



Submission on the Water Services Entities Bill

This submission provides Invercargill City Council's views on the Water Service Entities Bill, which largely reflects Council's concerns at the time of engagement on the three waters process with the Minister in September 2021. Council's priorities are the interests of local people. To this end Council is working closely with the transition authority to ensure continuation of a quality service for local people and this submission does not impact that position.

The Draft Bill, while addressing some, does not address the majority of the significant concerns we raised as a Council, during earlier stages of this process.

Invercargill City Council's three waters assets are valued at over \$1.2 billion. We carry only \$16.5 million debt on our water infrastructure. This low level of debt reflects careful management of these community assets over many years, rather than a level of underinvestment. Our three waters network is fully compliant with drinking water standards. Our waste water treatment is fully consented, as is our stormwater network.

We continue to have fundamental concerns with the scoping of the issue to be addressed and the reliability of data and modelling which have underpinned this reform process. There were many inaccuracies in the assumptions made about Invercargill water services, which combined, mean that the estimated average costs per household, on which much of this reform decision rests, are inaccurate.

Our forecasting reveals a future cost for water of \$1850 per household for Invercargill residents without reform. This figure includes all the investment within the Long-term Plan, as well as additional estimated investment of \$197 million across 30 years which would be required to meet expected higher environmental standards.

We have particular concerns in the applicability of the model to the South Island environment within the Ngāi Tahu takiwā. Work undertaken by Morrison Low to review the proposals on behalf of the Southland-Otago community noted that efficiencies of 45% will not be possible to be achieved by Entity D as a result of the geographic distances involved and low population density and that efficiencies are likely to be closer to 20 - 25%. Utilising an efficiency of 25% this would result in average household costs of \$2235 for Invercargill - Bluff households following reform, considerably higher than the costs without reform of \$1850.

Under the Local Government Act, Council is required to inform the community of the impact on rates and debt of the different options it has scoped for significant investment decisions. In undertaking initial modelling in order to enable us to do this we note:

- If Council retained the service and made the investment required to meet increased standards (noting this can only be an estimate at this point as these standards have not yet been published), Invercargill ratepayers will be required to pay an average \$1850; an average 4.1% over the 30 years (this does not include improvements to any other service the community may want to see). If wastewater discharge to land and water meters were excluded on the basis that these have been excluded by Entity D, then the average household cost would be \$1600 and an average 3.2% annual rates increase.
- Under Entity D (with the forecast 25% efficiencies more feasible in the South Island) the local community would see annual water rates/taxes increase of 5.7% on average over the 30 years.

Affordability for the local community of these reforms is a significant concern to Council.

The Bill as drafted does nothing to allay these fundamental concerns.

Ownership

Many generations of Invercargill and Bluff residents have invested to produce the water system we have today. As a council, we take our kaitiakitanga of these assets for the community seriously.

Our position remains the same: that we would not continue to 'own' the assets in any meaningful sense; we could not directly influence investment in their maintenance or improvement; we would not receive any lease or financial return from them; we could not return their control to the local community and we could not stop them being sold to private interests by a future Government.

We note that the de facto ownership of assets by the new entity is reflected in many places in the Bill, including in the following clauses:

- 116: Obligation to maintain water services: "(2)In order to perform or exercise its duties, functions, or powers under this Act, a water services entity must not do any of the following: (a) divest its ownership or other interest in a water service except in accordance with Schedule 4"
- 117: Contracts relating to provision of water services: "(2)If a water services entity enters into a contract under subsection (1), it must – (b) maintain ownership of the infrastructure and assets relating to the water services".

Divestment

Privatisation of Invercargill and Bluff's assets in whole or in part remains a significant concern for Council and the community.

Under Clause 116 (2) (c) the entity must not "lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its service area except –

- (i) In accordance with Schedule 4
- (ii) If, in doing so, the entity retains its capacity to perform or exercise its duties.

The assessment as to whether by divesting of assets it can retain its ability to perform its duties is fully within the remit of the Water Services Entity. What is viewed as essential at the level of the Water services entity may well be different to what is viewed as essential in management by the Local Authority.

Invercargill's water tower is an icon of the city. If this is not viewed as necessary to the new Water Entity this could be sold, as could other portions of the network, which are assessed as unnecessary.

Schedule 4 outlines the process for divestment. If the intention of this schedule is to limit the ability of water entities to privatise assets then this process needs further development.

Part 1 Divestment proposal and Part 2 Poll outline a four step process to make a determination to divest:

- Part 1 (2) The water services entity **must** provide a proposal to the Regional Representative Group
- Part 1 (3) The Regional Representative Group **may**, after consultation, including with the Territorial Authorities and Iwi, and with 75% agreement, refer the proposal to Territorial Authority Owners
- Part 1 (4) The Territorial Authorities **may** resolve with 100% agreement to refer proposal to a poll of the public on the electoral roll
- Part 2 (9) If a poll takes place the divestment **must not** be implemented unless 75% of the public are in favour

As currently worded, this schedule does not deal with the following scenarios:

- The Regional Representation Group consult on a divestment proposal but do not agree to send it to the Territorial Authorities. At this point there is nothing described in the process which would prohibit the Regional Representative Group then authorising the water services entity to proceed with divestment.
- The Territorial Authorities receive the divestment proposal from the Regional Representative Group but do not reach 100% agreement to proceed to a poll. This is a highly likely circumstance with 20 + Territorial Authorities in the Southern Water Entity. Again, at this point there is nothing described in the process which would prohibit the Regional Representative Group then authorising the water services entity to proceed with divestment.

Representation

As one amongst 20+ local authorities, Council will not have a direct voice on the Regional Representation Group. The area of the Southern Water Services Entity covers the takiwā of Ngāi Tahu as described in section 5 of Te Runanga o Ngai Tahu Act 1996, and including the districts of the following territorial authorities:

Ashburton District Council:

Buller District Council:

Central Otago District Council:

Christchurch City Council:

Clutha District Council:

Dunedin City Council:

Gore District Council:
Grey District Council:
Hurunui District Council:
Invercargill City Council:
Kaikoura District Council:
Mackenzie District Council:
Queenstown-Lakes District Council:
Selwyn District Council:
Southland District Council:
Timaru District Council:
Waimakariri District Council:
Waimate District Council:
Waitaki District Council:
Westland District Council; and

the parts of the districts of the following territorial authorities within the boundaries of the takiwā of Ngāi Tahu as described in section 5 of Te Runanga o Ngai Tahu Act 1996:
Marlborough District Council:
Tasman District Council.

The topographies and needs of all these communities are different. Invercargill has a number of major significant projects in development, including sourcing of an alternative water supply and upgrade of the Branxholme pipeline. There is no assurance of when or if these essential projects would proceed.

Subpart 4 outlines the role of the Regional Representative Group which will have between 12 – 14 members, 50% of which will come from Territorial Authorities. 20+ Councils will be represented by a maximum of 7 representatives, resulting in lack of direct representation.

Council remains opposed to this model of representation believing that it should have direct representation.

It will be important that the Regional Representative Group has a clear role in creating a direct link between the communities impacted and the Water Service Entities and has responsibility to undertake consultation with those communities. It is essential that they work with Territorial Local Authorities to undertake effective consultation and that they are required to seek feedback from Territorial Local Authorities as part of the Statement of Intent and strategic goal setting processes.

The Bill makes further provision under Subpart 5 for Regional Advisory Panels, which **may** be established. In the circumstance a panel is established, the membership does not need to include all Territorial Authorities. As such it does not guarantee a further voice to Invercargill City Council in relation to assets in this area. The role of these panels is purely advisory and there is no requirement on either the Regional Representation Group or the Water Services Entity Board to take this advice.

We ask that the Bill be changed to **require** Regional Advisory Panels to be established which **must** include representatives from all Territorial Local Authorities and to require consultation of local communities on matters which impact them.

Good employer

Clause 120 requires the Water Services Entity to be a good employer. Throughout this process Council has advocated for the importance of good treatment of people. Employees were assured that they would have roles in the new entity. As part of the most recent stage of the transition Council has been informed that this applies only to non-management roles and does not include non-technical support roles nor partially affected roles which is not giving effect to the requirement to be a good employer. Schedule 1 Parts 15 and 16 describe this process but do not give clear indication on the process to finalise terms and conditions for employees in the new organisation.

Financial matters

Clause 163 of the Bill notes that all information developed by the Water Services Entity is to be prepared in accordance with generally accepted accounting practice.

We question how any model which aligns with international accounting standards can be created which allows ownership of assets to remain with one organisation; while a separate organisation has control over them.

We support clause 116 (2) (a) of the Bill outlines that the Water Services Entity will not be able to raise debt directly on the assets, which was one of our areas of concern. However, we remain concerned about the additional debt being loaded on the entities and through them, local communities, as a result of the Better off funding.

Ability to impact investment in and delivery of services

All of the issues above are only important in that they impact ability for local communities to have a say in the delivery of water services, management of their assets and setting of prices.

Invercargill City Council will have two shares in the new entity. Those shares do not come with voting rights in any circumstance except in case of a vote to organise a poll for divestment.

Council's only ability to influence management of water services in its region will be in provision of input to an advisory group if it exists or the regional representative group on the Statement of Strategic and Performance expectations. No process for this is outlined. It is not required of the Regional Representative Group to seek feedback or to receive input from shareholders on this document or on the Statement of Intent received from the Water services entity.

Councils play an important role in placemaking. The provision of three water infrastructure is a crucial part of this, for example in supporting infrastructure for new subdivisions or in changing uses for land. Invercargill City Council has a number of major development initiatives at the moment which will be impacted and may be held back. These include major new subdivisions such as Te Puawai, elderly housing and infill housing. The lack of mechanisms for engagement with the new entity

presents significant risks to enabling this function. Council has received feedback through the three waters reform process that it will be difficult for key Invercargill projects to receive traction within the new entity in comparison with projects in growth areas such as Queenstown. Provincial centres such as Invercargill are at risk of being forgotten between the needs of the metro centres and rural areas. The community's ability to respond to drought, flooding and other emergency events will be limited.

Major projects which are essential to the community's resilience in the face of natural disaster and climate change, including the alternative water supply project and the branhholme main replacement, are at risk as there is no commitment from the new entity to continue projects which are not completed at the time of transition.

There is no requirement for the Water Services Entity or the Regional Representative Group to consult local communities on decisions which will impact them, whether that is investment in or management of assets or on pricing. This represents a significant loss of involvement in the democratic process for local people.

We recognise the importance of a solution which works for New Zealand as a whole, but which also needs to work for the citizens of Invercargill and Bluff.

This submission is made on the basis of advocating for our local people.

We ask that the Select Committee visit the region in order to hear directly from the people impacted. We wish to speak to our submission.

Thank you for the opportunity to submit.

His Worship Mayor Sir Tim Shadbolt