai Rūnaka and Murihiku Marae

Released under the Official Information Act 1982

# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



30 May 2022

M R Skerrett

9(2)(a)

Tēnā koe Michael

Thank you for your letter dated 2 April 2022 regarding the Three Waters Reform Programme, and for your support as we move into the next phase of this system-wide transformation to protect and enhance our vital public water services.

As you know these are necessary, complex and far-reaching reforms that will address challenges that have been known about and avoided for more than two decades. Ultimately, all New Zealanders are going to benefit from lower long-term costs, higher quality water services and better outcomes for our environment. I am encouraged by your views that these reforms are essential in order to realise the full benefits of the proposed holistic measures. Ensuring equitable outcomes for communities historically underserved by these services, who have faced affordability issues due to living in remote/small communities, or who have simply not received a service at all is a priority for the Government.

As lead Minister of the Reform Programme, I look forward to overseeing the implementation of these critical measures to ensure all communities have safe, affordable and sustainable drinking water services, and high performing stormwater and wastewater networks, now and for generations to come.

There will be opportunities for further public input as the reforms progress, including public submissions via the select committee process on legislation to enact the new arrangements. I encourage you to engage in these forums in due course. If you wish to keep up to date with the Reform Programme, including next steps and opportunities to engage in the future, please visit [www.dia.govt.nz/Three-Waters-Reform-Programme](http://www.dia.govt.nz/Three-Waters-Reform-Programme).

Thank you for writing and I appreciate hearing your strategic and informed views on the three waters reforms.

Nāku noa

A handwritten signature in black ink, appearing to read 'N. Mahuta'.

Hon Nanaia Mahuta

**Minister of Local Government**



Te Rūnanga o NGĀI TAHU

18 August 2021

**Hon Nanaia Mahuta**

Minister for Local Government

Parliament Buildings

Wellington 6011

[n.mahuta@ministers.govt.nz](mailto:n.mahuta@ministers.govt.nz)

E te minita, tēnā koe,

**Three Waters Reforms: Engagement with Department of Internal Affairs (DIA)**

We are writing to update you on our work with your officials and local government throughout our takiwā following your recent announcement of the proposed Entity D. First, can we take this opportunity to thank you for the result we have managed to reach, particularly the proposed entity boundary. The takiwā boundary will lay the foundations for a successful entity, designed and operating in true partnership between the Crown and Ngāi Tahu as its Treaty partner. As we have made clear to your officials, we are ready to provide whatever assistance is useful in the lead-up to Cabinet decisions on the final entity boundaries.

Since your June announcement, we have been continuing to work closely with your DIA officials and can only commend their continued engagement with us as the Crown's Treaty partner in our takiwā. The difference between this process and the processes being run in, for example, the Resource Management reforms, could not be more different. While there have been minor speedbumps along the road, that is to be expected. We hope that, eventually, Te Arawhiti will be able to use the DIA approach as an exemplar to help other Government departments engage on other reforms in an effective and Treaty-compliant manner.

Because of the relationship of trust we have now built with your officials, we have been able to turn our attention to using the engagement period to work with local government throughout the takiwā. The last briefing session we hosted at our headquarters in Christchurch earlier in August was attended by representatives of every local government region in our takiwā, including nearly all the Mayors. We will shortly be hosting a further session to discuss transition matters. The sessions are designed to ensure we build relationships with local government across the takiwā, and that we develop a joint understanding of the reforms. The

Te Rūnanga o Ngāi Tahu  
15 Show Place, Addington, Christchurch 8024  
PO Box 13-046, Christchurch, New Zealand  
Phone + 64 3 366 4344, 0800 KAI TAHU  
Email: [info@ngaitahu.iwi.nz](mailto:info@ngaitahu.iwi.nz)  
Website: [www.ngaitahu.iwi.nz](http://www.ngaitahu.iwi.nz)

aim is not only to encourage a positive and forward-looking opportunity, but to hit the ground running as soon as the reforms are completed. We see hosting these sessions as a contribution we can make as Treaty partner working with the Crown on an agreed set of goals.

Nāhaku noa, nā,



Lisa Tumahai

Kaiwhakahaere, Te Rūnanga o Ngāi Tahu  
Co-Chair, Te Kura Taka Pini Ltd



Te Maire Tau

Upoko, Ngāi Tūāhuriri Hapū  
Co-Chair, Te Kura Taka Pini Ltd

Released under the Official Information Act 1982

23 March 2021

Hon Nanaia Mahuta  
Minister of Local Government

Tēnā koe Nanaia

Thank you for the recent conversation we had about the Government's Three Waters Reform proposals.

I indicated that Auckland Council understood the reasons for and supported the intent of Government's objectives in tackling the long-standing problem of inadequate investment in water infrastructure by Councils across New Zealand.

We also appreciate the need for the current 67 different water authorities to be amalgamated in some form to achieve the economies of scale, and competence and professionalism needed to substantially improve the current situation.

I also indicated that following the amalgamation of Auckland councils in 2010 and the establishment of a unitary water authority for the 1.7 million people in the Auckland region, Watercare had achieved the scale and professionalism in delivery of fresh water and treatment of wastewater that you are now seeking for the rest of the country. Indeed, the previous National Government under Prime Minister Bill English had indicated that they saw Watercare as a model for the rest of the country.

The Department of Internal Affairs has presented to a workshop in Auckland last week its broad thinking and proposals and will meet with Councillors next week for a free and frank conversation.

I have previously given you and Minister Grant Robertson a heads up on my own views around the reform proposals as part of my no surprises approach. However, I have since engaged with Councillors and sought analysis from Council officials to give you a clear picture of Council's thinking before Cabinet makes any decisions on this matter.

I have bullet pointed below a summary of the feedback I have received after the discussion with Auckland Councillors:

- Councillors have an open mind around reform of water supply and treatment and understand the necessity of creating economy of scale in the delivery of water services. However, because Auckland has already reformed its structure through Watercare catering for 1.7 million people, Councillors are unconvinced that a further reform process would deliver new advantages to Auckland, or that any advantages of a new model would outweigh disadvantages.
- Councillors wish to remain part of the process of discussion and assist Government in any way we can. If the reform model was to be proposed in its current form, they would probably opt out but are keen however for Government to explore other models for Auckland, given its unique position.



This includes Auckland being prepared to assist neighbouring regions including Northland, by offering to provide contract services for the professional management of water, as Watercare currently does for the Waikato District Council.

This would give other Councils wishing to do so the benefit of Watercare's professional skills while enabling them to retain ownership of their assets but gaining the benefit of economies of scale. The relationship with Waikato District Council has worked to the satisfaction and advantage of both parties.

The Kaipara District Council, Whangarei City Council and the Far North District Council have expressed to us their concerns about being "swallowed up" by Auckland in the model DIA is proposing and would prefer to look at alternatives.

We would urge you to consider this model as an option which would be less disruptive, more accepted and capable of achieving what the Government desires.

- Councillors see major disadvantages with the removal of Watercare and Healthy Waters from Council ownership and control. Removal contradicts the principle of localism and represents the loss of democratic control. The CCO model has worked well for Auckland giving Watercare operational independence while allowing Council to set strategic direction, and to appoint Directors to ensure Watercare is responsive to and accountable to elected representatives and Aucklanders. In the past year, this model has been strengthened and has worked better than ever to deliver on Auckland's priorities and ensure a collaborative approach with our stormwater deliverer, Healthy Waters.
- With the proposed structure from DIA, there is a real concern from Councillors that the focus of Watercare on delivery of effective services to Auckland's 1.7 million population would be lost, and that ratepayers in the Auckland region would be cross-subsidising water users outside of our region. There is concern that the proposed water supply authority for Auckland would be picking up the costs of degraded and inadequate infrastructure from other regions which would detract from the priority we need to put on further upgrading the infrastructure needed to prevent wastewater overflows into the harbour and to strengthen resilience of water supply to a city estimated to grow by 22% in the next decade.
- One of the biggest benefits of amalgamation of Auckland, has been the ability to provide an infrastructure programme that integrates and logically sequences housing, transport, water and community services. Councilors are concerned, under the proposed structure, with a loss of control of the water infrastructure provider, it will be difficult or near impossible to dictate how infrastructure is sequenced leading to poor outcomes for the investment. This was a problem pre-amalgamation that we do not want to see repeated in Auckland.
- We have approximately \$10 billion worth of assets invested in Watercare. That investment was paid for by the people of Auckland and belongs to them. Should that asset be transferred to another body which a subsequent government could then decide to privatise, Auckland ratepayers would lose an asset they have built up without a guarantee of compensation. No government can legislate to prevent a subsequent government from privatising an asset, which is more likely to be able to happen under the proposed structure than the current one where Aucklanders own and control these assets through their Council.

In summary, Councillors believe that the delivery of services through Watercare in Auckland already represents what the government is promoting as a model for the rest of the country. The proposed change runs the risk of disruption of our own water improvement programs, the risk of higher costs and loss of control without any substantial benefits.

While separation of Watercare from Council would enable Watercare to borrow more, maybe another billion dollars, this is a relatively marginal advantage in relation to the \$8.1 billion extra funded to Watercare in our current 10-year budget. It would, according to Council's Finance Department, not enable additional borrowing by Council itself. No other financial inducements exist for Auckland which was not a beneficiary of the \$761 million made available for other councils.

Finally, I have had the opportunity to discuss the Three Waters Reform proposals with other Metro Mayors from Hamilton, Christchurch and Wellington. Their view was that the CCO model could deliver the amalgamated water service providers that the Government wants for New Zealand, without the disadvantages that are outlined above.

With the water and economic regulations proposed for water services as well as national policy statements, the government will be well placed to ensure that national standards for water are met.

We would strongly urge the government to consider the viewpoints outlined above. I am available at any time to have further discussions with you should that be helpful.

Ngā mihi



Phil Goff  
**MAYOR OF AUCKLAND**

Copy to: Hon Grant Robertson, Minister of Finance  
Rt Hon Jacinda Ardern, Prime Minister  
Hon Megan Woods, Minister of Energy and Resources

# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



Hon Phil Goff  
Mayor of Auckland  
Private Bag 92300  
Auckland 1142

Tēnā koe Phil

Thank you for your letter, dated 23 March 2021, about the proposed reform of national three waters service delivery arrangements.

I would firstly like to acknowledge the significant and positive engagement you and the Auckland Council have had on the three waters reform programme to date. This has included membership of senior Auckland Council staff on the joint Central/Local Government Three Waters Reform Steering Committee, staff involvement on technical reference groups, engagement at the councillor level through workshops and webinars (including the workshop between officials and Auckland councillors on 31 March 2021, along with the wider workshop in Auckland on 12 March 2021), as well as the discussions we have had this year at the Mayoral level.

I also appreciate the significant effort from Auckland Council staff and from councils across the country in responding to the Department of Internal Affairs' request for information process. This process, along with a multitude of analysis and national and international research conducted over several years, has provided valuable data and a strong case for change to inform the reform proposals.

I note Auckland Council's acknowledgment of the critical need to reform national three waters service delivery arrangements to ensure adequate water infrastructure investment and safe, well-performing water services across Aotearoa. I also note the feedback and concerns raised by Auckland councillors, which I comment on below.

I am concerned about the perception of councillors that Auckland will not benefit from reform, and the implication that Aucklanders would be better off without reform. I hold a very different view and consider that the reforms offer the potential for significant economic, environmental and public health benefits for Auckland, as well as for the country more generally.

Watercare has undoubtedly delivered significant advantages for Auckland communities since its establishment, and it is true that the types of benefits that have been achieved thus far are similar to those that the Government is pursuing through its proposed reforms (e.g., customer charges \$100 million below their projected level under Auckland's eight former councils, significant investment in expanding and upgrading the network, and greater consistency and standards of service).

However, it remains the case that the Council Controlled Organisation (CCO) model is far from perfect, as evidenced by the conclusions of the Council's CCO Review, including the failure to anticipate and prepare adequately for the 2019-20 drought. In my view, and that of others including the Water Industry Commission for Scotland (WICS) and Watercare itself, there is significant further room for improvement, and that this is very unlikely to be realised without further reform, including the achievement of balance sheet separation and financial autonomy from Auckland Council, and the introduction of economic regulation.

The work that WICS has done with Watercare demonstrates that, while Watercare's unit costs compare favourably with other parts of New Zealand, they are still significantly higher than those of leading United Kingdom water companies (and levels of performance that we believe are achievable in New Zealand). WICS concluded that Watercare should seek to improve its operating expenditure efficiency by 4.5 per cent a year in real terms over 10 years, equivalent to a 55 per cent increase in the level of operating efficiency. These gains, together with further improvements in capital and financing efficiency, would enable Watercare to lift its level of capital expenditure by around 50 per cent, delivering significant further improvements in network performance, reliability and resilience, while keeping the level of price increases at an acceptable level.

I think you would agree that these sorts of performance improvements would directly benefit Aucklanders, including through improved public health and environmental outcomes (e.g., swimmable beaches) and improvements in system resilience (including an improvement in water security). However, they are very unlikely to be achieved without further reform to the Watercare ownership and governance model and the introduction of economic regulation. By not participating in the reforms, Auckland Council would, in my view, be leaving these benefits on the table. It would also not enjoy the considerable financial benefits that not having to fund Watercare's future investment would bring to the Council.

Because of the significant efficiency improvements that are possible through reform, viewing the proposals as primarily about cross-subsidising water users outside of the region is misplaced. It is true that Auckland's neighbouring councils stand to benefit considerably from reform, due to the significant affordability challenges some councils face in upgrading their assets due to fewer ratepayers and lower population densities. Indeed, this is similar to how residents of the former Rodney and Franklin districts benefited following the Auckland Governance Reforms. I would note that Aucklanders would benefit directly from an uplift in water quality in neighbouring districts, given their propensity to visit and recreate there.

Notwithstanding that these areas will benefit from Auckland's scale, it remains the case that Aucklanders also stand to benefit in absolute terms from the greater operational and financial flexibility and stronger economic disciplines that reform would bring. Analysis by WICS and my officials indicates that Auckland ratepayers are expected to face lower costs per annum on average under the reforms compared with the status quo. This does not count the improvements to service performance, network resilience, and the health and environmental benefits that will be enabled through greater investment in Auckland than is currently planned or is likely to be possible under the current model. The inclusion of neighbouring councils (e.g., Northland councils) as part of an upper North Island amalgamated entity, does not negate these relative cost savings, as the additional costs would be more than offset by service delivery improvements and efficiency gains.

I understand the concerns that Auckland councillors have expressed about aspects of the model that my officials have discussed with you, other councillors and your officials. Given the significant implications of the reforms for local government, many Mayors and councillors around the country have expressed similar fears about a loss of democratic control, the risk of a lack of integration of decision-making about housing, transport and water infrastructure, and community services, and that a future government may privatise the assets. I am giving very careful consideration to how these issues can be addressed through the policy design, which continues to be refined, and would like to continue discussing these matters with you.

To reassure you, the new statutory water services entities will exist to serve their customers and the communities within which they reside. As part of this new system, Auckland Council will continue to play a significant role in the governance of the entities, including the setting of performance expectations, and as guardians of the assets on behalf of their community. Statutory protections will be put in place to guard against the risk of privatisation, and other design features (e.g., no shareholding) would make it very difficult for a future government to nationalise and/or sell off the assets.

I expect the entities to be responsive to local authority plans, including the Auckland Unitary Plan, and there will be statutory mechanisms in place to ensure that entities play their part in supporting and enabling urban development and the provision of housing. These policy settings, combined with the opportunity to further cement urban development outcomes as part of the proposed resource management reforms, are the next phase in a range significant programmes already underway across Government to improve infrastructure provision, services, and housing and urban outcomes in Auckland – for example the:

- \$31.4 billion Auckland Transport Alignment Project 2021-31;
- City Centre to Māngere light rail project; and
- \$3.7 billion Infrastructure Fund, with potential application to the Auckland Housing Programme.

Ministers and officials appreciate and look forward to continuing our close engagement with Auckland Council at all levels as the reform programme progresses this year. In this context, I am looking forward to further discussions with you (alongside other relevant Ministers, including the Minister of Housing, Hon Dr Megan Woods) about possible ways to more effectively deliver infrastructure and housing outcomes for Auckland across various central and local government programmes and planning instruments.

Nāku noa



Hon Nanaia Mahuta  
**Minister of Local Government**

Copy to:

Rt Hon Jacinda Ardern, Prime Minister  
Hon Grant Robertson, Minister of Finance  
Hon Dr Megan Woods, Minister of Housing

13 May 2021

Hon Nanaia Mahuta  
Minister of Local Government

Tēnā koe Nanaia

Thank you for your letter received 5 May 2021 about the proposed three waters service delivery reform.

I am writing with further questions following the presentation by Alan Sutherland, Water Industry Commission for Scotland (WICS) to Auckland Council Governing Body on 3 May 2021 and to seek access to the assumptions and modelling that underpins the advice being provided to Cabinet for Auckland.

Alan Sutherland's presentation made the point that efficiencies to be gained from the proposed water reforms were based on three prerequisites:

1. Economic regulation
2. Good governance
3. Quality management

Alan Sutherland also noted that Watercare is performing very well in the New Zealand context, but that it has room to improve. I am seeking your explanation of how DIA's proposed amalgamation will address any shortcomings in Watercare's management or governance. I do not understand why Watercare needs to be amalgamated and removed from Council's governance to achieve management efficiencies particularly with an economic regulator in place. I am not convinced that the proposed governance arrangements will achieve the efficiencies modelled, nor am I convinced that the change to remove the proposed water supply authority from democratic governance and oversight will be positive.

### **1. Economic regulation**

We support the introduction of economic regulation, which will apply to Watercare regardless of amalgamation, and note that much of the proposed water reform's success will be reliant on this. We believe that the introduction of an economic regulator should be a high priority on the Government's work programme and introduced in advance of 2024. We would like to be involved in discussions relating to the development of this regulator.

### **2. Good governance**

I am not convinced that the proposed governance arrangements will improve efficiency for Auckland. The governance model as explained to us, appears complex. Good governance requires simple, transparent decision making and accountability. Auckland Council's recent CCO Review highlighted the importance of clear strategic direction to any entity.

Current water reform proposals would reduce Auckland Council's influence and direction over the water service entity, limiting it to a role on the Governor's Representative Group that appoints an independent board selection panel and agreeing/issuing a letter of expectation.

Neither of these mechanisms can be relied upon to produce strong accountability mechanisms. The CCO Review panel highlighted that it is a combination of accountability mechanisms that drives performance.

The Governor's Representative Group will comprise representatives ranging from four to six local authorities and up to 50 iwi. Gaining consensus among all the parties is likely to be a time consuming and expensive undertaking. In addition, the new water service entities will be required to produce a significant amount of reporting for stakeholders. It is not clear how in the proposed new structure elected representatives would be able to direct the water services priorities.

Our own experience with Watercare is that input from elected representatives has been important in setting water strategies such as greater emphasis on conserving water, in ensuring resilience of water supply and the need for longer term planning. Without elected representatives able to ensure real accountability and responsiveness, the organisation runs the risk of becoming self-centred with very highly paid executives and not hearing public concerns.

We have also been advised that Auckland's representation on any governance structure would not be proportionate to its size and input. This obviously doesn't make the amalgamation an attractive prospect for Auckland.

### **3. Quality management**

Alan Sutherland from WICS claimed that, in comparison to Scottish Water and UK water companies, Watercare could improve its efficiency by 50 percent. When tested on how these efficiencies could be achieved in Auckland, WICS gave descriptors of the likely areas based on what happened in Scotland. This included improved operations and processes and preventative maintenance. WICS have also referred to more effective asset management, procurement activities, office and depot rationalisation, refocusing of staff time and initial head count reduction. I cannot see why Watercare cannot achieve these efficiencies in their own right, without amalgamation if we were able to find other mechanisms available to deal with the financing constraints created by Council's debt to revenue ratio. Even with this constraint in our current 10-year budget, capital investment in Watercare has increased from \$4.7 billion in the 2018-2028 budget to \$8.1 billion for 2021-2031.

I encourage DIA staff to work further with Council staff to explore other options for increasing investment.

Watercare's lower efficiency relative to the UK companies is explained in part, from lower investment in maintenance and renewals. This may be a product of Watercare keeping up with Auckland's significant population growth over the last 10 years. When resources (including capital) are constrained and the population is growing rapidly, investment in growth infrastructure will take priority over investment in maintenance and renewal. It is not clear how this emphasis would shift under a new water service entity.

I am concerned that if a new water service entity is required to upgrade and maintain lower quality assets over a wider geographic area there will be a real risk of not accommodating Auckland's growth and needs.

Water costs are much higher in the regions that it is proposed Auckland amalgamates with and their assets less well maintained. Effectively, amalgamation would result in Aucklanders (92% of the population in proposed entity A), meeting the costs of major upgrades in other regions and Auckland's priorities being put behind the needs of those other regions.

I hope the Government has an open mind in discussing with us alternative options for investment in infrastructure and the model of Auckland providing professional water services to other local authorities as it has done successfully with the Waikato District Council. This may be how we can best help our neighbours.

It is important to note that WICS ultimately put the responsibility onto the economic regulator to ensure efficiencies are achieved and not the amalgamation. I find it difficult to believe that with its size and scale and with the introduction of an economic regulator, Watercare would be unable to significantly improve its performance and meet the Government's desired outcomes in Auckland. Watercare is already bigger than the other water supply entities proposed and adding in the population of areas such as Northland, Hauraki and Thames-Coromandel (an additional 8 percent in population), would not seem to be the basis for increased efficiency or productivity, for Auckland.

In conclusion, as you note, Auckland has worked cooperatively with DIA in the work being undertaken and will continue to do so. However, the current structure proposed is unlikely to find favour with Auckland and its Council.

Ngā mihi



Phil Goff  
**MAYOR OF AUCKLAND**

Copy to: Hon Grant Robertson, Minister of Finance  
Rt Hon Jacinda Ardern, Prime Minister  
Hon Dr Megan Woods, Minister of Energy and Resources



14 June 2021

Hon Nanaia Mahuta  
Minister of Local Government

Tēnā koe Nanaia

Councillors and I are keen to find a way to help the Government achieve its objectives to reform water supply, treatment and storm water across the country, while ensuring in the process that we protect and preserve what is working for us in Auckland. Auckland's water supply entities, as you are aware, were amalgamated over 10 years ago, giving the region the scale and the professionalism in water supply that you are now seeking for the country as a whole. Watercare covers more than a third of the country's population on reticulated water supply. It is judged by the Water Infrastructure Commission for Scotland as by far the most efficient and effective water supplier in New Zealand.

We are working to further increase its productivity and we believe it can be a model for the rest of the country. We would be happy to work with you to develop this model.

Auckland's current model already contains many of the features of the Government's proposed model for delivering water services. These include:

- A competency-based board of directors
- The ability for Watercare to set water prices
- Responsibility for developing its own asset management plan
- The ability to borrow in its own name (although this debt is consolidated onto Auckland Council's balance sheet, and Watercare cannot borrow as cheaply as Auckland Council)
- Māori involvement at a governance level. This is achieved through Independent Māori Statutory Board (IMSB) members sitting on council committees that agree strategic documents (e.g., Auckland's Water Strategy, Development Strategy, Infrastructure Strategy, and Statement of Intent), and director appointments. IMSB members also sit on the committee that monitors CCO performance.

This has delivered a strong accountability model.

Over the last ten years we have standardised across the region the different water and wastewater prices, increasing fairness, achieving savings of over \$175 million per annum to customers. We have also invested over \$2.7 billion to build water and wastewater assets and invested \$1.8 billion to maintain the water and wastewater assets. Watercare provides safe and high-quality reticulated drinking water to Aucklanders. As such, the issue for Auckland is not the quality and safety of our drinking water, but the resilience of supply, management of demand and the quality of receiving environments and funding.

While much has been achieved, more can be delivered with additional investment capacity. The council group is debt constrained for the next few years, while we complete the City Rail Link (\$2.3b) and the central interceptor wastewater tunnel (\$1.2b) in conjunction with the Western Isthmus Water Quality Improvement Programme and the Eastern Busway.

In 2018 we introduced the Water Quality Targeted Rate to fund additional investment of \$452 million in restoring our harbour, streams, and beaches. As part of our recent long-term plan consultation, Aucklanders continued to express their support for this targeted rate, and we have provided for an additional \$256 million of investment over the next 10 years.

### **Issues with the proposed Government model**

Our main concerns about the DIA model relate to the proposed governance model. One of the main drivers for the proposed model is to achieve balance sheet separation from councils. That is an outcome that we both agree is desirable. However, the method that is proposed to achieve this is to reduce councils' level of control and influence in order to satisfy Standard & Poors (S&P) requirements that the Water Service Entities are independent from councils.

This approach has a number of adverse impacts:

- The WSE board is not clearly accountable to any entity. There are weak accountability mechanisms between the board and the Governors Representative Group. Without clear accountability, there is a real risk that the board will not be driven to achieve the desired outcomes.
- Council needs to have the ability to plan, sequence and coordinate infrastructure delivery in a holistic way. This is crucial in order to ensure the most cost-effective provision of infrastructure to support urban development. This is particularly important for water, which is "lead infrastructure" that goes in before other council investment. The proposed model does not allow councils to adequately direct infrastructure development. Experience in Auckland has shown that councils need the ability to formally direct infrastructure provision.

### **An alternative model can deliver positive outcomes**

Having discussed this with Councillors, I would like to suggest an alternative model, that is bespoke to Auckland (and possibly Northland councils), recognising the success of the amalgamation that has already occurred in Auckland and the importance of continuing to develop this model.

There are three key areas of focus in our proposal that differ from the government's approach to water reform. These being:

- how to achieve access to more capital
- how to provide simple governance with clear accountability
- how to protect the ownership of assets built up by the people of Auckland from future efforts to privatise them.

#### *Access to capital*

I agree with the intent of the government's proposal to increase access to capital. With additional capital, investment in infrastructure, efficiency and growth may be accelerated.

The Auckland Council's access to capital is currently limited by rating agencies' assessment of our balance sheet risks. Our proposal requires the Crown to guarantee Watercare's debt, which means S&P would 'look-through' Watercare's debt when assessing Auckland Council's credit rating. This approach would also require some structural changes by council, for example Watercare would have to have its own treasury function. This approach would:

- preserve the rating agencies credit ratings of both Auckland Council and Watercare
- enable Watercare to have greater borrowing capacity in its own right

- allow Watercare to continue to achieve efficiencies over time, some accelerated by additional investment.

This approach would likely achieve rating agency look-through of the Auckland Council group's consolidated debt position, thereby supporting council's credit rating in a way that works for both parties. It also has the advantage of being able to be implemented quickly within the existing ownership and governance structures. This could allow Watercare to accelerate its investment programme ahead of the rest of the reform programme, which would demonstrate the benefits of reform before the other new entities become operational.

I understand that the Government might be concerned about a transfer of risk from council to the Crown. My proposal mitigates some of this risk by allowing the Crown to have appropriate influence over the entity. Water Services Entities are considered to be low risk internationally, and in extreme situations (e.g. Christchurch earthquakes), the Crown is ultimately accountable.

#### *Simple governance with clear accountability*

It appears that the need for balance sheet separation has driven the design of the proposed WSE governance arrangements. To achieve balance sheet separation, control and influence has been largely removed from local authorities. Our concern is that this approach has led to the design of a model that has complex governance arrangements with a lack of clear accountability and is unlikely to achieve the efficiencies that the Crown anticipates.

In order to achieve simple and accountable governance, I believe that there is an opportunity to evolve Auckland's existing governance arrangement as opposed to a whole new arrangement.

In our proposed model, the:

- water assets and company would continue to be owned by Auckland Council (and potentially Northland councils)
- Crown could be represented in the governance arrangements (to reflect its investment), as a minority shareholder. There are existing shareholding examples of where the council and crown are currently delivering services and projects in Auckland. City Rail Link Limited is a positive example.
- Auckland Council retains the majority of representation on any governance representative group given its population and historic investment over the past decades and proportional representation if merged with another area such as Northland
- Iwi/Māori interests are promoted and protected through Auckland's Independent Māori Statutory Board.

#### *Northland Council(s)*

Should the Northland councils decide to 'opt-in' to the government's water reform proposal, we would commit to working with the Crown to incorporate Northland into the entity arrangements, whether as part of Watercare or as a new WSE. This would require us to work together to agree the representation arrangements for Auckland Council, the Crown, the Northland councils and iwi/Māori. These arrangements should reflect the historic investment that Aucklanders have made in their water assets.

#### **Summary**

In summary the key features of our proposal are:

<b>Key features</b>	<b>Summary</b>
<b>Ownership structure</b>	Entity is owned by Auckland Council, and potentially Northland council(s) and Crown through a shareholding ownership structure. Auckland's Independent Māori Statutory Board is represented in council policy and decision making.
<b>Ownership of water assets</b>	Auckland assets remain owned by Auckland (and potentially Northland) ratepayers.
<b>Purpose, functions and primary objectives of entity</b>	Watercare's/WSE constitution can be modified to more closely align to WSE's purpose and primary objectives, as established under the government's reform.  Government Policy Statement provides direction to Watercare/WSE and other WSEs.  Stormwater functions could be added into the Watercare model, depending on the agreed approach to reform.
<b>Setting of strategic direction</b>	Statement of Intent is drafted by Watercare/WSE in response to Strategic Performance Expectations set by the Council (and shareholder(s)). Shareholder(s) have an approval right.
<b>Appointment and removal of board</b>	Shareholder(s) appoint board members by utilising skills matrix.
<b>Appointment of Management</b>	Entity board appoints (and can remove) the Chief Executive Officer in consultation with shareholder(s).
<b>Setting of price methodology</b>	Pricing methodology set by Watercare/WSE in accordance with principles outlined in legislation and shareholder(s) expectations.  Auckland Council commits to the pricing, quality and investment profile requirements that will come through economic and environmental regulation.
<b>Prioritisation methodology</b>	Watercare/WSE produces a prioritisation methodology in accordance with shareholder(s) expectations and the proposed economic regulator. Watercare/WSE must give effect to council's infrastructure and spatial plans.

The feasibility of this option would need to be tested with credit rating agencies. Auckland Council would want an indication from you that you support investigating the proposal further before engaging with the credit rating agencies. This is due to the costs that would be incurred having the credit rating agencies review any proposal.

Legislative amendments would be required to make this work. These amendments may already be on the drawing board as part of the reform process.

This proposal achieves the government's objectives of improving the safety, quality, resilience, accessibility, and performance of water service delivery. If the Crown were open to this proposal, there is the possibility that it could be implemented in the 2021/22 financial year. This would reduce the risks of the proposed reform, where the creation of four WSE, with capacity to invest significantly in capital programmes, all going live at the same time could result in supply chain and cost pressures in the sector.

It also reduces the very real risks to Auckland that may arise from a lack of coordinated infrastructure investment, which leads to increased costs and inefficiencies.

### **Working together for the benefit of New Zealand**

I believe that the alternative model proposed here could allow the benefits of Auckland's scale and capability to be shared with the rest of New Zealand.

There are benefits of the Crown engaging with Auckland on this model option. Watercare exists already and would constitute the bulk of any entity in the upper North Island. As such, Watercare could focus on increasing investment and achieving efficiencies immediately. This would help to build scale and the supply chain, which could then be used by the new WSEs serving the rest of New Zealand when they are ready.

Auckland could also develop a Centre of Excellence that could develop systems and process that would be shared with the rest of New Zealand. Put simply, the lessons learnt in Auckland could be shared to help the establishment of the new WSEs, which will help mitigate transition/establishment risks. It would also provide an immediate demonstration of the benefits of the reform process, and the additional investment that it allows.

I, and my fellow councillors, look forward to discussing this with you further on the 18 June. Ideally, I would appreciate an indication from you whether you are prepared to investigate this proposal further.

Ngā mihi



Phil Goff  
**MAYOR OF AUCKLAND**

Copy to: Hon Grant Robertson, Minister of Finance  
Rt Hon Jacinda Ardern, Prime Minister  
Hon Dr Megan Woods, Minister of Energy and Resources

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# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



16 June 2021

Hon Phil Goff  
Mayor of Auckland  
Private Bag 92300  
Auckland 1142

Tēnā koe Phil

Thank you for your recent letter, dated 14 June 2021, and for our subsequent discussion about the Government's Three Waters Reform Programme (the Reform).

I acknowledge the work you are doing to find a way to help the Government achieve the objectives of the Reform, while ensuring the proposed arrangements work for Auckland.

Based on your letter, I believe there is significant common ground between the government and Auckland Council in terms of key features of the policy proposals that are required to unlock significant benefits for Aucklanders and neighbouring regions. For example:

- We share an understanding of the problem we are trying to solve and have a strong interest in seeing the beneficial outcomes of the Reform, for both Auckland and the wider country.
- We both appreciate that greater financial flexibility is needed in the current model to unlock greater borrowing for investment in water infrastructure.
- We have a shared desire in ensuring the governance arrangements for the new water entity provides strong accountability to communities, and that it is desirable to maintain local authority ownership, and influence over strategically important decisions by democratically elected representatives.
- We agree that Watercare and Auckland Council represents a good starting point upon which to build a new water services entity, and that this makes more sense than trying to build something entirely new from scratch.

I acknowledge that, compared with other parts of the country, Auckland is in a relatively unique position in that it would represent a very high proportion (>90%) of the population served by an upper North Island water services entity. In addition, Auckland is better placed than other parts of the country (i.e., due to the professional governance, specialist management, and existing scale of Watercare) to accelerate the transition process and achieve benefits from the Reform earlier than in other parts of the country.

In saying that, I do not believe that the current model for water services delivery in Auckland provides strong accountability, or that it is capable (even with the modifications you propose) of delivering the best possible outcomes for Auckland. In my view, the current arrangements have, among other things, overseen the delivery of:

- Failure to anticipate and plan adequately for the 2019/20 drought, as concluded by the Council's CCO review.
- Persistent under-investment in asset maintenance and renewals relative to economic depreciation, both historically and in terms of what is planned. In eight of the next 10 years, renewals expenditure is projected to be below economic depreciation, which is likely to result in further deterioration of network performance and would see future generations faced with significantly higher customer charges.
- Ageing infrastructure – Auckland's asset values and lives are typically longer than would be considered appropriate in Australia or the UK.
- Under-investment in enhancement and growth infrastructure, including significant delayed / deferred investment in the 2021-31 LTP. The list of deferred or delayed projects is long and includes:
  - Network upgrade and enhancement projects including: Huia Water Treatment Plant (postponed 3 years); Western Isthmus wastewater and stormwater enhancements (postponed 3 years); Hunua 1 Watermain Upgrade (postponed 3 years); Warkworth / Snells, Waiuku, Clarks Beach and Wellsford Wastewater treatment plants (consents will not be met); Waikato A Water Treatment Plant (postponed 3 years); Leakage detection investment (postponed 2 to 3 years)
  - Storm Ready accelerated programme to respond to climate change (postponed 3 years)
  - Growth related investments in network capacity: Warkworth and Wellsford (postponed 2-3 years); Awakeri (postponed 3 years); Rosedale upgrades (postponed 3 years); Supporting Auckland Housing programme (postponed 3 years); and Te Atatu Peninsula Town Centre Growth (postponed 3 years).
- Water charges that are significantly higher than necessary, and which would materially impact on the well-being of Aucklanders. Under the 2021-31 Long-Term Plan, the average Auckland household's three waters charges (that is, Watercare plus stormwater) will increase from \$1,330 to \$2,180 (inclusive of GST). By comparison, the Water Industry Commission for Scotland estimates that the average bill under the Reform should be around \$1,700 by 2031 – around a third lower than projected in the LTP.

I also have several significant concerns about key elements of the proposed alternative model, which differ materially from what is proposed for the new water services entities. Areas of concern are as follows:

- I am not convinced that the provision of a Crown guarantee without corresponding changes to the current governance model would achieve the desired balance sheet treatment and credit rating outcome. Based on our previous rating agency engagement, we believe it is unlikely that Standard & Poor's would 'look through' Watercare's debt on a long-term basis when assessing Auckland Council's credit rating.
- Further, the provision of a guarantee, without a commitment to the wider Reform, would result in the transfer of significant risk from local government to the Crown and would:
  - Weaken incentives on Watercare to operate efficiently (as it reduces capital markets and commercial disciplines, and may undermine the effectiveness of economic regulation)

- Create significant risk of precedent, including the likelihood that other councils may request similar arrangements; and
- Expose the Crown to significant financial risk in a more explicit manner than is contemplated for the new water services entities more generally.
- I consider it would be difficult to build on the existing Watercare governance model to achieve the wider outcomes sought by the reforms.

Despite these differences of view on the best solution for Auckland, there is scope to explore changes to the proposed governance arrangements (and other aspects of the entity design) for the new water services entity that appropriately reflect Auckland's unique position and address the key interests and concerns of Auckland Council, provided the Government's Reform objectives are not compromised. I propose, with the support of our officials, that we undertake further joint work to:

- Consider modifications to the government's proposed governance arrangements that appropriately recognise Auckland Council's significant scale, provided the model retains appropriate representation by mana whenua and Northland councils.
- Ensure the new water services entities build upon the strengths of the Watercare/Healthy Waters model, including positioning Auckland as an exemplar.
- Consider whether there are other options that could enable Auckland to realise some of the benefits of reform earlier than might otherwise be achieved.

I look forward to discussing this with you and your fellow councillors on 18 June.

Nāku noa



Hon Nanaia Mahuta  
**Minister of Local Government**

Copy to: Rt Hon Jacinda Ardern, Prime Minister  
Hon Grant Robertson, Minister of Finance  
Hon Dr Megan Woods, Minister of Housing and Urban Development



8 July 2021

Hon Nanaia Mahuta  
Minister of Local Government

**By email:**

Tēnā koe Nanaia

Thanks for coming in for a meeting with Councillors at 1pm tomorrow.

Councillors agreed on the letter I sent to you on 7 July setting out our collective position which reflects the views of the overwhelming majority of Councillors.

I attach the questions which have been forwarded to me for you tomorrow so that you are aware of what you will be asked.

Given the session is only one hour perhaps our opening comments can be relatively brief and we can then use the time on the questions but feel free to use the time as you see fit. To save time I might simply read the questions in the order they are set out.

If we don't get through all 11 questions, perhaps I could get you to respond in writing to the balance please.

Maybe after the LGNZ Conference finishes next week, we can organise a time for you, Grant, me and CEO Jim Stabback to meet in person and see if we can find common ground on which to reach agreement.

Look forward to talking tomorrow.

Ngā mihi



Phil Goff  
**MAYOR OF AUCKLAND**

## **Attachment: Questions from Councillors for meeting 9 July 2021**

1. Which mechanisms currently available to Auckland Council to ensure democratic accountability and oversight of Watercare would be retained and which would be lost under the reform proposals?
2. What are the rights and obligations of ownership over the new Water Services Entity by Auckland Council under the reform proposals?
3. The benefits of reform focus largely on financial benefits. Could you outline the environmental and climate benefits of reform?
4. The inclusion of stormwater appears to lack technical analysis, reinforced by the definition of 'stormwater networks'. Green infrastructure and natural water systems are not often confined to networks. What are the reasons stormwater is included in the reforms?
5. Under reform, how will mana whenua led or community based naturalised solutions for stormwater still be able to be achieved through the integrated land-use planning of territorial authorities?
6. When the assets contributed by Auckland are 92% of the proposed new WSE and when Aucklanders make up 90% of the population served by it, why will Auckland have the power only to nominate 35% of the Regional Representative Group?
7. Can she make available to Auckland Council the records of correspondence and discussion between DIA and S&P Global Rating regarding what is required for a separation of the books of Council and Watercare from a credit ratings perspective.
8. Would Government be prepared to make a joint approach with Council to S&P Global Ratings to determine the conditions that would need to apply for a Government guarantee to allow further borrowings by Watercare without the Council's debt to revenue ratio limiting such borrowings?
9. Why in the distribution of Government's \$761 million funding to water service authorities across New Zealand to engage in the Three Waters Reform did Auckland receive only \$2 million, and will the reasons for that also apply to the remainder of the package the Government is soon to release in relation to Three Waters Reform?
10. How is the centralisation of control involved in the reform proposals consistent with the principles of localism and accountability and responsiveness to democratically elected councils?
11. Who in your opinion is the board of the WSE ultimately accountable to? And if you had invested \$11 billion into a company that was considered to be performing well, wouldn't you continue to want to have a say in how it was run?

7 July 2021

Hon Nanaia Mahuta  
Minister of Local Government

**By email:**

Tēnā koe Nanaia

Auckland Council acknowledges and supports the Government's desire to consolidate water supply entities in New Zealand and to give such entities access to greater borrowing to improve infrastructure.

Auckland already represents a level of consolidation that makes it larger than any of the other entities proposed for New Zealand. It is also acknowledged by you in the Auckland Council dashboard that it is the leading provider of water services, performing far better than any other authority in New Zealand.

This is reflected in Auckland not receiving a significant share of the \$761 million payments by Government to other Councils as part of the reform process.

Auckland is clearly different from other areas and we are looking to achieve with you a tailored response for Auckland. The goal would be to allow Auckland to participate in the reform process without the loss of its governance role over Watercare and the loss of genuine accountability and ownership by Council of 3-waters assets into which Aucklanders will have invested \$26 billion by 2031.

The key governance role of Council under the 2009 legislation which established Council and Watercare allows Council to appoint directors, approve Watercare's statement of intent, requires Watercare to give effect to Council's Long-Term Plan and for Council to give directions at a high level, but not operationally, through statements of strategic and performance expectations.

Under the reform proposals these accountability mechanisms are effectively removed and with that the new Water Services Entity's (WSE) responsiveness to the elected Council with a likelihood that strategic decisions will be made by anonymous bureaucrats and board members. This will result in further centralisation of decision-making in a system that is already far more centralised than most western democracies and detracts from democratic responsibility.

This remains the crux of our concern around the proposed reforms and an obstacle to our concurrence with them.

Secondly, while the legislation will note ownership by Councils of the WSE's, this is in name only with no benefits generally associated with legal ownership and uncertainty around our obligations. As such, any future Government will find it much easier to privatise the asset.

We acknowledge that the ability for Watercare to borrow more would allow it to invest more in water supply and wastewater infrastructure than the \$9.65 billion provided under our new Long-Term Plan, and to spread the cost of that over a longer period, lowering the cost to today's ratepayers.

This benefit however could potentially be achieved if a Government guarantee (with low risk to the Government because of a guaranteed source of revenue) was given to back additional borrowing by Watercare.

Would the Government be willing to make a joint approach to Standard and Poors to test whether an ongoing Government guarantee of debt under the new reform framework might allow a separation of books from a credit rating perspective and greater borrowing capacity to be achieved without sacrificing effective ownership and democratic accountability to the people of Auckland through their elected representatives?

Council is keen to be supportive of the Government's objectives through the reform but cannot support the details of the model proposed as we believe that it would not be in the long-term interests of the people we represent.

We welcome your commitment to partnership with us and we are prepared to compromise but do not yet see a reciprocal willingness on the part of Government to address our concerns. Agreement would be a far better basis for proceeding than if Council felt obliged to opt out or if Government was to impose proposed reforms against our will.

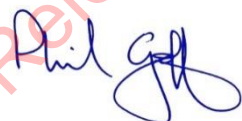
In my 14 June 2021 letter to you, I proposed an alternative model that would achieve many of the Crown's objectives:

- Balance sheet separation
- Competency based boards
- Scale
- Mana whenua involvement
- Ability for Northland Councils to be included as shareholders of WSE

I recognise that this model is different to that proposed for the rest of New Zealand. However, a different model for Auckland is warranted given we are in a different position to other areas having the size and economies of scale already above what Government is proposing for the rest of the country. With the changes we are proposing we could assist Government by leading this reform and build on the performance of Watercare which is already, by Government's own acknowledgment, significantly ahead of any other part of New Zealand in meeting drinking water standards and in the quality of wastewater treatment.

I would appreciate genuine consideration of Auckland Council's concerns and suggested alternatives so we can collectively achieve shared objectives.

Ngā mihi



Phil Goff  
**MAYOR OF AUCKLAND**

Copy to: Hon Grant Robertson, Minister of Finance  
Rt Hon Jacinda Ardern, Prime Minister  
Hon David Parker, Minister for the Environment

# Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato

Minister of Foreign Affairs

Minister of Local Government

Associate Minister for Māori Development



13 July 2021

Hon Phil Goff  
Mayor of Auckland  
Private Bag 92300  
Auckland 1142

Tēnā koe Phil

Thank you for our recent meeting on 9 July 2021, and our discussion related to the Government's Three Waters Reform Programme (the Reform).

I valued the opportunity to discuss the progress we made in the three areas we identified for further exploration at our previous meeting. This included:

- the potential for a joint commitment to three waters service delivery reform, including a specific proposal to accelerate investment and benefits realisation for Auckland, with recognition of Auckland Council and Watercare exemplar status in the reform programme;
- identification of a joint work programme focused on reducing the uncertainty caused by the proposed changes from other reforms – including resource management reform and interactions with the three waters reform;
- analysis of a range of enhancements to the proposed governance arrangements to provide you with greater comfort about public accountability and to recognise Auckland's scale in the proposed Entity A;
- progress on the potential provision of a short-term Crown indemnity to Watercare that might provide Watercare with \$350m of additional debt to deploy for water infrastructure investment in Auckland over 2022/23 and 2023/24. This would include the ability for Watercare to undergo, by agreement, a voluntary undertaking with oversight from WICS similar to previous Watercare exercise; and
- a commitment to considering appropriate treatment of the Veolia contract to benefit Aucklanders and to be progressed through the transition arrangements.


I also indicated that I was open to consideration of Auckland within the wider support package signalled by Government, though I note that this is yet to be announced.

I said I would come back to you on the specific questions raised by your council. These are attached as Appendix A.

We also agreed that steps should be taken to provide you with further assurance about the constraints and outcomes sought that shape our approach to the governance arrangements of the new entities to enable financial separation. I have asked my officials to work with your officers to facilitate a joint direct engagement for you and nominated colleagues with the ratings agency.

I look forward to continuing to work constructively with you and Councillors on these matters to benefit Auckland and all communities across the country.

Nāku noa



Hon Nanaia Mahuta  
**Minister of Local Government**

Copy to: Rt Hon Jacinda Ardern, Prime Minister  
Hon Grant Robertson, Minister of Finance  
Hon Dr Megan Woods, Minister of Housing

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## Appendix A: Three Waters Service Delivery Reform

*Questions raised by Auckland Council*

**1. Which mechanisms currently available to Auckland Council to ensure democratic accountability and oversight of Watercare would be retained and which would be lost under the reform proposals?**

Officials have worked closely with officers to understand the range of accountability and oversight mechanisms Auckland Council has in place and where these differ in terms of the proposed water service entity. The majority of instruments are inherently the same in nature, for example issuing a Statement of Strategic and Performance Expectations (based on a Statement of Intent) and monitoring the entity against that performance. The material difference that these instruments will be shared with other councils and with mana whenua for the proposed Entity A.

The ability to appoint and remove directors is different, and this is a direct result of the desire to achieve financial separation to open-up borrowing capacity for both Auckland Council and the water services entity. Since our first meeting, we have proposed some additional oversight measures to enable a better connection between the board and Auckland Council.

It is also proposed that water service entities remain land use plan-led, and the uncertainty arising from the resource management reform applies both to Watercare and to the proposed entity. We have identified a joint work programme to progress these issues. We are however aligned in our desire to ensure that the entities work with councils.

Several informal influencing arrangements currently exist although these seem to differ in application and effectiveness. They are particularly observed in the interaction between planning and Watercare's activities so appear to be more regulatory than ownership related. We do expect that informal influencing will continue in the future system; however, a key benefit of these changes will be in strengthened competency-based boards governing entities with significantly enhanced financial capacity to invest in outcomes for communities. Further information was provided in the slide pack prepared for our meeting on 9 July 2021.

**2. What are the rights and obligations of ownership over the new water services entity by Auckland Council under the reform proposals?**

The local authority ownership mechanism is a bespoke model, designed to deliver on the three waters reform objectives.

In designing the proposed water services entities, the Government has sought to design an entity structure that: maintains and protects public ownership of water assets, ensuring strong protection against privatisation; provides for strong and transparent oversight, governance and accountability through various mechanisms, importantly via the joint oversight of water services entities between local authorities and iwi/Māori; and achieves balance sheet separation.

There is no existing entity structure in New Zealand that would provide water services entities with these key features; the capability and capacity to deliver on the reform objectives; or provide water services in the way contemplated by the reform programme - hence the need to create a bespoke ownership model.

Given the public nature of the underlying water assets, local authorities will be listed in the establishing legislation as 'owners' of the relevant water services entity on behalf of their communities. Providing local authorities with collective 'ownership' of the proposed entities ensures that community ownership of water services is retained and recognises the important role of the community interest in water services delivery.

This is not ownership in the traditional company sense. Ownership under the proposed model does not reflect the concept of shareholder title and differs from the traditional concept of ownership in two key respects – corporate structure and governance.

Auckland Council will play key roles in the oversight of water services entities – the appointments process and strategic direction. In terms of the appointments process, Auckland representatives will act collectively with mana whenua representatives as a regional representative group. This group will appoint (and remove) and monitor an Independent Selection Panel which in turn appoints and monitors the Board. In terms of strategic direction, the group will provide the entity with a Statement of Strategic and Performance Expectations that will influence the Statement of Intent that the water entity produces.

My officials have also tabled some additional accountability mechanisms that you may exercise as owners represented on regional representative group, including the water entity board meeting with you directly at least twice a year and a public AGM, along with other public meeting formats as required.



**3. The benefits of reform focus largely on financial benefits. Could you outline the environmental and climate benefits of reform?**

The key benefit of the reform is a step change in the level of water service received by communities.

This Government has ambitions to significantly improve the safety, quality, resilience, accessibility, and performance of three waters services, in a way that is efficient and affordable for New Zealanders. This is critical for:

- public health and wellbeing;
- environmental outcomes;
- economic growth and employment;
- housing and support for population growth;
- adapting to the impacts of climate change and reducing greenhouse gas emissions; and
- mitigating the effects of natural hazards.

Government has shared extensive analysis showing that significant levels of investment – in the order of \$120 billion to \$185 billion – will be required across the country to replace and refurbish existing infrastructure, upgrade three waters assets to meet drinking water and environmental standards and provide for future population growth. Meeting this investment challenge could take 30 to 40 years and will be beyond the funding and operational capacity of most councils and communities under current arrangements.

In Auckland, this relates to the quality of your storm water system, your capacity to properly service population growth and housing and the quality of your receiving environments. Please see previous analysis supported also attached to support this rationale.

**4. The inclusion of stormwater appears to lack technical analysis, reinforced by the definition of 'stormwater networks' as green infrastructure. Natural water systems are not often confined to networks. What are the reasons stormwater is included in the reforms?**

Stormwater has been included in scope of the new water entities to enable the new water services entities to adopt an integrated catchment approach to the management and operation of urban water systems, increase in investment, and build capability and capacity is needed to lift the performance of stormwater systems, to ensure they can deliver on community expectations, that they are resilient, reduce impacts on water quality, and can adapt to long-term challenges like climate change.

Recognising that transferring stormwater responsibilities is complex, a 'Stormwater Technical Working Group' (STWG) – comprising experts from central and local government, iwi/Māori, and the water sector, and with an independent chair was formed to provide advice on the approach to transferring stormwater responsibility to the new water services entities. Auckland has significant representation on the STWG with members drawn from the Healthy Waters team, Watercare, and Auckland Transport.

I have yet to fully consider the report prepared by the STWG. Once this is complete I will make it available. The STWG was chaired by David Warburton who has a sophisticated understanding of the complexity of stormwater issues, particularly in Auckland.

The advice from the STWG recognises that natural water systems are a significant part of the stormwater system.

**5. Under reform, how will mana whenua led, or community based naturalised solutions for stormwater still be able to be achieved through the integrated land-use planning of territorial authorities?**

There has been a strong recognition of the importance of land use planning to achieve stormwater outcomes. The transfer principles developed by the STWG would require the water service entities to apply an integrated catchment management approach, and work in partnership with mana whenua to give effect to Te Mana o te Wai, and apply mātauranga Māori frameworks and knowledge.

Further, the proposed reform recognises a need for a new mechanism for expression of kaitiakitanga, that will enable mana whenua to prioritise their capacity and capability through a flexible mechanism where the onus of response shifts to the water services entity. The reform provides for a new statutory mechanism that enables mana whenua to prepare 'Te Mana o te Wai statements', and requires each water services entity to provide a formal published response to these statements within a prescribed timeframe that sets out a reasonable response to the issues raised by mana whenua. This mechanism will help inform asset management plans and is far stronger than current mechanisms available to mana-whenua given the statutory weighting. The benefit of this mechanism will apply to all three waters service delivery including stormwater.

**6. When the assets contributed by Auckland are 92% of the proposed new WSE and when Aucklanders make up 90% of the population served by it, why will Auckland have the power only to nominate 35% of the Regional Representative Group?**

The Government's proposals recognise the rights and interests of iwi/Māori and these include a partnership approach to oversight of the entities, with mana whenua sharing half of the representative positions with councils.

Councils and mana whenua will have both collective and individual roles on the regional representative group. The individual functions help to ensure new water entities will be responsive to local communities' needs, while the collective functions will hold new water entities to account for delivering objectives.

In the case of Auckland Council and Entity A, officials and officers have identified an alteration which would see Auckland guaranteed representation of just over 70% of the council positions on the representative group.

**7. Can she [the Minister] make available to Auckland Council the records of correspondence and discussion between DIA and S&P Global Rating regarding what is required for a separation of the books of Council and Watercare from a credit ratings perspective.**

A summary of the outcomes of my officials' prior engagements will be made available to Auckland Council and if we agree to continue exploring the possibility of a short-term indemnity, my officials and I would welcome your officers continuing to support the engagement with ratings agencies, just as they did so earlier this year.

I would however point out that S&P do not provide advice around what is required to achieve balance sheet separation. They will assess a specific scenario and provide a view as to how they would treat that scenario, and whether it achieves the specific outcomes sought.

What we have learnt from S&P engagements is that they see a strong legal and, in particular, moral recourse, between Auckland Council and Watercare. We understand that their view is also informed by other sources of information including analysis of public statements and media commentary with regard to potential control of the proposed water entity.

You will recall we also worked together late last year to examine whether separating Watercare from Auckland Council was possible, and that joint programme determined that it was not a viable option at the time.

**8. *Would Government be prepared to make a joint approach with Council to S&P Global Ratings to determine the conditions that would need to apply for a Government guarantee to allow further borrowings by Watercare without the Council's debt to revenue ratio limiting such borrowings?***

As I mentioned in my letter following our last meeting, I am prepared to continue exploring potential options to support additional investment in Auckland waster infrastructure through the transition period, including a possible short-term indemnity, subject to those options (i) not compromising Auckland's credit rating and (ii) being consistent with our broader reform approach.

Again, I would welcome Auckland Council continuing to support the engagement with ratings agencies, just as your officers did earlier this year.

**9. *Why in the distribution of Government's \$761 million funding to water service authorities across New Zealand to engage in the Three Waters Reform did Auckland receive only \$2 million, and will the reasons for that also apply to the remainder of the package the Government is soon to release in relation to Three Waters Reform?***

As you know, the initial focus on reform discussions with Auckland Council was on examining whether separation of Watercare from the Auckland Council group balance sheet could be accelerated, on the basis that this remained consistent with the Government's overall direction of reform. In the end, this work concluded that reform in Auckland could not be practically progressed separately from the broader reform programme.

I can confirm my intention that Auckland would participate in any package to support reform the Government may announce and that decisions in relation to this have not yet been taken. I do however anticipate announcements shortly.

**10. *How is the centralisation of control involved in the reform proposals consistent with the principles of localism and accountability and responsiveness to democratically elected councils?***

I do not see these proposals as centralising control. As outlined clearly in the proposals, water services entities will continue to be owned by communities, and will continue to be responsive to the needs of those communities. First and foremost, ensuring communities are well served requires entities that have the balance sheet strength and competent governance to make the investments required to lift levels of service to where they should be. Importantly, these services also need to be efficiently operated and affordable to communities.

The proposals necessarily involve some degree of aggregation of water services delivery to achieve the scale required to make the necessary investment and achieve efficiencies. This is balanced by ensuring that water services entities remain in local authority ownership, and that entities are accountable through a range of mechanisms (including not only through the regional representative group) to their communities, including councils as democratically elected representatives. We have provided Auckland Council with an analysis of how the proposed arrangements support local accountability.

The three waters reform and the benefits they will provide to communities have been at the heart of discussions with the sector, including with Local Government New Zealand. As the Mayor is aware, the reform programme has progressed under the guidance of a joint local government/central government steering committee with an independent Chair. This has included Auckland Council representation. This group has advised Government on the balance of local interest with the significant community and public interest in quality water outcomes.

**11. Who in your opinion is the board of the WSE ultimately accountable to? And if you had invested \$11 billion into a company that was considered to be performing well, wouldn't you continue to want to have a say in how it was run?**

My primary interest is in the households and ratepayers of Auckland, and of other councils around the country. These are the people who have paid for the assets, and who meet the cost of the services they deliver. Water services entities need to be accountable to those people as their customers. Local authorities, as democratically elected community representatives, have an important role to play in overseeing the entities, holding them to account, and ensuring they are responsive to communities' views on land use planning.

The proposal is for a 'belts and braces' accountability model. At the system level, accountability is delivered through:

- the governance arrangements, including the regional representative model, and the specific obligations water services entities will have to report against strategic and performance expectations set by the regional representative group;
- economic regulation, which will ensure water services entities operate effectively and efficiently, with significantly improved monitoring and performance incentives compared with the status quo
- regulation against quality standards, in particular drinking water quality standards by Taumata Arowai and environmental quality standards by regional councils
- responsiveness and giving effect to councils' spatial plans; for example, as to where growth is provided for; and
- to communities and customers directly through requirements for consultation and transparent reporting, consumer representative arrangements, and through protections for vulnerable consumers.

Through all of these mechanisms there is ample opportunity for councils, and their communities directly, to 'have a say' in how the entity is run. I would encourage councillors to focus on the whole of the service delivery model when asking how accountable it is and to whom.

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