Future State of the Three Waters System: Regulation and Service Delivery

On 5 November 2018, Cabinet; following reference from the Cabinet Economic Development Committee (DEV):

Background

1 noted that on 9 April 2018, Cabinet invited the Ministers of Health and Local Government to report back to DEV on the options for the future regulation and service delivery of the three waters, including the government response to the Havelock North Drinking Water Inquiry [CAB-18-MIN-0145 and CAB-18-MIN-0147];

2 noted that Cabinet directed that oversight of this work be provided by a group of Ministers with portfolio interests in water infrastructure, comprising the Ministers of Finance, Environment, Health, Infrastructure, Climate Change, Commerce and Consumer Affairs, Civil Defence, Housing and Urban Development, Transport, and Conservation (with the Minister for Rural Communities subsequently joining this group);

Challenges facing the three waters

3 noted that the best evidence available indicates there are system-wide challenges facing the three waters, and that the response will require a whole-of-system approach, from source to tap and back again;

4 noted that while the challenges vary across communities and for each of the three waters services, a number of themes have emerged that, taken collectively, mean the status quo is not sustainable in the long term:

4.1 funding to upgrade infrastructure is unaffordable for many communities, with councils struggling to fund plant and pipe infrastructure to the level required to meet standards and community aspirations, keep pace with population growth, or ensure resilience to climate change and other natural hazards such as earthquakes;

4.2 capability is a challenge for many councils, particularly in rural and provincial areas, which can struggle to find and retain staff with specialist skills to design, procure, deliver, and manage three waters services;

4.3 across many areas, the challenges increase as population size decreases, and for many small towns and sparsely populated regions there is no clear way forward;
4.4 regulation of three waters is weak across the system, with drinking water and environmental regulation not properly providing assurance that good outcomes are always being reached, and no real system of economic regulation to ensure that the long-term interests of consumers are being protected or that services are value for money;

Road map for future decisions on three waters reform – timetable and scope

5 agreed that the government embark on a process of three waters reform over the next 18 months, seeking detailed policy decisions in tranches in 2019, with a view to introducing legislation in 2020;

6 agreed that the overall three waters reform process be led by the Minister of Local Government, with shared accountability with the Minister of Health (drinking water regulation), Minister for the Environment (environmental regulation), and Minister of Commerce and Consumer Affairs (economic regulation);

7 agreed that oversight will be provided by a group of Ministers with portfolio interests in water infrastructure, comprising the Ministers of Finance, Environment, Infrastructure, Climate Change, Commerce and Consumer Affairs, Civil Defence, Housing and Urban Development, Transport, Conservation, and Rural Communities;

8 agreed that the outcomes for reforms will be as follows:

8.1 existing three waters assets and services must remain in public ownership, and the system will incorporate safeguards to protect public ownership of this essential infrastructure, both now and in the future;

8.2 a sustainable three waters system that operates in the long-term interests of consumers, communities, tangata whenua, and New Zealand generally;

8.3 drinking water that is safe, acceptable and reliable;

8.4 environmental performance of wastewater and stormwater realises the aspirations of communities in which they are situated, including tangata whenua, and New Zealand generally;

8.5 three waters services are delivered in a way that is efficient, effective, resilient and accountable, with transparent information about performance, and prices consumers can afford;

8.6 regulatory stewardship of the three waters system is fit for purpose, and provides assurance that these outcomes are being achieved and safeguarded;

9 invited the Ministers of Local Government, Health, and Environment to report back to DEV in June 2019 with detailed policy proposals for drinking water and environmental regulation of the three waters, to enable drafting of legislation to commence in the following areas:

9.1 system-wide reform of regulation of drinking water;

9.2 a new risk management regime for sources of drinking water;

9.3 targeted reform of environmental regulation of wastewater, aimed at lifting its environmental performance within the existing framework of the Resource Management Act 1991;
9.4 measures to give greater transparency around the operation of wastewater and stormwater systems, and to promote better practice;

9.5 the institutional arrangements, and oversight and stewardship needed to give effect to these reforms;

10 invited the Minister of Local Government to report back to DEV in late 2019 with detailed policy proposals for service delivery arrangements, to enable drafting of legislation if required, following further analysis and engagement on the following high-level options:

10.1 regulatory reforms only, with voluntary, sector-led reforms to service delivery arrangements;

10.2 a three waters fund to support voluntary service delivery improvements;

10.3 an aggregated system of dedicated, publicly-owned, drinking water and wastewater providers;

11 agreed that the identification of the three high-level options referred to in paragraph 10 above does not preclude or constrain the investigation or the development of other options that could be effective in responding to the challenges identified, and deliver a long-term, sustainable three waters system;

12 invited the Minister of Local Government and the Minister of Commerce and Consumer Affairs to report back to DEV in late 2019 with policy proposals for the economic regulation of three waters services, to enable drafting of legislation to commence, if appropriate;

13 invited the Ministers of Local Government, Health, Environment, and Commerce and Consumer Affairs to report back to DEV in late 2019 with proposals to improve oversight and stewardship across the three waters system (taking account of decisions on service delivery arrangements and economic regulation, as well as previous decisions on oversight and stewardship to support drinking water and environmental regulation);

Engagement

14 agreed that there will be ongoing engagement with stakeholders as part of the development of policy options for the future state of three waters, which will be led by the Minister of Local Government;

15 agreed that ongoing engagement with iwi and Māori, which is important from a Crown/Māori relationship and Treaty of Waitangi perspective, will also be led by the Minister of Local Government;
Financial implications

Martin Bell
for Secretary of the Cabinet

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