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## NOTICE OF MEETING

**Notice is hereby given of the Extraordinary Meeting  
of the Invercargill City Council to be held in the  
Council Chamber, First Floor, Te Hinaki Civic  
Building, 101 Esk Street, Invercargill on  
Tuesday 4 July 2023 at 8.30 am**

Mayor W S Clark  
Cr A J Arnold  
Cr R I D Bond  
Cr P M Boyle  
Cr T Campbell  
Cr A H Crackett  
Cr G M Dermody  
Cr P W Kett  
Cr D J Ludlow  
Cr I R Pottinger  
Cr L F Soper  
Cr B R Stewart

MICHAEL DAY  
CHIEF EXECUTIVE

# Extraordinary Council - Public Agenda

04 July 2023 08:30 AM

| Agenda Topic   | Page |
|--|------|
| 1. Apologies   |      |
| 2. Declaration of Interest   |      |
| 3. Major Late Item   |      |
| The reason that the item was not in the agenda: The item was not ready at the time of the publication of the agenda. |      |
| The reason why the discussion of the item could not be delayed: Matters could be progressed in a timely manner.      |      |
| 3.1 3 Waters Transition - Programme Update   |      |
| 4. <a href="#">3 Waters Transition - Programme Update (A4726930)</a>   | 3    |
| 4.1 <a href="#">Appendix 1 – Draft ICC Submission to the Water Services Entities Amendment Bill (A4726931)</a>       | 5    |

## 3 WATERS TRANSITION – PROGRAMME UPDATE

|                                |  |
|--------------------------------|--|
| <b>To:</b>                     | Council  |
| <b>Meeting Date:</b>           | Tuesday 4 July 2023                              |
| <b>From:</b>                   | Andrew Strahan – Three Waters Transition Manager |
| <b>Approved:</b>               | Erin Moogan - Group Manager - Infrastructure     |
| <b>Approved Date:</b>          | Monday 3 July 2023                               |
| <b>Open Agenda:</b>            | Yes  |
| <b>Public Excluded Agenda:</b> | No   |

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### Purpose and Summary

This report provides an overview of the 3 Waters Reform Programme to deliver Council's legislative obligations under the Water Services Entities Act.

An assessment of the Water Services Amendment Bill was introduced by the Government on 16 June 2023. The report identifies the impacts on the work to establish the new entity and the Transitional Provisions that the Bill introduces.

Based on the Water Services Amendment Bill a draft submission is provided. Councillor feedback is sought on the content of the submission and approval to submit by the closing date of midnight 5 July 2023.

### Recommendations

That Council:

1. Receives the report '3 Waters Transition – Programme Update'
2. Notes the content of this report.
3. Approves the attached Council submission to the Water Services Bill Amendment Bill.

### Background

Following the Government's 3 Waters Reset, announced on 13 April 2023, the Water Services Entities Amendment Bill was introduced on 16 June 2023.

The Bill was referred to Select Committee on 22 June 2023, released for Public Consultation on that day with a closing date set for 5 July 2023.

The Bill has two main functions - the first is to enact the water reform reset changes through changes to the Water Services Entities Act 2022. The second part sets out the transitional

provisions that affect local government planning, reporting and rating obligations relating to water services during the 2024/25 and 2025/26 financial years.

A submission has been drafted for Council review and is provided as Appendix One.

Feedback on the contents of the submission is sought and approval to submit the submission by the 5 July 2023 deadline.

## Next Steps

ICC's 3 Waters Transition Programme will:

- Submit to the Water Services Entities Amendment Bill with a request to present in person.
- Continue to work with the NTU to respond to Requests for Information while ensuring expectations are managed where there are conflicts with ICC operational requirements.
- Provide further updates to the Infrastructure Committee, at least bi-monthly or more frequently as required.
- Ensure good scenario and contingency planning is in place to address
  - Risk that the Amendment Bill is delayed and not passed by August 2023
  - Potential October 2023 election outcomes
  - Resource requirements and operational impacts for the transition period – once an establishment date is defined.
- Provide an update to all staff on the 3 Waters Reset outcomes and process and timing to arrive at a go-live date (once defined).

## Attachments

1. Attachment 1 – Draft ICC Submission to the Water Services Entities Amendment Bill (A4726931)

[ ] July 2023

The Chair  
Governance and Administration Committee  
Parliament Buildings  
Wellington 6160 fe@parliament.govt.nz

#### **INVERCARGILL CITY COUNCIL SUBMISSION: WATER SERVICES ENTITIES AMENDMENT BILL**

1. The Invercargill City Council (the “Council”) thanks the Governance and Administration Committee for the opportunity to provide a submission.
2. The Council is disappointed to have been provided such a short time frame to respond to the Amendment Bill particularly given the importance of the matters involved. Given the timeframe, it is nearly impossible to consider what is being proposed let alone consult with the community. This has been repeated with the introduction of each bill in the entire suite of legislation and does not provide a good basis for considered and honest feedback.
3. Council refers to its detailed previous submissions on earlier water legislation namely the:
  - a. Water Services Entities Bill (now the Water Services Entities Act 2022 (“WSE Act”)); and
  - b. Water Services Legislation Bill (“Legislation Bill”) and the Water Services Economic Efficiency and Consumer Protection Bill (“Regulation Bill”);

dated 22 July 2022 and 16 February 2023 respectively (“Earlier Submissions”).

4. Council acknowledges that some of their requests in the Earlier Submissions have been incorporated in the Water Services Entities Amendment Bill (“Amendment Bill”). Specifically, a more regional based Water Service Entity (WSE), provision of a direct voice and vote on the Regional Representative Group and the use of community priority statements.
5. Council still has concerns that not all matters will be adequately addressed in the legislation including:
  - a. City planning processes being hamstrung with the WSE exerting investment power over Council’s ability to plan for future land use, and the potential for WSEs to concentrate their funding in some locations and not others.
  - b. Coordinating complex stormwater management (including private watercourses on private land)
  - c. Emergency management response between multiple organisations.
  - d. Council’s being legislatively required to provide services to the new WSE’s post transition date.
6. It is evident that the extra time allowed by the reset has not been used to review the underlying fundamentals of reform (including the underlying financial modelling) and redesign the legislation to ensure that the original economic objectives of reform are achieved.
7. It is also evident that the ratepayers/consumers of Invercargill under reform, will pay significantly more in combined rates and water charges than they are currently paying. The

Council maintain that the economic benefits that have been calculated is based on incorrect underlying financial data and modelling. Council is disappointed that given such concerns have been repeatedly raised in Earlier Submissions, the Government has proceeded without the solid foundation of accurate base financial data and modelling.

8. Despite Council's opposition to the overall approach of the reform and recommendation that the reform be redesigned, it is evident that the Government intends to proceed. Notwithstanding the prior points, Council has the overriding obligation to their ratepayers to set out their further submissions on the Amendment Bill for consideration.

## **COUNCIL'S KEY CONCERNS ON THE AMENDMENT BILL**

### **WSE's not mandated to pay the "no worse off" package**

9. We agree with the significant concerns raised by LGNZ around better off/no worse off funding and the withdrawal of the 'better off' component of subpart 6 of Schedule 1 to the Act is a major source of disappointment for councils.
10. We understand that the Government has confirmed its commitment to ensuring councils will receive 'no worse off' payments however it is critical that the Act expressly requires each WSE to make those payments in the amount, at the time/s and otherwise in the manner committed to by the Government.

### **Affordability of Reforms**

11. The move from 4 to 10 entities has reduced the stated benefits of the reform. ICC's submission to the Water Services Entities Bill highlighted errors in the modelling used. ICC's forecasting reveals a future cost for water of \$1,850 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. The recently released 10 entity modelling estimates averaged household costs at \$4,439 versus the original 4 entity model of \$2,340.
12. Affordability for the local community of these reforms is a significant concern to Council. ICC ratepayers will be financially worse off under the 10-entity model. Furthermore, the revised approach places heavy reliance on the successful adoption of a shared service model. If this does not deliver the expected benefits, average household water costs will further increase.

### **Billing arrangements are problematic**

13. Under the Act, Councils may still be required to collect water services charges on behalf of the WSE until 30 June 2027. We remain strongly against this. In practice, this means councils could be regarded as administering, managing and transferring funds on behalf of the WSE. We oppose being compelled to collect revenue for a service we no longer control and deliver, partly because it will exacerbate public confusion about who is accountable for water services. This is also not be feasible without significant investment in IT systems, given the complexity involved. Council financial and billing systems are not designed to collect third party charges.

### **Transition Dates**

14. Council supports the proposed amendment from Taituara that the Minister be required to seek the views of all local authorities in an entity on any proposed establishment date.

### **Local Led Merger Process**

15. Council is supportive of the more regionally based WSE under the Amendment Bill. However, Council is concerned regarding voting power should the Regional Representative Group (RRG) be presented with a request for a merger proposal.
16. A decision by the RRG about whether the WSE's board should prepare a merger proposal and whether a finalised merger proposal should be implemented is made in accordance with section 30 of the WSE Act. Section 30 requires a decision to be made either by consensus or in any other case 75% of the regional representatives present and voting. Given each territorial authority will now have a representative on the RRG, Council will only have one vote out of 14 votes (comprising seven votes from the territorial authorities and seven votes from mana whenua representatives). Therefore, 11 representatives (and possibly only four out of seven territorial authority representatives) could effectively form a decision. In Council's view this threshold is not high enough for the level of decision being made given the significant asset transfer from every territorial authority (as "shareholders" of the WSE) on the establishment date.
17. Council submits that a final decision as to whether a merger proposal should be implemented should require all RRG members (or all territorial authority representatives given their underlying shareholder status) to agree.

### **Transitional Obligations on Council**

18. Council is required to continue to provide and fund water services during the now extended establishment period. However, as highlighted in Earlier Submissions, resourcing at Council throughout transition is challenging given transitional obligations placed on staff, additional to business-as-usual water services delivery. Additional transitional obligations and effects not only include general reform management but also further levels of process relating to decision making, secondment of staff, requests for information, and workforce retention issues due to general uncertainty of reform. Council's resourcing during this time needs to be reconsidered.
19. Council specifically recommends strengthening of the process regarding the Department of Internal Affairs (DIA) approval on plans and other transitional requirements. This process needs to be more robust and timely than that outlined in the Significant Decisions process – guidelines for which remain in a Draft state.
20. Resourcing is further complicated with the navigation of how new legislation impacts Council not only within the transitional period but also post the establishment date. While the Amendment Bill successfully clarifies some of the effects on long-term planning, annual planning, annual reporting as well as collection of rates and development contributions, navigating the practical effects is onerous and still confusing in some regards. Navigation would be even more difficult should an establishment date be ordered part way through a financial year.

21. Some of the mechanisms provided in the Amendment Bill in relation to part-year transitional obligations are also still unclear e.g., the complex transitional arrangements relating to rates specifically proportions and existing levels of uniform charges.
22. Council is concerned that there is also a risk that uncertainty over the transition period could impact whether all local authorities keep investing in water infrastructure. Such inconsistencies between local authorities within a WSE could present inequalities going forward within the WSE.
23. The Amendment Bill provides that a long-term plan must explain to communities that water services are to be transferred from the local authority to a WSE and that transfer is not a matter for consultation by the local authority. Council submits that the extended period should give the Government time to consult with local communities on the Affordable Water Reform.

#### **Funding Agency**

24. The concept of utilising a mechanism like a WSFA is not simple and comes with significant risks and costs. While Council agrees in principle to the Government considering additional funding mechanisms such as the WSFA proposed to help achieve affordability efficiencies, Council submits that further analysis and clarification as to the operation of the WSFA is essential.

#### **CONCLUSION**

25. The Council thanks the Committee once again for the opportunity to provide a submission on the Amendment Bill.
26. The Council requests the opportunity to make an oral submission to the Committee.

Kā mihi,

Nobby Clarke  
**MAYOR OF INVERCARGILL**

Ian Pottinger  
**COUNCILLOR**  
**CHAIR OF INFRASTRUCTURE SERVICES COMMITTEE**