

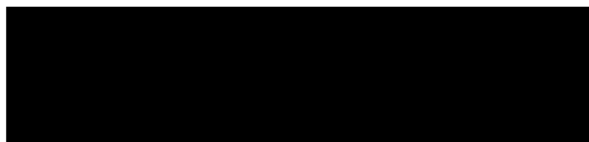


Ref: [REDACTED]

Civic House, 110 Trafalgar Street  
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6 October 2022

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[nelson.govt.nz](http://nelson.govt.nz)



Dear [REDACTED]

### OFFICIAL INFORMATION REQUEST REGARDING THE THREE WATERS REFORM

I refer to your request dated 21 April 2022 for official information as detailed below along with Council's response.

1. *Has NCC sought legal advice, or obtained legal advice, on whether requesting, and accepting, the "better off package" has legal implications for NCC?*

Council has obtained legal advice in relation to the better off package. This advice is and remains confidential to Council.

2. *What is the legal advice on whether requesting, and accepting, the "better off package" prevents NCC from criticising the three waters reforms or has other legal ramifications?*

We have decided to refuse your request under section 7(2)(g) of the Local Government Official Information and Meetings Act 1987 because it is necessary in order to maintain legal professional privilege. We do not consider that the strong public interest in maintaining legal professional privilege is outweighed by other public interest considerations that may favour release.

3. *Will NCC play hard ball in the next round of three waters negotiations to get a better deal for Nelson citizens, or will NCC capitulate and accept a payment of \$20.6 million?*

Council will continue to advocate for Nelson, including submitting on the draft Water Services Entities Bill once it is in Parliament, which is expected in mid-2022.

4. *If Council requests and accepts a "better off package" what will the money be spent on and how will citizens be consulted on options?*

Council is working through the process to determine options that meet both the Government's criteria and the Council's own priorities.

5. *What legal advice has NCC obtained regarding applying for or agreeing to an asset transfer before there is a law change overriding the Local Government Act requirement for a referendum on the asset transfer?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

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6. *What legal advice has NCC obtained regarding the common law legal rights NCC will retain with the proposed "Council ownership" promise of the government?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

7. *What are the financial implications to NCC of a transfer of three water assets to Entity C?*

Council would receive a support package in two parts, a "better off" component and a "no worse off" component. The "better off" component is \$20.72 million. The "no worse off" component is yet to be calculated.

The value of the assets that would transfer to the new entity are outlined at

<https://shape.nelson.govt.nz/three-waters-reform#faqModal-5769-1138-a>

This transfer of assets would have a positive impact on Council's balance sheet, as the debt related to the three waters assets would also transfer over to the new entity.

Based on the Long Term Plan figures this debt transfer is projected to be in the order of \$81.5 million.

8. *Will the "asset owning" Entities be able to charge a fee for a return on investment in the manner of the electrical network companies?*

This level of detail is expected to be included in the Water Services Entities Bill.

9. *Will iwi/Māori be able to charge for the consumption or use of water (as opposed to the provision of three water services)?*

The water services will remain in the ownership of the community they are serving. The entities will be undertaking the operational running of the three waters and will be the organisation that is charging customers.

This information can be found here: <https://www.dia.govt.nz/three-waters-reform-programme-frequently-asked-questions#what-will-these-reforms-mean-for-iwi-maori>

10. *What is the legal advice received by NCC regarding the transfer of ratepayers 3-W assets to a Council-iwi co-governance board as a Treaty obligation?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

11. *What legal advice has NCC sought or received on the veracity and implications of the legal challenge by Franks-Ogilvie on three water asset transfer as a Treaty obligation?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

12. *What legal advice has NCC sought or received on the consequences of a successful legal challenge ruling against a three waters asset transfer as a Treaty obligation?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

*13. If there was no change to the NCC Long-Term Plan activities, what is the benefit to Nelson ratepayers of three water reform?*

The Government has released information on what the proposed changes mean for New Zealand communities. Modelling was undertaken by the Department of Internal Affairs comparing the cost per household of three waters services in 30 years' time. Under Entity C, in 2051 the cost would be \$1,260 per Nelson household with the reforms. This is compared to \$2,330 per household if the reforms were not to go ahead. The information can be found here: <https://threewaters.govt.nz/affordability/>

*14. What legal advice has NCC sought or received on transitioning council activities for the purpose of three waters reform without the Long-Term Plan being revised and approved by ratepayers?*

We have not sought legal advice on this issue and have therefore decided to refuse your request under s 17(e) of the Local Government Official Information and Meetings Act 1987.

*15. Will NCC engage with citizens with meaningful consultation regarding the latest iteration of three waters reform?*

The next stage of the Government's reform programme is to release the draft Water Services Entities Bill for consultation. Once the timeline for consultation is clear Council will engage with the community and incorporate the public's views into the submission. Members of the public and community groups will also be able to make their own submissions directly to Parliament.

*16. What is NCC's assessment of the opposition of other councils and authorities to three waters reform?*

It is not Council's place to assess other councils.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or Freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact Alec Louverdis, Group Manager Infrastructure (alec.louverdis@ncc.govt.nz).

Yours sincerely

**Alec Louverdis**

Group Manager Infrastructure