



29 September 2021

Via email: threewaters@dia.govt.nz and feedback@lgnz.co.nz.

Dear Sir / Madam,

THREE WATERS REFORM FEEDBACK

Thank you for providing the Queenstown Lakes District Council (QLDC) with the opportunity to present feedback in relation to the three waters reform process.

The matter was addressed by the Council on 28 September and the attached position statement was approved for submission to the feedback process.

QLDC supports the need for safe drinking water, environmental protection, efficient service provisions and improved Māori participation in decision-making about three waters. However, significant concerns about the nature and programme of reform remain and QLDC will strongly and actively oppose Government mandating the proposed Entity-based model for water services delivery.

QLDC would welcome the opportunity to speak to this feedback.

Yours faithfully,



Mike Theelen
Chief Executive

QLDC Position Statement – Three Waters Reform

Summary:

QLDC supports the need for regulation, a strong strategic framework and some of the key outcomes that the Government seeks to achieve. QLDC supports the need for safe drinking water, environmental protection, efficient service provisions and improved Māori participation in decision-making about three waters.

QLDC will strongly and actively oppose Government mandating the proposed Entity-based model for water services delivery.

Government needs to demonstrate leadership and transparency in the delivery of this reform programme and establish a full programme of meaningful engagement with New Zealanders before taking further steps. An undue burden has been placed upon councils to broker this proposal with their communities, despite a contested evidence base and the profound implications such a change could have on the nature of local democracy.

QLDC is concerned that the programme for reform needs to be re-designed to tackle three waters, resource management and the Future for Local Government review in a staged and integrated manner. The following points and recommendations are made in support of this concern:

- The reform programme has moved forward with inadequate information and without alignment to other reform initiatives.
- The Government's proposal does not enable effective growth management and reduces the potential efficacy of climate change adaptation initiatives
- The proposed model of ownership places local government in an invidious position and erodes traditional understanding of local democracy
- Recommendations

However, if Government is not prepared to revisit the scheduling and staging of the reform programme, the following additional points of feedback and recommendations should be taken into account in relation to the current process:

- Government's technical and fiscal modelling has not been accepted by QLDC
- Alternative options have not been sufficiently discussed or explored
- The Government's proposal does not take into account emissions reductions, regenerative approaches and carbon accounting
- Community wellbeing has not been adequately considered
- The community voice has not been heard

PART A

QLDC supports the need for regulation, a strong strategic framework and some of the key outcomes that the Government seeks to achieve. QLDC supports the need for safe drinking water, environmental protection, efficient service provisions and improved Māori participation in decision-making about three waters.

- 1) QLDC strongly supports Government's intention to provide safe drinking water, effective environmental protection and efficient operations in the provision of three waters services.
- 2) QLDC supports the introduction of a stronger regulatory regime and strategic frameworks to ensure that the right investments are being made.
- 3) QLDC supports the introduction of the regulatory body for three waters, Taumata Arowai.
- 4) QLDC supports reforms that enable Ngāi Tahu to meaningfully participate in decision making about water services in the Ngāi Tahu takiwā.

PART B

QLDC will strongly and actively oppose Government mandating the proposed Entity-based model for water services delivery.

PART C

Government needs to demonstrate leadership and transparency in the delivery of this reform programme and establish a full programme of meaningful engagement with New Zealanders before taking further steps. An undue burden has been placed upon councils to broker this proposal with their communities, despite a contested evidence base and the profound implications such a change could have on the nature of local democracy. QLDC's primary concern is that the programme for reform needs to be re-designed to tackle three waters, resource management and the Future for Local Government review in a staged and integrated manner. The following points and recommendations are made in support of this concern:

The reform programme has moved forward with a lack of good information and without alignment to other reform initiatives.

- 5) The Council does not support the pace at which these reforms are progressing. The Government's timeline does not provide sufficient time for analysis commensurate with the significance of the change proposed.
- 6) The aggregated effects of three waters reform on the community are unclear, when considered in tandem with the Future for Local Government review and the reform of the resource management system. These three reform components should be managed holistically, given the scale of disruption, confusion and cost that could result from these changes.

- 7) Reform conversations have largely been held during one of the toughest economic times for the residents of the Queenstown Lakes District. No allowance for the distracting implications of the pandemic has been made in the pace and messaging of the reforms.
- 8) If the case for change is universally compelling, Parliament needs to lead the change more effectively and not burden local government with the need to legitimise the reform on its behalf. This is both confusing and frustrating for the community – greater clarity is required.
- 9) QLDC supports the joint letter from the Mayors and Chairs of the LGNZ Zone 6 councils to the Minister dated 25th August 2021, requesting that the reform programme is paused to provide communities with adequate time to clearly understand the implications of the three waters proposals.
- 10) However, additional time in the programme, will not (in and of itself) help to reach a resolution and model that is agreeable to all. The extension will require a defined programme of activity.
- 11) A staged approach is required, that sets an holistic programme of reform for resource management, the Future for Local Government Review and three waters. These three components should be prioritised and managed by the same government entity.
- 12) A staged approach would recognise the lynchpin role that certain metropolitan councils play in this reform programme. Key metropolitan councils could consider the implications of reform and make opt in / opt out decisions before smaller territorial authorities are included in the process. This would remove one of the many variables from the process in the consideration of opt in/ opt out decisions for smaller councils.
- 13) A staged approach would enable the consideration of community wellbeing in a more structured fashion according to a recognised framework and the inclusion of best practice carbon accounting withing the programme. Both of these elements appear to have been secondary considerations in the proposals to date.

The Government's proposal does not enable effective growth management and reduces the potential efficacy of climate change adaptation initiatives

- 14) There is a lack of clarity around how any new entity would integrate with the NPS-UD and the requirements of the spatial plans under the proposed Spatial Planning Act.
- 15) The Government's proposal leaves high growth councils in limbo throughout three waters reform, until the Spatial Planning Act is passed and existing spatial plans are given legislative weight. Government should consider requiring the new entities to commit to delivering on the Future Development Strategies of high growth councils.
- 16) There is no certainty as to the investment decision-making framework for new entities, which will be required for communities to have confidence that growth needs will be effectively addressed.
- 17) QLDC is a high growth district, but the business case rationale for investment will likely be easier for larger metro centres to make, as opposed to other locations across the south island.

- 18) Water and wastewater are fundamental to growth but they will still be dealing with competing investments across a wide area. The Government's proposal disassociates development and growth from three waters requirements and it's currently unclear as to how prioritisation will occur.
- 19) The three waters system has an important role to play in the management of climate change adaptation and it is concerning that three waters reform is progressing ahead of the National Adaptation Plan, anticipated in 2022.
- 20) The investment and operational planning for three waters networks are a critical focal area for climate change adaptation and resilience investment. These adaptive planning processes are highly localised, as they draw upon local knowledge, local hazard information, and local community risk appetite to support the development and selection of pathway options. It is unclear as to how the Government's drive towards greater three waters centralisation would facilitate improved local dynamic adaptive planning outcomes. This also risks creating disruption to important and time-sensitive programmes of adaptation and resilience work that is currently happening across the country. For QLDC, this is a matter of grave concern as there are significant adaptation and resilience planning projects currently in progress relating to for flooding, alluvial fan, wildfire and seismic hazards.

The proposed model of ownership places local government in an invidious position and erodes traditional understanding of local democracy

- 21) In its efforts to retain balance sheet separation between Councils and the new entities, Government has circumvented long established models of local democracy.
- 22) Localism (a long-standing LGNZ policy principle) is being replaced with centralisation, with locally elected representatives removed from meaningful participation in the process of managing three waters.
- 23) The continued assertion of local government ownership, without formal and meaningful control is a fiction. If local government retains a role as asset owner, a stronger role in governance and management is required. The proposed model will create significant confusion amongst the community in relation to local government's role, accountability and ability to effect change.
- 24) If the Government pursues this proposal, there is a high risk of a loss of trust with local government and the community alike.

Recommendations:

- 25) Set resource management, Future for Local Government Review and three waters reform within the same programme and governance structure.
- 26) Address three waters reform in two stages, firstly introduce the regulator to the existing model before proposing next stage solutions and system change.
- 27) Ensure that any change retains a clear and meaningful link between ownership and governance.

- 28) Identify a clear model for the assessment of community wellbeing as part of the programme, using a recognised framework such as the Living Standards Framework.
- 29) Establish a carbon accounting model that ensures emissions reduction is a key part of the programme.
- 30) Create a comprehensive model for better community engagement across all three elements – an opportunity exists for the creation of a national-level, demographically representative public forum on the issue of three waters reform.
- 31) Develop an investment decision-making framework for three waters, that enables timely and affordable investment to be integrated with the local community’s aspirations and resists developer-led influence.
- 32) Redraft the reform programme to identify points of integration, alignment and dependency:
 - a) Phase 1 - start the programme with stage 1 three waters reform – introduction of the regulator, Taumata Arowai. Amplify the role of the Māori governance in preparation for stage 2 reforms. Monitor and evaluate the performance of local and regional government within that context. Await insights from the release of the National Adaptation Plan.
 - b) Phase 2 – resource management reform stage 1 – establishment of the NBA and Spatial Planning Act.
 - c) Phase 3 – Future for Local Government review.
 - d) Phase 4 – resource management reform stage 2 – establishment of the climate change adaptation act.
 - e) Phase 5 – three waters reform stage 2 – adaptation of the model (or consideration of other models) to ensure effective partnership with Māori, introducing efficiencies and service improvements if needed.
 - i) Tranche 1 – Key Metropolitan councils opt in / out
 - ii) Tranche 2 – All other councils opt in / out

PART D

However, if Government is not prepared to revisit the scheduling and staging of the reform programme, the following additional points of feedback should be taken into account in relation to the current process:

Government’s technical and fiscal modelling has not been accepted by QLDC

- 33) QLDC has identified a number of issues with the Government’s data dashboard and contends that the potential household cost saving are likely to be significantly lower than claimed. The Government has not been prepared to engage in a dialogue about the rectification of these errors.
- 34) The Government’s model does not account for high visitor numbers and development contributions, both of which are highly relevant to an understanding of three waters service provision and investment in the Queenstown Lakes District.

- 35) Questions remain as to whether benefits are realistic or inflated.
- 36) Better off and worse off funding has been built upon resident population-based modelling, but locations with high visitor numbers are required to provide three waters services for peak day populations. As such, the funding is insufficient to meet QLDC's needs.
- 37) Recommendations:
- a) Correct the number of connections in the model for QLDC and reissue the data dashboard.
 - b) Explore opportunities to better reflect high visitor numbers and development contributions in the modelling.
 - c) Apportion funding based on a demand basis, rather than a resident population basis.

Alternative options have not been sufficiently discussed or explored

- 38) Government has not convincingly demonstrated that its proposal is the best nor only pathway for achieving the outcomes desired.
- 39) Government has also not sufficiently protected three waters from privatisation under the existing proposal, as future governments can change legislation to enable privatisation.
- 40) Economies of scale have been afforded greater consideration than economies of scope.
- 41) A systems approach has not been taken when considering the role played by three waters in the district's communities.
- 42) Exploration of alternative options have only been considered in a Regulatory Impact Assessment, which is not readily accessible for the wider community.
- 43) There has been no inclusive exploration of other service models and no dialogue around the potential for more robust benefits to be gained from a less radical set of changes.
- 44) The Otago Southland councils endeavoured to understand what an effective regional solution could be, but the borrowing covenants and limitations imposed by the LGFA made the option infeasible.
- 45) Recommendations:
- a) Conduct and explain a full options analysis, considering a range of models of three waters operation against agreed criteria.
 - b) Consider amending the LGFA to enable alternative regional options to be seriously considered in detail.
 - c) Embed protection of three waters from privatisation through enduring legislation mechanisms i.e. Bill of Rights or similar. Establish first and second rights of refusal for any eventual privatised offering with iwi and territorial authorities respectively.

The Government's proposal does not take into account emissions reductions, regenerative approaches and carbon accounting

- 46) The residents of the Queenstown Lakes District are highly focussed on matters of emissions reduction and climate action. The Council has significantly changed (and continues to change) the way it works and thinks to reduce its emissions. It is no longer sufficient to limit modelling to fiscal and economic elements – a carbon accounting approach needs to be included.
- 47) QLDC has an emissions reduction roadmap that demonstrates net zero 2050 is possible across the existing portfolio of council operation, with drinking water compliance scheduled in the Ten Year Plan for compliance by 2024. The ability for the Government's proposal to reduce emissions and achieve these goals has not been addressed.
- 48) Furthermore, across a number of policy areas, the Government is encouraging adoption of a regenerative approach and mindset. Nurturing place-based solutions are an essential component of regenerative thinking, but the Government's three waters proposal fails to recognise this and seeks instead a regressive approach that ignores the connection between people, place and water.
- 49) Recommendations:
- a) Explore opportunities to retain place-based participation in three waters management.
 - b) Conduct a carbon accounting exercise to fully assess the benefits of different models of three waters service delivery at a national, regional and local level. Include this in the publicly available dashboards.

Community wellbeing has not been adequately considered

- 50) The government has not provided an assessment of the implications of reform on community wellbeing at either a national, regional or local level.
- 51) No recognised tools or frameworks have been recommended to local government in considering community wellbeing.
- 52) QLDC has undertaken a very high level assessment of community wellbeing based upon the Treasury's Living Standards Framework.
- a) Across the 12 domains of wellbeing, the Government's proposal only achieves more than the council option and the Otago-Southland entity option in one area – income and consumption. This is based upon the current modelling demonstrating that the Government's proposal will achieve the greatest household cost savings (which may or may not be reliable).
 - b) The Government's proposal also will achieve results in the domain of cultural identity, with the ability for Te Ao Māori to be integrated within the governance model, but there is no legislative impediment to that being able to be introduced more effectively in either other model.

- c) In the domains of civic engagement and governance, housing (growth and planning) and subjective wellbeing (climate action and emissions reduction), it was found that the Government proposal was the option that contributed least to wellbeing.
 - d) It is assumed that over time, the domains of 'jobs and earnings' and 'knowledge and skills' would be negatively impacted under all models except for the council option, which would retain specialist expertise in the district. Of course, the ability to fill these positions may be challenging if competing with a larger entity.
 - e) The domains of health, safety and security and environment will largely be met according to the standards of the regulator. The risk here is that the regulator's standards may be lower than those that would be applied under the council model or that offered by an Otago-Southland entity.
- 53) A key element of wellbeing that has been overlooked in this process, is the importance that self-determinism plays in the health of a community. The lack of control that communities will have in the Government's proposal will have a detrimental effect on the engaged, educated and interested population of the district.
- 54) The economic wellbeing of the community extends beyond household costs and expenditure in relation to three waters reform. Additionally, all residents will become consumers of the entity's product under the government's proposal. Currently, consumers can direct concerns to the Council and ultimately vote for councillors that will advance their concerns. However, the government's proposal removes the right of redress and an alternative consumer body will need to be created.
- 55) Many local businesses will also be affected by the centralisation of services under the government's proposal. Procurement processes will need to ensure that smaller, local three waters businesses can still flourish within the market, without being dominated by a national duopoly. Changes to immigration and skills development settings may be required to encourage the three waters workforce to increase significantly and for nation building opportunities to continue to be realised.
- 56) Recommendations:
- a) Create a wellbeing assessment tool for local government to use in truly understanding the implications for the community.
 - b) Revisit the proposed governance model to ensure that local self-determinism can be retained.
 - c) Establish a consumer body as part of the Government's proposal.

The community voice has not been heard

- 57) To date there has been insufficient information and time available for QLDC to meaningfully engage with the community on the implications of three waters reform. Genuine engagement will be required to meet the moral and legal requirements of council decision-making.
- 58) A brief community sentiment survey was conducted in the district, demonstrating that 74% of respondents felt negatively or very negatively about the three waters reform programme.

59) Public engagement has not been undertaken by Government, instead communities are being spoken to. A slower pace will provide communities with time to understand the options available and for sound decisions to be made.

60) Recommendations:

- a) Partner with local government to develop a clear timeline for community engagement and a mechanism for the provision of meaningful feedback to territorial authorities and Government.
- b) Consider the creation of a national-level, demographically representative, single issue public forum to fully understand and debate the issue before making recommendation to Parliament.
- c) Consider holding a referendum on the matter.

QLDC thanks Government for the opportunity to provide feedback at this stage, but notes that nothing contained herein binds the Council's position should the opportunity to opt in or out arise. All further information will be considered in detail with the community of the Queenstown Lakes District before any such final position can be taken.