

TO: INFRASTRUCTURAL SERVICES COMMITTEE

FROM: JANE PARFITT, INTERIM GROUP MANAGER – INFRASTRUCTURE

MEETING DATE: TUESDAY 1 SEPTEMBER 2020

THREE WATERS REFORM

SUMMARY

As part of the three waters reforms, the government has announced a funding package of \$761 million to provide immediate post Covid-19 stimulus to local authorities to maintain and improve three waters (drinking water, wastewater, stormwater) infrastructure, and to support the reform of local government water services delivery arrangements.

Initial funding will be made available to those councils that sign the Memorandum of Understanding (MoU) and associated Funding Agreement, and provide a Delivery Plan.

This initial funding will be provided in two components: a direct allocation to individual councils, and a regional allocation. The participating councils in each region are required to agree an approach to distributing the regional allocation.

ICC has signed the MoU. The purpose of this report is to provide details of the Funding Agreement and Delivery Plan and request that they delegate authority to the Chief Executive to finalise and submit both documents by the required due date (30 September 2020).

It also requests that the Chief Executive is given authority to approve the procurement plan and award contracts for works as the timeframe for delivery is short.

RECOMMENDATIONS

That the Infrastructural Services Committee:

- a) Receives the report titled “Three Waters Reform”
- b) Resolve to enter into the Funding Agreement (**Appendix A - reference A3146408**) with the Crown and delegate authority to the Chief Executive to finalise and execute the documents noting that this decision needs to be made by 30 September 2020
- c) Note that the Council has been allocated \$3.02 million of funding, which will be received as a grant as soon as practicable once the signed Funding Agreement is returned to the Department of Internal Affairs, and a Delivery Plan has been supplied and approved
- d) Resolve to delegate decisions about the allocation of regional funding (\$11.15million) between the different territorial authorities to the Chief Executive noting that participation by two-thirds of territorial authorities within the Southland region is required before local authorities within the region can access the regional allocation and that it will be important that agreement is achieved between the three territorial authorities quickly given the need

for the Delivery Plan (**Appendix B - reference A3146411**) to be submitted by 30 September 2020

- e) Note that the Delivery Plan must show that the funding is to be applied to operating and / or capital expenditure relating to three waters infrastructure and service delivery, and which:
 - supports economic recovery through job creation; and
 - maintains, increases, and / or accelerates investment in core water infrastructure renewal and maintenance
- f) Approve the broad allocation of three waters stimulus funding to the packages of work as outlined in **Appendix C (reference A3146416)** and in so doing notes that the funding needs to be spent before 31 March 2022
- g) Delegate authority to the chief executive to approve and submit a final delivery plan to Crown Infrastructure Partners (CIP) for approval
- h) Delegate authority to the Chief Executive to finalise and execute the final Service Delivery Plan after it is signed off by the CIP
- i) Approve unbudgeted expenditure of up to \$6.05 million noting that the final value of the works to be funded will be dependent upon confirmation of the proportion of regional funding allocated to Council
- j) Resolve that the unbudgeted expenditure will ultimately be funded by way of the grant provided by government as part of the three waters reform programme
- k) Delegate authority to the Chief Executive to approve the procurement plan and the negotiation and award of contracts for these works
- l) Notes that it supports working together with both SDC and GDC on this programme of works to capture any efficiencies on behalf of the region and with others in the Otago / Southland region and the Crown to progress discussions on a new entity / operating model.

IMPLICATIONS

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| 1. | <i>Has this been provided for in the Long Term Plan/Annual Plan?</i> No |
| 2. | <i>Is a budget amendment required?</i> No |
| 3. | <i>Is this matter significant in terms of Council's Policy on Significance?</i> No |
| 4. | <i>Implications in terms of other Council Strategic Documents or Council Policy?</i> No |
| 5. | <i>Have the views of affected or interested persons been obtained and is any further public consultation required?</i> N/A |

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| 6. | <i>Has the Child, Youth and Family Friendly Policy been considered?</i> N/A |
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FINANCIAL CONSIDERATIONS

- 5 Council has been allocated \$3.02 million by the Crown, if it opts in to the reform programme. A further \$11.15 million has been allocated to the Southland region to agree an appropriate distribution between participating councils. The steering committee has recommended that the formula (i.e. 75% population and 25% size of the district excluding national parks) be used as the 'default' approach for allocating the regional contribution. The use of this approach does, however, need to be agreed to by the other councils within the region that also decide to 'opt –in'.
- 6 This funding will be provided as a grant, which does not need to be repaid if Council does not ultimately commit to reform at later stages of the process. It will also need to be spent by 31 March 2022, hence, there is a 'tight' window within which the funding is available.

BACKGROUND

- 7 Over the past three years central and local government have been reviewing the regulation and supply arrangements for delivery of three waters services (i.e. water, wastewater and stormwater) across New Zealand. The review process acknowledges the challenges facing the sector, including funding pressures, rising environmental standards, climate change, seasonal pressure from tourism, and the recommendations from the inquiry into the Havelock North water supply contamination incident in 2016.
- 8 The government inquiry into Havelock North drinking water identified widespread, systemic failure of suppliers to meet the standards required for the safe supply of drinking water to the public. It made a number of urgent and longer-term recommendations to address these significant systemic and regulatory failures.
- 9 The government's three waters review highlighted that, in many parts of the country, communities cannot be confident that drinking water is safe, or that good environmental outcomes are being achieved. This work also raised concerns about the regulation, sustainability, capacity and capability of a system with a large number of localised providers, many of which are funded by relatively small populations.
- 10 The regulatory components of this work are well progressed with the development of new legislation and the creation of Taumata Arowai, the new, independent water services regulator. This new Crown entity is currently being built, and will become responsible for drinking water regulation once a separate Water Services Bill, which is currently before Parliament, is passed (anticipated mid 2021).
- 11 Following decisions on the shape of the proposed regulatory changes to be made, the three waters review team at the Department of Internal Affairs (DIA) had been working through options for considering how to best address the affordability and capability challenges facing the three waters sector. This work contributed to Cabinet making decisions in January 2020, to:
 - explore options for moving towards regional and multi-regional models for service delivery
 - agreeing that any structural changes to service delivery arrangements should be made on a voluntary basis
 - agreeing to set a one year deadline (i.e. by the end of 2020) to monitor the level of progress being made.

- 12 Following the onset of Covid-19, central government have reviewed the approach being followed to three waters reform. This review has in part been driven by a number of factors including:
- a risk that a number of local authorities may look to defer operating and capital expenditure in an attempt to manage rate increases in a post Covid-19 environment
 - the desirability of creating a broader economic stimulus for local economies in a post Covid-19 environment.
- 13 This process led, in July 2020, to the government announcing a funding package of \$761 million to provide immediate post Covid-19 stimulus to local authorities to maintain and improve three waters (drinking water, wastewater, stormwater) infrastructure, and to support the reform of local government water services delivery arrangements.
- 14 In moving into this environment, the government has indicated that its starting intention is public multi-regional models for water service delivery to realise the benefits of scale for communities and reflect neighbouring catchments and communities of interest. There is a preference that entities will be in shared ownership of local authorities. Design of the proposed new arrangements will be informed by discussion with the local government sector.
- 15 There is a shared understanding that a partnership approach between central and local government will best support the wider community interests, and ensure that any transition to new service delivery arrangements is well managed and as smooth as possible. This has led to the formation of a joint three waters steering committee to provide oversight and guidance on three waters services delivery and infrastructure reform.
- 16 While addressing the regulatory issues, both central and local government acknowledge that there are broader challenges facing local government water services and infrastructure, and the communities that fund and rely on these services. There has been underinvestment in three waters infrastructure in parts of the local government sector, persistent affordability challenges, and additional investment required to meet the improvement required in freshwater outcomes.
- 17 A steering committee has been convened to ensure that the perspectives, interests and expertise of both central and local government, and of communities throughout New Zealand, are accommodated as reform progresses. This will include periods of engagement with the local government sector, details of which will be provided soon.

OBJECTIVES AND TIMING OF THE REFORM PROGRAMME

- 18 The following objectives will underpin the reform programme and creation of a new aggregated water services delivery model:
- significantly improving the safety and quality of drinking water services, and the environmental performance of wastewater and stormwater systems (which are crucial to good public health and wellbeing, and achieving good environmental outcomes)
 - ensuring all New Zealanders have equitable access to affordable three waters services
 - improving the coordination of resources, planning, and unlocking strategic opportunities to consider New Zealand's infrastructure and environmental needs at a larger scale
 - increasing the resilience of three waters service provision to both short and long-term risks and events, particularly.
- 19 Government has agreed that new multi-regional models for water service delivery will need to include the following safeguards:

- mechanisms that provide for continued public ownership of water infrastructure, and protect against privatisation
- mechanisms that provide for community input and local service delivery.

1 An indicative timetable for the full reform programme is attached as **Appendix D (reference A3146422)**. While this is subject to change as the reforms progress, and subject to future government budget decisions, it provides an overview of the longer-term reform pathway.

STAGE 1 OF THE REFORM PROGRAMME

- 2 The initial stage of the reform programme involves three core elements:
- Memorandum of Understanding. At its meeting on 4 August 2020, the Infrastructural Services Committee delegated authority to the Chief Executive to sign this on their behalf. This met the required deadline of 31 August 2020.
 - Funding Agreement (Appendix A).
 - Delivery Plan (Appendix B).
- 3 Initial funding will be made available to those councils that sign the Memorandum of Understanding (MoU), and associated Funding Agreement, and provide a Delivery Plan.
- 4 This initial funding will be provided in two components: a direct allocation to individual councils, and a regional allocation. The participating councils in each region are required to agree an approach to distributing the regional allocation. The steering committee has recommended retention of the allocation model used for the direct allocation to individual councils as a default.

FUNDING AGREEMENT

- 5 This Council has been allocated \$3.02 million by the Crown, if it opts in to the reform programme. A further \$11.15 million has been allocated to the region to agree an appropriate distribution between participating councils (these are ICC, SDC and GDC). This funding will be provided as a grant, which does not need to be repaid if Council does not ultimately commit to reform at later stages of the process. The funding must be expended by 31 March 2021.
- 6 There are several options for how the regional funding could be allocated between councils. The joint central-local government Three Waters Steering Committee preferred approach is to apply the same formula used to calculate the direct allocations (applying a 75% weighting for population and a 25% weighting for land area, excluding national parks).
- 7 It is recommended that Council delegates authority to the Chief Executive to agree an appropriate allocation with other participating councils and in so doing, have regard to the importance of having wider regional buy-in to the reform programme, any works that could be advanced that would be of wider benefit to the region as a whole as well as the recommendation from the steering committee.
- 8 The Funding Agreement is one of the mechanisms for accessing the funding package. Like the MoU, it is a standardised document, for agreement between each council and the Crown. It cannot be amended.
- 9 The Funding Agreement guides the release and use of funding. It sets out:

- the funding amount allocated to the council
 - funding conditions
 - public accountability requirements, including the Public Finance Act
 - reporting milestones.
- 10 While there is some local flexibility around how the funding can be applied, the government has indicated that this investment is intended to support economic recovery, enable improvements in water service delivery, and progress the service delivery reform programme.
- 11 The Funding Agreement will be supplemented by a Delivery Plan, which is the document that sets out how the grant funding is to be applied by Council.

DELIVERY PLAN

- 12 The Delivery Plan is the other mechanism for accessing the funding package.
- 13 This Delivery Plan must show that the funding allocation is to be applied to operating and / or capital expenditure relating to three waters infrastructure and service delivery, and which:
- supports economic recovery through job creation
 - maintains, increases, and / or accelerates investment in core water infrastructure renewal and maintenance.
- 14 The Delivery Plan is a short-form template, which sets out:
- a summary of the works to be funded, including location, estimated associated costs, and expected benefits / outcomes
 - the number of people to be employed in these works
 - an assessment of how the works support the reform objectives in the MoU
 - reporting obligations.
- 15 The Delivery Plan will be supplied to Crown Infrastructure Partners (and other organisations as agreed between the Council and Crown), for review and approval. Crown Infrastructure Partners will monitor progress against the Delivery Plan, to ensure spending has been undertaken in accordance with public sector financial management requirements.
- 16 Staff are progressing development of a proposed works programme for using this funding. (attached as Appendix C) is a copy of the broad categories to which the funding is proposed to be allocated. There is likely to be some movement, depending on the final allocation of regional funding.
- 17 A key consideration in preparing the delivery plan has been the ability to deliver committed works within the required timeframe (i.e. before 31 March 2022) whilst maximising the benefits derived. As such, like for like renewals and asset condition assessment programmes feature heavily.
- 18 Further, there is a focus on the regional collaboration work and the need to gather the necessary information to inform decision-making moving forward. Council is well positioned to leverage the collaboration efforts established to date through the Otago / Southland Water Collaboration forum. Future tranche funding has also been considered as a key driver for regional collaboration efforts. It is anticipated that regional collaboration will better position Council to access future tranche funding.

- 19 In order to ensure Council is best placed to submit the delivery plan for approval, receive the funding and get underway with the works as soon as possible, staff are seeking the delegated authority to be provided to the Chief Executive to finalise the detail behind the proposed prioritised delivery plan and then too also proceed to develop a procurement plan and award contracts for the works once the delivery plan has been approved by Crown Infrastructure Partners.
- 20 As the regional allocation share has not yet been finalised with Gore District Council and Southland District Council, the indicative delivery plan has the potential to reduce in line with the prioritisation indications provided.

OPTIONS ANALYSIS

- 21 By entering into the MOU with the Crown (Option 1), Council has effectively opted-in to the process. This means that this Council will be able to access the stimulus funding being provided by government and also remain actively involved in the reforms.
- 22 Option 2 – do not continue – is not a workable option at this stage but for completeness, the advantages and disadvantages are included.

Option 1 – Continue to opt in to reform programme

| Advantages | Disadvantages |
|---|---|
| <ul style="list-style-type: none"> • Allows Council to be actively involved in the stage one reform programme including considering the merits of the proposed multi-regional service delivery model • By participating Council will be in a better position to evaluate the merits of the proposed new model relative to any other options that might be available • It is preferable to be part of a proactive process rather than reactively adapting to change • Council can access the stage one stimulus funding and use it to create additional economic activity as part of the Covid-19 recovery effort • Will help reduce the short to medium term costs to ratepayers of asset renewals | <ul style="list-style-type: none"> • There is an expectation, albeit that there is no absolute obligation that, Council will also move into the subsequent stages. |

Option 2 – Do not continue to opt in to the reform programme

| Advantages | Disadvantages |
|-------------------|---|
| | <ul style="list-style-type: none">• Council will not be able to access the stage one stimulus funding• Costs of asset renewal works that would otherwise have been completed will now fall to ratepayers• Council will need to do further work to ensure that it can fully fund the upgrading and renewal of assets to meet new standards in the future |

Option 1 is the recommended option.

LEGAL AND STATUTORY REQUIREMENTS

- 23 Under section 97 of the Local Government Act 2002, local authorities are not allowed to transfer the ownership or control of a strategic asset unless it is explicitly provided for in the long term plan.
- 24 At this stage of the reform process, Council is not being asked to agree to the transfer of the ownership or control of three waters assets and services. Rather it would be agreeing to investigate the benefits of exploring and co-designing a multi-region service delivery model in conjunction with central government. A final decision on whether to transfer the ownership and control of these assets will come in a subsequent phase of the reforms and will require an amendment to the LTP, under current legislation.

Attachments

Appendix A – Funding Agreement
Appendix B – Delivery Plan
Appendix C – Proposed Works Programme
Appendix D – Reform Programme Timetable