



7 October 1999

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**MEMORANDUM -**

**TO:** All Mayors/Chairs

**c c :** All Chief Executives

**FROM:** Louise Rosson, President

**SUBJECT:** **Water Review**

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You will recall that at our July conference, the Prime Minister extended an invitation to our sector to undertake the review of water services. The subsequent letter from Ministers has already been circulated to you.

We are now pleased to forward to you, for your comment, our proposed approach to this review – as outlined in the *attached* document entitled “Towards a Terms of Reference for the Review of Water.”

The challenge posed to us by the Government provides an opportunity for local government to take a strong and proactive lead in reviewing those services that are the fundamental domain of local government. The sector will be able to utilise its extensive knowledge of the water industry and the diverse communities it serves, in carrying out this review. This will prove vital in shaping an industry that can deliver quality services to consumers while safeguarding the interest of citizens, in a way that reflects the different needs of different communities.

Our National Council committed to a process for this review that was inclusive; we want to ensure that member authorities have ongoing input. Your participation now will ensure that the review reflects your issues and interests.

You will note that our document provides for your comment. We do hope that you will take the time to respond to each of the questions posed, and feel free to add any further comment. We need your comments back by **12 November**. It is intended that a final



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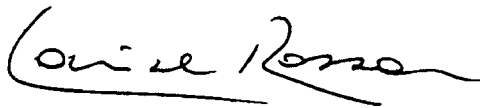
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Terms of Reference be agreed by the National Council at its 2-3 December meeting. We will then reaffirm our commitment to this review with the incoming Government.

Thank you very much for your on-going interest and support with this hugely important project for us all. Please do not hesitate to contact either myself, Carol Stigley, or John Hutchings for any further information.

Kind regards

A handwritten signature in black ink that reads "Louise Rosson". The signature is written in a cursive style with a long, sweeping underline.

Louise Rosson  
President  
*Local Government New Zealand*

# Towards a Terms of Reference for the Review of Water



## INTRODUCTION

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Central government has invited local government to review water, wastewater and stormwater services in New Zealand with a view to achieving more efficient, cohesive and sustainable water management. They have asked that local government provide recommendations to them within 18 months and that, then, a joint local and central government process be established to progress the review.

The National Council of Local Government New Zealand, with the endorsement of Zones and within defined parameters, has agreed to embrace this challenge. However before the challenge is **formally** accepted, member authorities are being asked to look at the approach outlined in this paper, and to provide feedback to *Local Government New Zealand*.

The feedback we seek is to ensure that:

- the general direction of the review is supported
- the scope of the project is neither too broad nor too narrow
- the outcomes are desirable
- the process being adopted is the right one
- the issues being addressed are the right ones.

*Local Government New Zealand* requires your Council's feedback by **12 November 1999**.



## BACKGROUND

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Initially a national review of water, wastewater and stormwater (the 'water services') was to be undertaken by central government under the leadership of the Ministry of Commerce. Local Government New Zealand set up a Working Party to **respond** to this review.

Instead of continuing with the Ministry of Commerce-led review, correspondence from Ministers Hon Max Bradford and Hon Maurice Williamson dated 10 August 1999 confirmed that local government had been invited to **undertake** that project.

As well as the overall review, the Ministry of Health have been working on a new Public Health Bill, new water supply regulations and looking at ways that water can be supplied more effectively to small, low income rural communities.

After consulting with Zones *Local Government New Zealand* has indicated to the Government that the challenge to undertake a water review will be embraced, and that our review would commence when we have consulted with the sector and agreed upon a terms of reference.

Not all councils will agree that there is a 'problem' with water, wastewater and stormwater services. However, other councils are facing massive problems that require quick solutions.

Several councils view the existing legislation, including the Local Government Amendment No 3 Act and the Resource Management Act as being sufficient to provide for the efficient delivery of water services. But again, for many, this is not the case. The fact that there are over 36 substantive pieces of legislation that drive water standards and delivery mechanisms means that many councils and communities do not currently govern, manage, fund and provide their services in the best way possible.

This review will identify best practice and local solutions that can be shared. It will propose new ways in which water, wastewater and stormwater services can be governed, managed, funded, regulated and provided – both now and in the future.

Local government is the main provider of water services and has the expertise to understand the issues and therefore to create solutions.

This review provides a real opportunity for local government to 'fly the flag' and to come up with solutions that best suit us and our communities – rather than having central government tell us what to do.

At the end of the review, local government will be able to say to central government:

- here are the problems \_\_\_\_\_
- here is what we will do/have done about them \_\_\_\_\_
- here is why we require these solutions
- here is what local government requires central government to do to help the industry achieve its outcomes.

## Scope

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### 'Water water everywhere.. .'

Water is something that affects all of us, every day and in every way. Defining the scope of a 'water review' could be as narrow as looking at supply services and as wide as all things 'wet'. The review must be clear about what issues need to be covered and in what priority order, eg is public supply more important than stormwater? Should stormwater be subject to the same disciplines as drinking water?

The first task of *Local Government New Zealand* is to define the scope of the review so that it is:

- focused (will achieve tangible recommendations for improvement)
- achievable (in 18 months and within a reasonable budget)
- relevant (will identify but not put effort into the bits that can't be 'fixed' or that don't need 'fixing')
- acceptable (both to central government and to the communities that local government represents).

The Working Party recognised that there are limitations on what can be achieved and that not every single issue can be addressed (particularly in 18 months). However rather than cutting out the areas that are 'too hard' they suggest it would be better to prioritise the issues so that more emphasis can be given to those issues that matter the most and on those things that will achieve the greatest gains. Therefore the scope, as outlined below, emphasises that decisions about priorities need to be made.

#### *Scope of the review:*

*The review will encompass all aspects of the water industry (water supply, wastewater and stormwater) and will give priority attention to those aspects of community service delivery that will enhance and improve on current arrangements.*

Later in this paper we highlight the issues that this review may need to address. The prioritising of this list is a crucial part of the task of clarifying the scope of the review.

**1. Does your Council agree with the scope of the review as outlined in this document?**

**2. What priority should be given to stormwater or environmental or private water service issues – relative to community based water supply and wastewater matters?**

# Principles

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Agreed principles will provide the sector with a basis upon which all decisions/ recommendations on the review can be made. They establish the boundaries and performance measures for all the work to be undertaken and as such are crucial for the whole local government sector to embrace.

The principles should also form the basis of any assessment that individual councils might use to review water, wastewater and stormwater services in their own area. The ability of them to operate across all types of service delivery is essential. The review cannot move ahead unless local government is moving in a similar direction.

The Working Party has suggested that the principles need to cover:

- governance
- sustainability
- Treaty of Waitangi
- quality
- access/equity
- delivery.

## *Principles*

*Water, wastewater and stormwater services should enhance the public health and wellbeing of our communities in a sustainable, equitable, efficient and effective way.*

*Communities that currently own or manage water services should continue to be able to determine future ownership and service delivery arrangements.*

*Water services, particularly those relating to drinking water quality, should be fit for purpose.*

*Services should be governed in a way that has regard to the principles of the Treaty of Waitangi.*

**3. Does your Council agree with these principles and if not – how would you amend them?**



## ISSUES

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### Issues: what water problems?

The issues affecting water, wastewater and stormwater services may be grouped under five headings: governance, consumer protection, funding and pricing, efficiency and investment, and legislation. Each is explained below.

The resolution of issues of national importance will proceed more quickly with your support and assistance. The review will also be more effective and successful if every council identifies and works toward the resolution of those issues that are deemed to be of local importance.

## Governance

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- Governance arrangements need to be established that will promote the efficient and effective delivery of water services and allow communities to have ongoing input to those decisions that are in the interest of the public/citizens.

## Consumer protection

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- Water supply regulations exist but they are only 'guidelines' with no legislative backing – safe, mandatory, transparent and fit for purpose drinking water standards are required.
- Water service suppliers have no obligation to advise their customers of the quality of the drinking water they are supplying and the service levels that will be provided.
- Water service providers are not required by law to disclose information on the performance of their operations. This means that consumers are not able to evaluate whether they are receiving value for money from their water service provider.
- The responsibilities of consumers and suppliers are not clearly defined within the current framework.

## Funding and pricing

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- Water consumers are demanding higher standards and sewerage/stormwater discharge standards are rising. This is putting pressure on water service providers to upgrade existing facilities -- significant long term capital will be required. Some local authorities are having trouble raising this capital.
- Many consumers do not currently pay for services on the basis of how much water they use or discharge. Where water service charges are bundled into rates, customers have no understanding of the value of the services they are consuming, and have little incentive to make choices about how much they consume.

## Efficiency & investment

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- The Local Government Amendment (No 3) Act provides a useful framework to manage assets, but councils still face competing demands for expenditure on a range of services. There is a risk that some water service providers will not make investment decisions that will sustain services into the future, in a way that protects and meets consumer demands, and sustains the environment.
- In some areas economic efficiency gains may be achieved from the creation of larger service delivery organisations. There appears to be little progress toward the achievement of economies of scale in large urban areas.
- Water service suppliers have insufficient information to make investment decisions that are optimal and which encourage the management of the demand for services, on a whole system basis, in their area.

## Leislation

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- The current legislative/regulatory framework is confused, outmoded and predates the range of service delivery arrangements now available to councils. There are currently 36 Acts and Regulations of direct application to drinking water and sewerage networks. The requirements of these Acts are often difficult to interpret and have different application depending on whether a council or another entity is the service provider.

## Summary

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Central government, the New Zealand Water and Wastes Association and several councils have suggested that the water industry is constrained by the following:

- current funding sources are not fully targeted and cannot generate the funds to meet future investment needs
- water services are undervalued and under priced
- current legislation is outdated and inadequate
- there are currently no binding quality or performance standards for water service suppliers
- the potential for further efficiency improvements has not been fully explored.

**4. What issues have we overlooked?**

**5. What is the priority that should be placed on each of the listed issues?**

**6. Which of the identified issues apply in your area and what local action will you take to overcome them?**





## OUTCOMES AND OUTPUTS

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What does local government (and central government) actually want the review to achieve? If the outcomes of the review are to be stacked up against both the scope, the principles and the issues, and are found to address them, would the review have achieved everything local government needs it to?

In the letter inviting local government to undertake the review, the Government stated their expected outcomes as being:

- customers have access to safe and secure water services at a reasonable price
- services are delivered in an efficient and environmentally sustainable way
- appropriate investment occurs in both assets and water quality
- clear accountability is established for the management of the services
- strong incentives exist for innovation and service improvement
- fairness to both public and private providers of water, wastewater and stormwater services is established.

The Working Party has suggested that the review should also generate outcomes that:

- optimise long term investment in water and infrastructure
- achieve safe drinking water standards
- deliver water services efficiently and transparently
- ensure that governance arrangements are in place that recognise diversity and protect matters of importance to local communities.

Therefore at the conclusion of the review (in 18 months) *Local Government New Zealand* anticipates that it will have received significant support from local authorities and that the following will have been achieved (without pre-empting the review):

- a rigorous assessment of the effectiveness of 'arm's length' structures, compared to inhouse structures, will have been carried out. Such an assessment will consider accountability, funding, regulatory, and service quality issues and governance options – including community control where appropriate
- potential economies of scale in the water and wastewater industry will have been identified and, where they are applicable, governance options for those larger entities, operating across city and district boundaries, will have been explored
- a set of pricing principles will have been developed
- an agenda of items requiring legislative change will have been developed and instructions for a workable Water Act will have been drafted
- mechanisms for achieving significant change will have been identified including – audit, incentives, timetables, etc
- a 'water compact' or a template for a customer agreement, covering both suppliers' and consumers' responsibilities will have been defined
- appropriate water quality and performance standards, for both public and private water operators, that protect the health of our communities and ensure environmental sustainability, in a way that is consistent with the Treaty of Waitangi, will have been developed
- incentives for collaboration and co-operation between water suppliers will have been developed and put into place

- a national system for benchmarking the performance of water service providers will have been developed
- a full information disclosure regime for all water suppliers will have been developed.

These achievements may be encapsulated in four key products/outputs:

- Governance: a document exploring governance responsibilities and structural issues and options
- Funding and investment: a document exploring economies of scale, optimal investment, pricing and funding issues and options
- Consumer protection: a document exploring water quality and service performance standards and the benchmarking systems that may be put in place to encourage achievement of these standards in a cost effective manner – including the option of preparing a template for a ‘water compact’ designed to protect the interests of all consumers
- Legislation: a document containing the instructions for a new Water Act that will provide the legislative framework for agreed governance, consumer protection and financial arrangements.

**7. Does your Council support the listed outcomes/outputs?**

**8. What other outcomes/outputs should we seek to achieve?**



## PROCESS

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The process to be used to achieve this review will need to be transparent and one to which all councils can have ongoing input. The most important step is getting member authorities to participate in this early stage where the parameters are being set and the issues identified.

Your participation now will ensure that the review is focused on the right issues and these are considered in the right order of priority.

A revised Terms of Reference (based on council feedback to this paper) will be provided to the National Council in early December. At that point our 'next steps' will be further developed – but there are some process matters that are already clear.

The first step is this – to encourage member authorities to focus their own thinking on this paper and advise *Local Government New Zealand* of any changes that should be made.

The second step will be to identify and manage the risks that may be faced in taking up this challenge. These risks are both internal (those within the local government sector) and external (mainly political). Your thoughts on these will be a valuable input to our deliberations. On the basis of these thoughts we will develop a 'communications strategy' that addresses the issues raised by all stakeholders.

Other elements of process that can be identified now include the following:

- revisit the membership of the Working Party and the resources available to *Local Government New Zealand*
- sight and assess the work already produced by the Ministry of Commerce
- for each of the identified outputs, convene a smaller technical group who will develop a full terms of reference for that element of the project and take responsibility for making progress
- appoint external peer reviewers to ensure that processes and deliberations are robust
- produce reports for the National Council of *Local Government New Zealand* and member authorities
- produce a comprehensive summary of issues
- monitor the progress made by individual local authorities, or groupings of local authorities, in reviewing their water services.

**9. Does your Council support the process outlined in this document?**

**10. What other aspects of process would you include?**

**11. What thoughts do you have on the risks that we may face in taking up this challenge?**



## SUMMARY OF QUESTIONS

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1. Does your Council agree with the scope of the review as outlined in this document?

2. What priority should be given to stormwater or environmental or private water service issues – relative to community based water supply and wastewater matters?

3. Does your Council agree with these principles and if not – how would you amend them?

4. What issues have we overlooked?

5. What is the priority that should be placed on each of the listed issues?

6. Which of the identified issues apply in your area and what local action will you take to overcome them?

7. Does your Council support the listed outcomes/outputs?

8. What other outcomes/outputs should we seek to achieve?

9. Does your Council support the process outlined in this document?

10. What other aspects of process would you include?

11. What thoughts do you have on the risks that we may face in taking up this challenge?