

Three Waters Review - Not waving but drowning

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The first shoe has dropped from the Government's *Three Waters Review* (the Review), with the announcement of a water regulator. The regulator will set national drinking water standards and monitor and enforce those standards.

Given ministerial statements at the recent Infrastructure New Zealand conference, these standards will be demanding. They have made local authorities, who outside Auckland (Watercare) build and fund water infrastructure, sit up and take notice. When combined with the just announced draft National Policy Statement for Freshwater Management, which will drive improved discharges from waste-water facilities, local councils are facing a constricting regulatory brace. The days of avoiding rates inflation via a near-enough-is-good-enough approach to water quality are coming to an end.

One can hardly argue with the objectives of the Review. Who can (overtly) quibble with safer aqua going in and cleaner H₂O coming out. However, councils will be concerned about the consequential cost of these improvements and will worry the natural consequence of higher standards will be the eventual federalization of water assets. If that occurs and those duties lost to councils, they might validly wonder if that could represent an existential threat.

While a rethink of sector organisation is not the prime objective of the initial phase of the *Three Waters Review*, it is surely a focus for the next phases. The reforms particularly point to the challenge faced by smaller councils to fund waste water upgrades. Local Government Minister Mahuta has promised that, throughout the rest of 2019 and into 2020, her officials will be discussing "... options to improve three waters service delivery and funding arrangements" with key stakeholders. At this point the Ministers stated high-level options are:

- Regulatory reforms only, with voluntary, sector-led reforms to service delivery arrangements;
- A three waters fund to support voluntary service delivery improvements;
- An aggregated system of dedicated, publicly-owned, drinking water and wastewater providers

How different councils will negotiate these treacherous waters will be absorbing. Some will try to get ahead of the wave, others will try to swim it alone and some might wait for the mighty ship of state to steam by and throw them a life line.

Ahead of the wave

Some councils will pre-empt the Review by implementing their own solutions, like Waikato District Council who have awarded a contract to Auckland's Watercare.

The most obvious solutions involve either contracting out to a reputable service provider, or aggregation with other councils - aiming for scale and synergies. Third party water service provider options range from the safe (Watercare or Wellington Water) through to the challenging (a privately-owned commercial service provider). While the latter may be perceived to be politically and legally risky, it is not without historical precedent. The challenges for other councils considering contracting a Watercare or Wellington Water are two-fold. First, does Watercare or Wellington Water have the appetite to grow, particularly into more challenging areas like Northland. Secondly, are the current shareholding councils prepared to cede a degree of control?

Safety in numbers – the safe option

The opportunity for councils to aggregate with their neighbours follows the course plotted by the Wellington Water Councils (Hutt, Porirua, Upper Hutt and Wellington City councils and Greater Wellington Regional Council). This approach sees the councils continue to own their own infrastructure, but aggregates operations into a single entity. Skills and expertise are shared, but costs remain with the ratepayers. Evolution, not revolution.

However, even dipping one's toe into the waters of amalgamation can have its complexities. The inability of Waipa and Waikato District Councils to reach terms shows that the devil can be in the detail when forming partnerships (and who wants to deal with the devil?).

Swimming alone

Others, like the aforementioned Waipa Council, will consider swimming alone. They will contemplate undertaking generational

upgrades of their water infrastructure and sailing under their own steam for the foreseeable future. Those choosing to go it alone may recognise the hardship in maintaining the necessary operational scale to comfortably play in the water space. However, they may conclude that if they don't retain water infrastructure capacity this would so diminish their aggregated scale across all their operations (roading, parks' maintenance etc) that their economic viability to provide any and all their functions would be imperilled.

A life preserve?

Despite their best intentions and protestations to the contrary, some councils, particularly ones with small rating bases and heavy tourist obligations or more comparatively impoverished constituents, may have to send up distress flares for Government assistance. While such an approach does not accord with our current model, it is not without equity or precedent.

Councils collectively receive only 7% of the total tax take (compared to 93% that accrues to the central government). Given this imbalance, at some point the discussion may shift towards central government coming to the rescue. This does not though have to be at the end of the sword of enforced aggregation. The Government could just fund the necessary infrastructure without strings. There is historical precedent for this. Some of our current water infrastructure was built many moons ago by Government (via the Ministry of Works) and then passed to the relevant council for operation.

Pieces of eight

In any event, it may not take long to see if the next shoe will drop – with the *Three Waters Review* scheduled to have detailed advice on service delivery and economic regulation in front of Cabinet towards the end of 2019. Given the Government's current narrative, one wonders if any measures taken by councils will quench the its thirst for fundamental reorganisation in this sector. However, in response to any such activism Councils might equally ask whether Government is prepared to put its pieces of eight where its good intentions are.

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