



15 July 2022

Secretariat
Finance and Expenditure Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6160

To the Finance and Expenditure Committee

Thames-Coromandel District Council Submission on the Water Services Entities Bill

Thank you for the opportunity to submit on the Water Services Entities Bill. Please find attached the Thames-Coromandel District Council's submission. The submission was approved for lodgement at its meeting on 14 July 2022. The following resolutions were resolved at the meeting:

Resolved:

- 1. Receives the 'Council Submission on the Water Services Entities Bill' report dated 7 July 2022.*
- 2. Approves lodgement of a submission on the Water Services Entities Bill including amendments and additional comments entered under paragraph 3.1-3.6 which will incorporate a paragraph regarding level of engagement and include the Ministerial response letter dated 11 July 2022 as an attachment in support of the submission.*
- 3. Approves the Mayor and/or Chief Executive to speak on behalf of the Thames-Coromandel District Council in support of its submission.*
- 4. Delegates authority to the Mayor and the Chief Executive to approve any changes to the draft submission prior to its lodgement with the New Zealand Parliament.*

We wish to appear before the committee to speak to our submission.

Should you have any queries regarding the content of this submission, please contact Bruce Hinson, Acting Chief Executive, on (07) 868 0200 or by email: bruce.hinson@tcdc.govt.nz

Nāku iti noa, nā

A handwritten signature in blue ink, appearing to read 'B. Hinson', with a date '15/7/22' written below it.

Bruce Hinson
Acting Chief Executive

Thames-Coromandel District Council

Draft Water Services Entities Bill

22 July 2022

1.0 STAKEHOLDER DETAILS

Thames-Coromandel District Council

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2.0 INTRODUCTION

2.1 This is the Thames-Coromandel District Council's (TCDC's) submission to the New Zealand Parliament's Finance and Expenditure Committee's 10 June 2022 request for public submissions on the Water Services Entities Bill (the Bill).

2.2 As the Bill has important asset and service delivery implications for our District, TCDC appreciates the opportunity to provide feedback on the Bill.

Thames-Coromandel District Council's interest in the Bill

2.3 TCDC is a territorial authority and an owner and provider of essential three waters infrastructure including nine wastewater treatment plants and nine water supply plants as well as stormwater infrastructure across the District. The Bill will see these assets and their management shift into the Western-Central Water Services Entity which will cover an area of 22 territorial authorities, will give TCDC one share, and requires that TCDC as a territorial authority be engaged with on the following proposals: asset management plans; funding and pricing plans and infrastructure strategies.

2.4 From 2018/2019 to 2020/2021 financial years, our District invested \$33 million in three waters capital works. \$23 million of this was for water supply, \$7 million for wastewater and \$3 million for stormwater. Of the \$23 million spent on water supply, \$19 million was to ensure our drinking water quality is compliant with the current NZ Drinking Water Standards.

2.5 Our 2021-2031 Long Term Plan forecast \$84 million in three waters capital works for the first three financial years from 2021/22 to 2023/24. \$49 million of this is for water supply, \$24 million for wastewater and \$11 million for stormwater. Of the \$49 million forecast on water supply, \$17 million is forecast for drinking water standards upgrades to comply with the NZ Drinking Water Standards.

3.0 SUBMISSION

General Comments

3.1 **Community representation** - TCDC is concerned that the four entity model of reform proposed by this Bill reduces transparency, representation on behalf of our communities and the ability of community groups and individual community members to have their say. Nor

does it adequately reflect the impact that three waters infrastructure has on community well-being.

- 3.2 TCDC is of the view that there will be little improvement to three waters infrastructure provision unless the proposed representation model is amended. Our Council is concerned that the proposed governance framework for delivering three waters infrastructure sets up a competitive environment in which it will be difficult for our communities' needs to be appropriately recognised, weighted and funding decisions made to ensure projects are delivered. Our Council is not convinced that the proposed water services entities will create an environment that will deliver infrastructure to communities more efficiently and equitably than local authorities currently do.
- 3.3 **Costs** - TCDC is concerned that the cost-benefit analysis underpinning the reforms has been inadequately documented resulting in flawed evidence to justify the proposed reform package. Instead, clearly documented evidence should be used to evaluate reform options to ensure a model that achieves the desired economies of scale.
- 3.4 **Levels of service to communities** - We are concerned that the Bill will result in reduced levels of service and poor response rates to requests for service by customers.
- 3.5 **Compensation for compulsory acquisition of assets** – TCDC is concerned that the current reform model will override the rights, powers and privileges of local authorities as owners of their three waters assets. Instead, the Bill will allocate a 'share' proportionate to the population size of each local authority, which will only entitle them to vote on the sale and privatisation of an entity. The proposed four entity model currently provides no compensation for assets owned by local authorities.
- 3.6 **Direct consultation with local authorities** – Throughout the three waters reform process, there have been very few opportunities to provide feedback on proposals (including the allocation of funding associated with the three waters reform) and very little direct engagement with local authorities. Considering that local authorities are the owners of the three waters assets and that their communities will be directly impacted by this reform process, TCDC considers the Government should be engaging directly with both local authorities and the communities that they serve on an on-going basis.

We do not consider that Government's engagement with Local Government New Zealand to agree matters, for example the formula for the Better Off funding, can be considered as meaningful engagement with local authorities as it does not adequately consider the unique circumstances of each local authority area. TCDC considers this lack of direct consultation with owners of significant community assets is inappropriate and should not be used to formulate Government's decisions. The ministerial correspondence to our Mayor dated 11 July 2022 which is **Attachment A** to our submission is an example of Government's inadequate approach to decision making.

Water services entities and their service areas

- 3.7 Schedule 2 of the Bill sets out the water service entities and their service areas. The Thames-Coromandel District is listed under the Western-Central Water Services Entity.
- 3.8 TCDC considers that the determination of the appropriate entity boundaries should be based on local community feedback.

- 3.9 Recommendation: that the four entity model of reform proposed by this Bill be reconsidered until community groups and individual community members have had the ability to have their say.

Privatisation

- 3.10 TCDC supports the Governments 'public ownership' bottom line.
- 3.11 We consider the protections against privatisation in the Bill as it stands are strong, but we note that these requirements are easily undermined as they can be amended or removed by a future Parliament.
- 3.12 TCDC is concerned that future Parliaments can modify the requirements that protect from privatisation by majority vote unless the requirement is 'entrenched' by a 75% vote in parliament.
- 3.13 Recommendation: That the provisions that set out the requirements to protect from privatisation be 'entrenched' in the Bill.

Ownership - shares

- 3.14 TCDC considers that the term 'shares' as used in clause 16 of the Bill may mislead the public into thinking that local authorities have more influence than they do. As proposed in the Bill, shareholding in the water services entities does not provide any share in revenue, funding, or votes at an annual general meeting. The shareholding under the current Bill is only relevant to a vote to block the sale and privatisation of an entity.
- 3.15 Recommendation: The Bill should be amended to clarify the meaning of 'shares' as used in clause 16 of the Bill.

Ownership - share allocation

- 3.16 The Thames-Coromandel District census night data estimates a resident population of approximately 33,000. With nearly half (52 per cent) of the rateable units in the District owned by absentee ratepayers whom holiday in the District, we estimate that if these dwellings were occupied by an average number of 2.3 people, our population would be about 56,000. Our services also cater for up to 60,000 additional visitors to the District at peak times of the year. This means our three waters infrastructure has to service over 100,000 people.
- 3.17 Clause 16 allocates shares based on population at the last Census. TCDC prefers a rating base rather than population census as the method for share allocation.
- 3.18 Recommendation: That clause 16 be amended to reflect rating base rather than resident population.

Governance arrangement - the regional representative group

- 3.19 The Western-Central Water Services Entity Regional Representative Group may have 12-14 members, half of which would come from the 22 territorial authorities in the area covered by the water services entity. TCDC considers there should be better representation to ensure that the water services entity understands the District's unique issues, particularly the need to provide water services to the peak summer population and the high costs associated with maintaining a large number of water and wastewater treatment plants given the District's small ratepayer base.

3.20 The Bill does not guarantee that there will be a TCDC representative or an Iwi representative with whakapapa to the District on the regional representative group. In addition there is no guarantee of a district representative on a regional advisory panel as these are optional under the current Bill. As a local authority, TCDC's purpose is to promote the current and future well-being of its communities. There is significant community interest in the management of water in the District and in the three waters reform. TCDC advocates for fair representation and a strong community voice on the regional representative group.

3.21 Recommendation: that the method of appointing the regional representative groups as set out in clause 32 be extended to ensure a mix of city and district council representatives.

Governance arrangement - the regional advisory panels

3.22 As set out in the Bill, regional advisory panels are not mandatory; their establishment is a matter of discretion for the water services entity.

3.23 The role of regional advisory panels is to advise the regional representative group of local priorities and issues. The Bill is not explicit on what this advice should cover.

3.24 The Thames-Coromandel District has a high number of water supply treatment plants, wastewater treatment plants and three water activity service areas across a difficult terrain. TCDC considers that the establishment of a regional advisory panel(s) for the Thames-Coromandel District is critical as are some minimum requirements on what they are to advise on to enable the water services entity to be responsible and responsive to local concerns.

3.25 Recommendation: amend clause 45 of the Bill to make the establishment of regional advisory panels mandatory in the constitution of water services entities.

3.26 Recommendation: that the regional representative group be obliged to seek advice from the regional advisory panels when providing its comment on planning documents developed by the board. This would include the statement of intent, asset management plan, funding and pricing plan and infrastructure strategy.

Government Policy Statement

3.27 The Bill requires the GPS: Water to set out how the Government expects other agencies to support the direction and priorities of the GPS: Water. The Bill does not refer directly to local authorities or to their current and future infrastructure strategies or spatial plans. Nor does it identify the need for alignment with future regional spatial strategies and regional plans (proposed through the Resource Management Act reforms).

3.28 The Bill does not address the impact or funding implications that giving effect to the GPS: Water may have on water services entities or on other agencies.

3.29 Recommendation: that the Bill clarifies how the GPS: Water will align with the territorial authorities infrastructure strategies and spatial plans and how it will ensure that community priorities are reflected in the water services entities' priorities.

3.30 Recommendation: that the Bill sets out how the government intends to financially support the water services entities and other agencies to give effect to the GPS: Water.

Engagement

3.31 TCDC considers that the Bill doesn't acknowledge the extent to which three waters infrastructure and management promotes community well-being.

- 3.32 The Bill requires the board of a water services entity to engage with territorial authority owners, consumers and communities on proposals to adopt an asset management plan, a funding and pricing plan and an infrastructure strategy. TCDC's experience is that engaging meaningfully with communities on such high level documents can be difficult. Providing communities with an understanding of current and future levels of service and the associated cost they should expect can be a more meaningful way of engaging with the community about infrastructure provision.
- 3.33 The Bill requires a water services entity to establish at least one consumer forum to assist with meaningful engagement and understanding consumer needs and expectations. The Bill is unclear about the remuneration for these forums, numbers of representatives and where these are to be drawn from.
- 3.34 Recommendation: that the Bill strengthens its recognition of the importance of the provision of three waters infrastructure to community well-being.
- 3.35 Recommendation: that the Bill expands the need to engage on its planning documents with communities by extending this to include engagement on meaningful aspects, such as the levels of service that they can expect for their community, rather than an asset management plan.
- 3.36 Recommendation: that section 203 of the Bill strengthens the requirement for consumer forums, for example having a minimum number of members participating in consumer forums based on a geographical area or an area of service for three waters infrastructure.
- Transition and establishment arrangements - secondment of employees**
- 3.37 The Bill includes obligations on local government to co-operate with the water services entity to facilitate the water services reform through secondment of employees and information supply. TCDC is a relatively small council, and the secondment of employees may be impractical if TCDC is to continue delivering its current three waters level of service.
- 3.38 Recommendation: that Schedule 1, part 1, clause 11(2)(a) of the Bill expands the term 'reasonable request' to ensure local government organisations can decline employee secondment requests on the grounds that it would negatively impact on their three waters service delivery, without being subject to a non-compliance direction for failing to comply with clause 11.
- Transition and establishment arrangements - oversight powers of department**
- 3.39 The Bill requires during the establishment period that local government provides the department (the department responsible for the administration of this Act) with information about intended decisions that relate to or may affect the provision of water services, and that before implementing the decision, it must be confirmed in writing by the water services entity.
- 3.40 The Bill is not clear about the information that would be required by the department and at which time during the Council's planning cycle
- 3.41 TCDC is concerned that no minimum timeframes or reference to haste are provided regarding decision making during the establishment period. In addition, it is not clear if the decision needs to be one approved by Council at a Council meeting for confirmation by the department before implementation, or if confirmation is to be sought prior to this. Our Council has a 6 weekly meeting cycle. Meeting the required timeframes to get sign off and a decision by Council are critical for projects to proceed in a timely manner.

- 3.42 Recommendation: that the decision making process set out in Schedule 1, subpart 4 is more clearly set out in the Bill. For example there is currently insufficient detail around what information is to be provided to the department or of the decision making process.

Integrated planning through transition period

- 3.43 The water services entities have the power to create planning documents. TCDC notes that these documents largely reflect documents that territorial authorities currently have including asset management plans and a financial strategy. In developing these documents, territorial authorities have taken into consideration the community views so that these planning documents reflect the communities' aspirations and expectations for levels of service. TCDC considers that the water services entities' planning documents developed during the transition period should be consistent with current territorial authorities' planning documents (including LTPs, Annual Plans and Asset Management Plans), to ensure community expectations are maintained.
- 3.44 Recommendation: That the Bill specify that water services entities' planning documents should have regard to and not be inconsistent with current territorial authority planning documents.

4.0 FURTHER INFORMATION

- 4.1 TCDC staff request ongoing engagement with the Department of Internal Affairs and the new Western-Central Water Services Entity staff involved in the preparation of and the transition process that is required for successful delivery of three waters services to the benefit of our District and its communities.

Future legislation

- 4.2 This Bill is one component of a package to reform water services and we note that it will be followed by further legislation. Areas of concern for TCDC regarding future bills include:
- That adequate funding per capita is allocated for our District, which has a high number of wastewater treatment plants and water supply plants per capita when compared with other territorial authorities.
 - How operational and management contracts will continue within and/or across districts.
 - Clarification regarding the ownership, compliance monitoring, non-compliance management and the transfer of ownership of relevant consents that have been issued by a regional council to a territorial authority.
 - Ensuring that the water services entities are responsive to customer requests for service, especially in emergency situations and given the geographical location of service areas in the Thames-Coromandel District.
 - That sufficient and timely audit of contractors' "on the ground" performance is carried out by local field representatives in sub-districts, especially given the geography and location of infrastructure in service areas in the Thames-Coromandel District.
 - Clarification of rural and non-council supplies (for example at Hahei and Waiomu).
 - Clarification around revenue and the resource that territorial authorities need to incorporate into their 2024-2034 LTPs to support water services entities.
- 4.3 Should future bills continue to be developed, TCDC recommends a more collaborative approach be used to engage with our Council, other key stakeholders and our communities. This will help to ensure community transparency, representation and well-being.

Office of Hon Nanaia Mahuta

MP for Hauraki-Waikato
Minister of Foreign Affairs
Minister of Local Government
Associate Minister for Māori Development



11 July 2022

Sandra Goudie
Mayor
Thames Coromandel District Council
sandra.goudie@tcdc.govt.nz

Tēnā koe Mayor Goudie

Thank you for your letter to members of Parliament, dated 12 May 2022, about funding for local authorities with a substantial number of absentee ratepayers. I am responding as your letter covers areas under my portfolio as Minister of Local Government.

As you will be aware, the Future for Local Government Panel is conducting a wide-ranging review of all aspects of local government and is seeking out a wide range of perspectives, including the future funding and financing of local governance. Perspectives like yours are valuable for the Panel in its work to determine the best shape for local government in the future as it faces the multiple challenges posed by the 21st century. I have forwarded your letter to the Panel for its consideration.

I note your specific points about the Better Off funding. Working within the current system, the Government and Local Government New Zealand worked together and agreed on the formula for the funding allocations, as set out below:

- 75 per cent weighting on the population in the relevant council area;
- 20 per cent weighting based on the NZ deprivation index, to recognise the relative distribution of need across the country; and
- Five per cent weighting on the land area covered by a council, excluding national parks.

These measures were deemed to be the most equitable and fair in distributing this funding.

Thank you again for writing.

Nāku noa

A handwritten signature in black ink, appearing to read 'N. C. Mahuta'.

Hon Nanaia Mahuta
Minister of Local Government