

QLDC Council

3 February 2022

Report for Agenda Item | Rīpoata moto e Rāraki take: 2

Department: Corporate Services

Title | Taitara Three Waters Reform – Feedback to Government

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

The purpose of this report is to update Council about the Communities 4 Local Democracy group (a local government response by some Councils to the mandatory three waters reform) and to enable consideration of membership.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

- 1 **Notes** the contents of this report; and
- 2 **Resolve** whether or not to join Communities 4 Local Democracy.

Prepared by:

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20/01/2022

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CONTEXT | HOROPAKI

Background

- 1 On 27 October 2021, the Government announced that it would create publicly-owned water entities, with the responsibility to manage and operate the infrastructure assets for three waters.
- 2 This announcement was made following an engagement process. The Council provided feedback through that process to the Department of Internal Affairs (DIA), which was approved on 28 September 2021 and can be found here: <https://www.qldc.govt.nz/your-council/council-documents/agendas-minutes/full-council>.

Summary of Feedback

- 3 In summary, QLDC provided the following feedback:
- 4 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.
- 5 QLDC will strongly and actively oppose Government mandating the proposed Entity-based model for water services delivery.
- 6 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.
- 7 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
- 8 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

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 9 A number of Councils have expressed their concern about the Government's announcement. In November 2021 a Memorandum of Understanding (MOU) was drafted and circulated amongst territorial authorities offering membership to a group that will seek alternative three waters solutions to those proposed by the Government.
- 10 The deadline for joining the group via this mechanism has passed, but QLDC can still choose to join Communities 4 Local Democracy, through written application supported by clear mandate. The conditions of membership are unclear from the online materials, although similar conditions to the original MOU are assumed.
- 11 The MOU required its signatories to:
- Join a campaign to advocate for a policy change on three waters reform.
 - Maintain the same policy line as agreed by the signatory councils (and as initially set out in the MOU itself).
 - Have one vote on matters that are considered by the governing Plenary group (which is made up of all signatory councils)
 - Adhere to the governance of an oversight group of 7 Councils.
 - The oversight group may appoint a group of advisors.
 - Inform the signatory Councils if it intends to deviate from the strategy (which may lead to suspension by a majority vote of the Plenary group if not resolved).
 - A \$20 000 Contribution is payable on signing. But there is no detail on what the contributions will pay for.
- 12 In addition:
- While the MOU is not legally binding, there may be other implications for a council if it were to breach the agreement, such as a loss of trust or impact on reputation
 - If a council were to choose not to follow the same policy line and leaves the campaign or is suspended, any costs already incurred will be retained. It is unclear at this stage as to how costs will be apportioned over the timeline of the project.
 - The MOU does not define the split of decisions that sit with the Plenary group and the oversight group, including which group agrees to spend funds. For example, it is not clear whether individual actions within the overall strategy are approved at Plenary or oversight group level. However, subsequent questions to the group have established that the oversight group is responsible for *“implementing the direction and high-level decisions of the Plenary. It obtains agreement from the Plenary for strategic development, tactical execution, budget and monitoring.”*

- It is unclear if the votes are by majority or a higher threshold as only the suspension vote is specified as requiring a majority of the Plenary.
- It is unclear how the oversight group is appointed in the MOU. However, subsequent questions to the group have established that the oversight group is made up of the *“three initiating Councils of the legal proceedings being Waimakariri District Council, Whangarei District Council and Timaru District Council with the addition of further four Manawatu District Council, Christchurch City Council, Westland District Council, Wairoa District Council. These Councils were selected to provide geographic scale and coverage.”*
- It is unclear from the MOU as to what the process is for agreeing any further contributions or what happens if there are surplus funds at the end of the campaign. However, subsequent questions to the group have established that the reallocation of any surplus funds would *“be a matter for the Plenary”*.

13 There are 24 Councils that have signed up this MOU, which are now identified collectively as Communities 4 Local Democracy. Although not a founder signatory, Council can still apply to join the group. To date, Christchurch is the only city to have joined and none of the other high growth councils have joined at this stage. A full list of members can be found here: <https://www.communities4localdemocracy.co.nz/about> and is demonstrated in green on the map below.



- 14 The focus of the group is outlined at the abovementioned site, indicating adherence to several guiding principles:
- Acceptance of and support for the new drinking water regulator
 - Acceptance of and support for efforts to improve environmental outcomes
 - Agreement that there is a case for investment in parts of New Zealand
 - Agreement that mana whenua should be involved in three waters investment decisions
- 15 On the same site, the group disagrees with the government's approach to three waters reform, noting that:
- Community property rights should not be confiscated without compensation
 - Direct community input into local decision-making should not be removed
- 16 If the Council were to join the group, it would need to consider who should represent the Council on the Plenary and determine, what level of decision-making would attach to the representative without reference back to the Council. If Council resolves to join at the meeting of 3 February, these matters can be determined and formally resolved at the subsequent meeting through the Chief Executive's Report.
- 17 The benefits of joining a campaign with others include:
- Display of strength of views and preferences beyond the Council's territorial area.
 - Strength in sharing a diverse range of skillsets from throughout the signatory councils.
 - Combined financial contributions.
- 18 The disadvantages of joining a campaign with others include:
- The Council is one vote around the table and may be constrained by the collective position.
 - It may undermine the partnership with government realised through the spatial plan and other advocacy initiatives.
 - The governance arrangements are not well defined.
 - It may provide a distraction to other work being undertaken to create modifications to the policy announcement, such as the Government's Three Waters working group
- 19 Officers have been advised that even if Council does not join Communities 4 Local Democracy, individual councillors will have the opportunity to provide personal endorsement for the group in the near future.
- 20 There is no link between Communities 4 Local Democracy and the action taken in the High Court by Timaru DC, Waimakariri DC and Whangarei DC, other than the fact that these councils are also members of the oversight group within Communities 4 Local Democracy

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 21 This matter (decision) is of low significance, as determined by reference to the Council's Significance and Engagement Policy but it is acknowledged that the level of interest from community, iwi and key stakeholders in community wellbeing – social, economic, environmental cultural – and the importance of community participation to achieving this is of high significance. This report is not inconsistent with existing policy and strategy. It aligns to the Vision Beyond 2050 statements and the Ten Year Plan.
- 22 The persons who are affected by or interested in this matter are all residents and ratepayers of the Queenstown Lakes District community, businesses, community organisations, other local and central government agencies, and Council staff.
- 23 Community consultation has not been undertaken in relation to this specific matter.

> MĀORI CONSULTATION | IWI RŪNANGA

- 24 Council staff have been in discussion with Ngāi Tahu to progress the takiwā approach over the past 12 months, but specific consultation on this matter has not been undertaken. Government has managed a separate consultation process with iwi.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 25 This matter relates to the Strategic/Political/Reputation risk category. It is associated with RISK00038 (lack of alignment – strategies and policies) within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.
- 26 The approval of the recommended option will support the Council by allowing us to implement additional controls for this risk.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 27 Membership of this group will be \$15,000, plus a degree of administration and management time to ensure effective participation.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 28 The following Council policies, strategies and bylaws were considered:

- 2019-2022 Climate Action Plan
- 2021 Spatial Plan
- 2021-31 Ten Year Plan
- 2021-51 Infrastructure Strategy

- Risk and Resilience Framework
- Organisational Development Strategy

29 Membership of the group is not inconsistent with the principles set out in the named policy/policies.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

30 Consideration of the matter:

- Will help promote the social, economic, environmental, and cultural well-being of communities in the present and for the future (LGA s10) by ensuring Council is considering potential opportunities to represent the community in the matter of local government reform.
- Can be implemented through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.