MĀWHERA
GREY
DISTRICT COUNCIL

105 Tainui St | Greymouth 7805
PO Box 382 | Greymouth 7840
Tel 03 769 8600
Fax 03 769 8603
info@greydc.govt.nz
www.greydc.govt.nz

I hereby give notice that an extraordinary meeting of the Grey District Council will be held:

**Date:** **Wednesday 13 April 2022**

**Time:** **5:00 pm**

**Venue:** **Council Chambers, 105 Tainui Street, GREYMOUTH**

Paul Morris
Chief Executive

# FULL COUNCIL AGENDA

**Members:**

| | |
|---|---|
| Mayor: | Her Worship the Mayor Tania Gibson |
| Deputy Mayor: | Councillor Allan Gibson |
| Members: | Councillor Anton Becker |
| | Councillor Rosemary Green |
| | Councillor Peter Haddock |
| | Councillor Murray Hay |
| | Councillor Rex MacDonald |
| | Councillor Patrick McBride |
| | Councillor Timothy Mora |
| | Kaiwhakahaere Francois Tumahai |

Contact Telephone: 03 7698600
Email: trish.jellyman@greydc.govt.nz
Website: https://www.greydc.govt.nz/our-council/agendas-and-minutes/Pages/default.aspx

*The information in this document is provided to facilitate good competent decisions by Council and does in no way reflect the views of Council. Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.*

## EXTRAORDINARY MEETING OF THE GREY DISTRICT COUNCIL

**to be held in the Council Chambers, Grey District Council, 105 Tainui Street, Greymouth on Wednesday 13 April 2022 commencing at 5:00 pm**

# A G E N D A

# COUNCIL IN OPEN MEETING

GENERAL BUSINESS AND TABLED ITEMS
Items not on the agenda for the meeting require a resolution under section 46A of the Local Government Official Information and Meetings Act 1987 stating the reasons why the item was not on the agenda and why it cannot be dealt with at a subsequent meeting on the basis of a full agenda item. It is important to note that late items can only be dealt with when special circumstances exist and not as a means of avoiding or frustrating the requirements in the Act relating to notice, agendas, agenda format and content.

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968
Council members are reminded that if he/she has a direct or indirect interest in any item on the agenda be it pecuniary or on grounds of bias and predetermination, then he/she must declare this interest and refrain from discussing or voting on this item.

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# [1] Apologies and Declarations of Interests

## 1 APOLOGIES

1.1 At the close of this Agenda no apologies had been received.

## 2 UPDATES TO THE INTERESTS REGISTER

2.1 Elected members to please advise if there are any changes to be made to the current Interests Register.

## 3 IDENTIFY ANY CONFLICTS OF INTEREST IN THE AGENDA

3.1 Notwithstanding that an elected member may declare an interest at any later stage in this Agenda (prior to taking part in the deliberation of a particular item) those items where an interest will be declared may wish to be disclosed now.

# [2] Agenda reports

## 2.1 COMMUNITIES 4 LOCAL DEMOCRACY 10 POINT PLAN AND POSITION ON IWI MAORI PARTNERSHIP

| | |
|---|---|
| **Report To:** | Full Council |
| **Meeting Date:** | 13 April 2022 |
| **Report Author:** | Chief Executive |
| **Executive Sponsor:** | Chief Executive |
| **Reference:** | E/6 |

### 1 REPORT PURPOSE

1.1 For Council to endorse the Communities 4 Local Democracy (C4LD) Alternate Model for Three Water Reform as outlined in the 10 Point Plan and endorse the C4LD position on Iwi Maori Partnership.

### 2 EXECUTIVE SUMMARY

2.1 C4LD Group currently consisting of 31 Councils representing 1.5 million ratepayers presented the attached alternative to the Government's Three Waters Reform Package. (Attachment 1).

2.2 Also the Group presented its position statement on Iwi Maori Partnership (Attachment 2).

### 3 SUGGESTED RECOMMENDATION FOR HER WORSHIP THE MAYOR

**That -**

1. **The report be received; and**
2. **Council endorses and adopts the Ten Point Plan C4LD 10 Point Plan as an alternative to the Government's Three Waters Reform.**
3. **Council endorses and adopts the C4LD Position Statement on Iwi Maori Partnership.**

### 4 BACKGROUND

4.1 On 4th of April members of C4LD met with Minister Mahuta and her officials from the Department of Internal Affairs to present the C4LD Group's alternative model to Government's Three Water Reform Package. This is encapsulated in the 10 Point Plan detailed in Attachment 1.

4.2 As part of this presentation the Group also submitted its position statement on Iwi Maori Partnership to put to rest the criticism levied at the Group by some in the Local Government

sector that the Group hadn't considered how its plan would meet the Government's Treaty obligations, and develop meaningful partnerships with Iwi Maori.

4.3 Since Council is a member of the C4LD Group it is important that Council is comfortable with policy decisions of the C4LD Group.

## 5 OPTIONS

5.1 There are two options available to Council, either endorse the Position Statement and 10 Point Plan or decline to endorse the documents.

5.2 As Council is a member of C4LD declining to endorse the two documents is not considered any further.

## 6 NEXT STEPS

6.1 Council will undertake public engagement to promote C4LD's 10 Point Plan and their Position Statement of Iwi Maori partnership.

**ATTACHMENT 1**

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# 3 WATERS REFORM: AN ALTERNATE APPROACH THAT EVERYONE CAN SUPPORT

Presentation to Hon. Nanaia Mahuta,
Minister of Local Government
4 April 2022

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## INTRODUCTION

- Thank you for the opportunity to meet with you.
- The 31 Partner Councils of Communities 4 Local Democracy representing 1.4 million people, came together to work collectively to find a better way to achieve the health and environmental outcomes that we all desire.
- It is our view that the Government should be specifying the required health and environmental policy outcomes but it should not be micro-designing how to achieve those outcomes.
- The obligation should be on council asset owners, working, partnering, and co-designing with mana whenua, to structure and operate their assets to achieve those outcomes, with clearly understood consequences if they do not.
- This approach would better support local voice and protect community property rights.
- The current set of proposals do not achieve that goal. Opposition parties have publicly committed to repeal them if they become Government. Public polling continues to show widespread dissatisfaction with the proposed set of reforms.
- However, if the Government were open to our alternative approach, Communities 4 Local Democracy would champion that approach standing alongside the Government.
- It is a way to achieve a durable and bipartisan regulatory framework.
- It is not too late to find a middle ground.

# PART A ALTERNATIVE MODELS: KEY ASPECTS

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## WE SUPPORT THE RECOMMENDATIONS OF THE PRODUCTIVITY COMMISSION

1. The 3 Waters sector has substantial room for improved performance
2. A key contributing factor to this state of affairs is a poor regulatory framework governing water quality (health and environmental)
3. The Government should encourage (but not direct) aggregation and improved governance over 3 Waters service delivery
4. The performance of the three-waters sector would substantially improve by using an approach that:
   i. rigorously enforces minimum performance standards
   ii. is permissive about the way councils structure and operate their three-waters businesses
5. The Government should consider also having backstop arrangements to deal with councils that fail to lift performance sufficiently to meet minimum health and environmental performance standards
6. Financial assistance to communities will likely be needed to assist deprived communities meet minimum health and environmental standards. The assistance needs to be designed to avoid rewarding past inaction and instead reward action for sustainably lifting the performance of water providers to these communities

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# ORGANISATIONAL DESIGN

## Jointly Owned Council Enterprise

- Protects community property rights and community voice
- IFRS 10 achieves balance sheet separation if no one council holds more than 50% (deals substantially with the Government's desire for balance sheet separation)
- Allows for co-design with mana whenua
- Establishment process potentially subject to ministerial oversight (e.g. through Energy Companies Act 1992 type process to provide comfort to Government)

## Single Council Owned Enterprise

- Protects community property rights and community voice
- Would require commitment to a credible financing plan to ensure needed investments proceed
- Allows for co-design with mana whenua
- Establishment process potentially subject to ministerial oversight (e.g. through Energy Companies Act 1992 type process to provide comfort to Government)

Both options were independently reviewed and assessed by Castalia as workable approaches that can address the core policy issues

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# WORKING WITH MANA WHENUA

- All our members value the importance of developing strong and meaningful partnerships with Iwi Māori for the future of 3 Waters

BUT

- The Government's 'one size fits all' model does not reflect local realities and communities of interest and, importantly, iwi and hapū rohe and areas of interest.
- We believe any arrangements will be more effective if they reflect common local interests, decision-making and build on existing relationships.
- We actively seek to initiate authentic discussions with mana whenua at a local level that consider co-design and partnership arrangements that acknowledge and enable Te Tiriti based pathways at a local and regional level.
- We seek a pause so we can have more time to work on a way forward that works for everyone.

# REGULATORY BACKSTOP

- To assist with creating a strong incentive on asset owners to improve outcomes, Communities 4 Local Democracy agree with the Productivity Commission's recommendation to include in the legislative framework a "regulatory backstop" provision
- A regulatory backstop provision requires careful design to take account of consenting and construction timeframes BUT it would require certain outcomes to be achieved by a fixed point in the future
- Failure to achieve the required outcomes would justify further Crown intervention (see for example: former subpart 3 of Part 4A of Gas Act 1992)

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# BALANCE SHEET SEPARATION

- Where financing requirements necessitate this, then NZ International Financial Reporting Standard 10 delivers the required outcome provided no one council in a regional grouping holds more than 50% of the shareholding in a combined entity
- An Auckland specific regime would require design as IFRS 10 would not work for Auckland
- Where a single council owned model applies, council would have to show a credible financing strategy and if not, would need to move to join a larger collective

# FINANCIAL ASSISTANCE TO COMMUNITIES

- Two key aspects:
  - Allocation mechanism
  - Funding source
- Allocation mechanism could be built on principles used to allocate financial assistance (FAR) in transport (not suggesting that this involves Waka Kotahi in any funding allocation role)
- Allocation decisions should support best practice in service delivery
- Allocation regime should be supported by a Road Efficiency Group/One Network Framework type regime for 3 Waters
- Funding could be built on a per connection charge across the country (C4LD has had limited time to design more options but consider this an appropriate model with precedent in other regimes)
- This is a form of cross-subsidisation but it is transparent to consumers and the funding pool is spread nationally rather than regionally

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# WATER EFFICIENCY GROUP

An owners organisation with a competency based board, funded by a levy on three water connections responsible for:

1. Identifying and approving investment criteria and distribution of funding to three water delivery agencies (identified by the criteria) as having challenges to meet regulatory standards in a suitable timeframe or other reasons. Criteria could include:

   - A high level of deprivation
   - A static or declining population / commercial base which impacts on their ability to pay
   - Condition of the network the timeframe needed to bring it up to a regulatory standards
   - Support for tourism destinations with peak day pressures and a small number of water connections.
   - Would potentially breach borrowing debt limits (LGFA or self improved)

2. Investing in programmes continuous improvement in governance/ management and sector performance these would include activity asset management standards, meta data, procurement, training and development, benchmarking

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# PART B
# ASSESSMENT OF WORKING GROUP RECOMMENDATIONS

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## ASSESSMENT (1)

**Shareholding model:**

- Does not address the core legislative taking of property rights – "With ownership comes rights, responsibilities and obligations" – Mayor Goff

**Accountability to communities and customers:**

- Remains weak (despite new sub-committees idea)
- Complex governance arrangement - diagrams in the paper oversimplify what is a messy accountability framework. This will weaken the incentives on management to meet the objectives (safe, resilient, environmentally sound water services at least cost)
- Retains the flawed uniform pricing and cross-subsidy at the level of the whole Water Services Entity

**Management and operational performance:**

- Likely to be weakened as even more complex oversight

# ASSESSMENT (2)

**Access to financing:**

- Any improvements in access to financing will require **explicit** Crown support.
- Undermines the financing concerns that drives the case for the mega-entity approach
- **Increases** the likelihood of Crown intervention in future since fiscal risk would be directly and explicitly linked to the Crown. England and Wales from 1972-1989 had exactly this issue: Whitehall took over financing and investment decisions to manage Crown fiscal risk, and ultimately privatised the Regional Water Boards into 10 private companies

**Diseconomies of scale or loss of economies of scope:**

- Fails to address the valid critique that significant economies of scale not available
- Fails to address the loss of coordination and scope benefits from planning, transport and water services being aligned (Mayor Goff picks up those points)

**Inflexible to change and new information due to sprawling and complex nature**

**Working group does not explain how the large Water Services Entity model improves affordability**

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# PART C
# PARAMETERS OF A POSSIBLE REVISED REFORM PROPOSAL

## A 10 Point Plan

# COMPROMISE PROPOSAL: 10 POINT PLAN

1. Foundation principle - community property rights in Three Waters assets are to be both respected and meaningful
2. The Government agree to pause its reform process to allow time for the revised approach to be refined
3. With respect to investment decision-making, asset owners should actively seek to initiate authentic discussions with mana whenua at a local level that consider co-design and partnership arrangements that acknowledge and enable Te Tiriti based pathways at a local and regional level.
4. Asset owners agree to commit to meeting health and environmental standards, once known, within an appropriate time frame
5. The regulatory framework should specify a "backstop" provision that identifies a set of circumstances which would justify future Crown intervention if an asset owner was not making acceptable progress towards meeting those regulatory requirements
6. Progress should be reported on annually by asset owners and be benchmarked across the sector
7. To further incentivise sector progress, a formal process might be established that requires an asset owner to prepare a plan that would map out the steps it proposes to take to meet the required standards in a financially viable and sustainable manner
8. A process to finance and allocate funds to areas that will require financial assistance be designed that is national in application and independently administered accordingly to objective and transparent criteria
9. This subsidy scheme will be designed to meet investment shortfalls until such time as sufficient progress has been made. At which point the scheme will cease and asset owners will finance matters on a business-as-usual approach
10. A sector-wide sector best-practice improvement process be created and membership made compulsory

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**ATTACHMENT 2**

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# Position on Iwi Māori Partnership

**Key Points**

- The Government's 'one size fits all' model does not reflect local realities and communities of interest and, importantly, iwi and hapū rohe and areas of interest.
- We believe any arrangements will be more effective if they reflect common local interests, decision-making and build on existing relationships.
- We actively seek to initiate authentic discussions with mana whenua at a local level that consider co-design and partnership arrangements that acknowledge and enable Te Tiriti based pathways at a local and regional level.
- We seek a pause so we can have more time to work on a way forward that works for everyone.

**Detail**

The Government's decision to mandate the Three Waters Reform was disappointing to most Councils in Aotearoa New Zealand. Ninety percent of Councils submitted their opposition to the Government's four entity model.

The Government did not respond to this opposition, nor the significant negative public reaction, and continued with their plans to mandate the implementation of this model.

In response, some concerned Councils got together and developed a Memorandum of Understanding in order to better work together on an alternative way to effect change.

We formed Communities 4 Local Democracy He hapori mō to Manapori (C4LD) which now has 31 partner Councils representing over 1.4 million New Zealanders and is growing.

We are providing a constructive voice for the majority of Aotearoa New Zealand with real concerns about this reform and the rush with which it is being imposed on our communities.

There are 10 specific things we agree on and that we stand for, three of which are:

- Better drinking water and environmental outcomes are essential
- Proper and effective regulation and an independent regulator
- Partnering with mana whenua and co-designing a governance framework locally and regionally

Overall, we stand for fresh ideas for better water for everyone.

All our members value the importance of developing strong and meaningful partnerships with Iwi Māori for the future of 3 Waters.

**We do not, nor believe we should, have a fixed view on how we would best achieve this.**

We do know that a 'one size fits all' solution simply will not work for anyone.

The Government's proposal will not reflect local realities and communities of interest and, importantly, iwi and hapū rohe and areas of interest.

Any arrangements will be more effective if they reflect common local interests, decision-making and build on existing relationships.

We actively seek to initiate authentic discussions with mana whenua at a local level that consider co-design and partnership arrangements that acknowledge and enable Te Tiriti based pathways at a local and regional level.

The concept of Te Mana o te Wai reflects the paramount importance of the wai. In particular it is about restoring and preserving the balance between te wai, te taiao, and nga tāngata.

The guidance provided by Te Mana o te Wai delivered with local knowledge will help us better respond to current challenges and realise future opportunities to achieve objectives that are shared by all communities.

Together as a community we can tackle the pressing issues of water quality, water security, sustainable economic growth and development, resilience and climate change mitigation and/or adaptation, and to do this in a way that also respects shared values.

**Our primary undertaking, therefore, must be to care for water.**

The next step is to consider how we make decisions in partnership, in the best interests of our water in a holistic sense. Seeing Three Waters Reform through this lens is an attractive kaupapa.

It is unfortunate that the Government and Department of Internal Affairs did not consider and discuss the proposed Three Waters Reform on this basis.

This is complex work, and our members have continually underlined the importance of Government providing sufficient time to work through this. It is worth noting that in most cases, partner Councils already had workstreams under way that were leading us in the direction of change.

**We have an opportunity to turn this around.**

To do this we are seeking a pause so we can have more time to work on a way forward that works for everyone. A vital part of this is developing a true partnership with mana whenua with hui and kōrero about how we best achieve this.

Rushed and forced reform is in no-one's interest. For such significant reform it is imperative that this is done in partnership and with the consent of both the sector and Iwi Māori.

We support a bipartisan political approach so that changes brought about by these reforms endure. There is a commitment from all partner Councils to achieve this. Without bipartisan support there is a high risk that the changes proposed by the Government will not survive future changes of government.

We have particularly focused our attention on two models which we believe will achieve a more durable approach, and also ensure greater involvement for mana whenua than is presently being offered by the Government - essentially a panel that appoints the board, and a guiding document "Mana Whakahono ā Rohe". We acknowledge the working group has recommended some changes but in our view those recommendations fall short of what is required to achieve broad support.

We would value the opportunity to discuss this further with mana whenua and seek to create opportunities to do so. We all are also supportive of a greater involvement for mana whenua with the new Water Regulator, Taumata Arowai.

We are aware there are those who would benefit by discrediting our group or by misrepresenting our values and aims.

**Our group are committed to genuine partnership with mana whenua and a reform proposal that is durable, widely-supported and fit for purpose.**

We represent a significant percentage of the local government sector and over 1.4m people.

We are genuine in our desire to work in partnership with Iwi Māori and would welcome discussion on these matters and opportunities for clarification.

We want to make it clear:

- Iwi partnership and relationships are critical and important to us, and any suggestion otherwise is simply not correct
- All partner Councils have relationships with their mana whenua at a local level and these are highly valued
- We strongly support giving effect to Te Mana o te Wai

C4LD formed just 12 weeks ago, and we accept there is a lot more work for us to do, including furthering authentic conversations and discussions with mana whenua. While there have been attempts to do this, we are very clear that more work is needed – work that we are committed to doing.

We believe a less rushed process would have allowed the creation of an appropriate governance in a co-design process with mana whenua. This outcome can still be achieved.

We want to know what success looks like for mana whenua and how we can work collectively, collaboratively and in partnership to achieve better outcomes for all our communities.

Ngā mihi

Mayor Helen Worboys
**Chair**

Mayor Dan Gordon
**Deputy Chair**

Mayor Lyn Riesterer
**Co-chair**
**Iwi Māori Working Group**

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