



Committee Secretariat  
Finance and Expenditure Committee  
Parliament Buildings  
Wellington

Via email to: [fe@parliament.govt.nz](mailto:fe@parliament.govt.nz)

20 July 2022

## **Submission on the Water Services Entities Bill.**

### *Background*

1. The Hurunui District Council thanks the Select Committee for the opportunity to comment on the Water Services Entities Bill. This submission has been prepared on behalf of the Hurunui District Council taking into account our role in enabling democratic local decision-making and action by, and on behalf of, communities and promoting the social, economic, environmental, and cultural well-being of communities in the present and for the future.
2. The Hurunui District is located in North Canterbury. We have approximately 13,450 residents and cover an area of 8,640km<sup>2</sup> of predominantly rural land. Our District spans from the east coast to the Main Divide. The Hurunui District is primarily a rural district with large areas dedicated to primary production interspersed with small service towns. Unlike most of Canterbury, water in the Hurunui District is a hard won resource
3. Hurunui District Council provides drinking water, stock water, wastewater and storm water services to approximately 5,000 properties within the district, utilising ratepayer assets which have been built up by successive generations who have not only feuded, but also physically put assets in place over the past approximately seventy years. Council operates and maintains the assets of the twenty community owned water schemes<sup>1</sup>, seven wastewater schemes<sup>2</sup> and a stormwater network over the entire district. All schemes are operating under current consents and are meeting regulatory compliance outcomes.
4. Each water scheme in the Hurunui District has either an advisory group or a community committee which oversees the delivery of water services for that scheme and the maintenance of the water services assets. In addition, the chairs of the

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<sup>1</sup> Amberley, Amuri, Ashley, Balmoral, Blythe, Cheviot, Culverden, Hanmer Springs, Hawarden-Waikari, Hurunui#1, Water Carrier, Kaiwara, Lower Waitohi, Parnassus, Peaks, Waiau Rural, Waiau Town, Waipara Town, Upper Waitohi

<sup>2</sup> Amberley, Cheviot, Greta Valley, Hanmer Springs, Hawarden, Motunau, Waikari

advisory groups and community committee representatives form a formal committee of council, the Water Liaison Committee which provides Council with more formal feedback on the overall governance of the three waters assets and services. Having local voices influence the delivery of the three waters services is highly valued in the Hurunui District, as is the existence of a clear line of accountability for that delivery.

5. Hurunui District Council does not support the Bill as it stands and urges the Select Committee to consider the following points:
  - a. The four-entity model is based on poor modelling and is not the best fit for delivery of three waters services
  - b. The governance structures proposed for the four-entity model are complex and remove direct consumer voice and governance accountability
  - c. The proposed local government “shareholding” is not a shareholding at all, rather it is a right to veto a proposal by the water entity to divest its assets
  - d. Transitional arrangements give unilateral powers to a government department

#### *Purpose of the bill*

6. The Water Services Entities Bill is the first in a suite of proposed legislation which consolidates all territorial local authorities three waters assets into four mega three waters entities which will then deliver three waters services within their respective areas. Although the bill is dealing with complex matters, it is relatively simple in its construct in that it:
  - a) Defines the nature and territorial scope of the four entities; and
  - b) Sets up the governance structure for the entities; and
  - c) Outlines some operational, accountability, monitoring, reporting and financial structures; and
  - d) Deals with some miscellaneous matters

As this is the first of the proposed bill/s to reform the delivery of three waters services in New Zealand it is difficult to provide meaningful feedback in the absence of visibility of the proposed bill/s to follow.

**Hurunui District Council recommends that the current process of this bill is paused until such time as all the proposed bill/s reforming the delivery of three waters services are available for review.**

#### *The future infrastructure challenge*

7. The Bill is introduced by an explanatory note that states that the three waters infrastructure challenge is unaffordable for most communities over the next 30 to 40 years. An examination of the Thirty Year Infrastructure Strategies produced by all territorial local authorities does not support this assertion. These infrastructure strategies are thoroughly audited by Audit New Zealand. The assertion in the introduction to the bill is based on fallacious modelling conducted by the Department of Internal Affairs and its contractors. Hurunui District Council provided

significant data to support the Department of Internal Affairs modelling process. The results of the modelling provided by the Department of Internal Affairs overestimated the future investment required in three waters infrastructure for the Hurunui District by a factor of five times.

8. Indeed, the Department of Internal Affairs estimate of \$120b to \$185b of capital investment over the next thirty in three waters nationally, is contradicted by the New Zealand Infrastructure Commission Te Waihanga which estimates the three waters capital investment required over the period 2022-52 at \$90b<sup>3</sup>

**Hurunui District Council recommends that the current process of this bill is paused to allow for a proper independent review of the base modelling conducted by the Department of Internal Affairs.**

#### *Governance model*

9. In the current model territorial local authorities which hold the community three waters assets are responsible for asset maintenance and three waters service delivery and are directly accountable to that community through democratic process. The bill proposes a complex multi-layered governance structure which is presided over by a Board which is charged with governing in the best interests of the organisation, rather than the community served by the organisation. The Board is appointed by a subset (the Board Appointment Committee) of a group which is constituted on a 50:50 basis between local government entities and mana whenua (Regional Representative Group). The Regional Representative Group may be advised by one or more Regional Advisory Panels. Each Regional Advisory Panel is made up of equal numbers of local government and mana whenua representatives.
10. It is proposed in the bill that Hurunui District be included in the Southern Water Services Entity. Six or seven members of the Regional Representative Group (depending on whether the total number in the Regional Representative Group is set at twelve or fourteen) will be representatives of the twenty-two Councils that make up the Southern Water Services Entity.
11. The governance model outlined above is convoluted and cumbersome. The Hurunui District Council currently holds the three water assets for the communities it is elected to represent, but under the proposed model it will potentially have a minor advisory role to the Representative Group which appoints the Committee which appoints the Board. This is not democracy. The bill does not provide a direct line of accountability from the current owners of the asset and consumers of the water services to the Board.

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<sup>3</sup> Rautaki Haunganga o Aotearoa New Zealand Infrastructure Strategy 2022 – 2052  
Presentation from Ross Copland to LGNZ Rural and Provincial Sector 16 June 2022

**Hurunui District Council recommends that the current process of this bill is paused, and a governance model is developed where the governors of water service entities are directly accountable to consumers.**

12. The bill at section 15 purports that the territorial authorities are co-owners of the proposed Water Services Entities and will be issued shares in the entity. However, the same section continues on and cancels a fundamental right of any shareholding, the right to dispose of its shares as it sees fit.
13. Further at section 166 the bill cancels all financial rights, title or interest that such a shareholding would normally carry and it is clear that the Board is responsible primarily to the entity, although the Minister gives themselves extraordinary powers to direct the Board.
14. The only value left in the shareholding is the right to vote in any divestment proposal, noting that such a proposal requires the agreement of all shareholders.
15. The proposed 'shareholding' confers none of the usual benefits of a share in any normal sense of the word and the novel use of the term shareholding in this bill appears to be window dressing at best.

**Hurunui District Council recommends that the current process of this bill is paused, and a direct conventional shareholding model is developed where the shareholders of the water service entities have the power to hold the Board to account and hold a financial stake in the organisation, or that the bill is redrafted to remove any reference to shareholders.**

#### *Transitional provisions*

16. The bill at Schedule 1 proposes a number of transitional provisions including providing extraordinary decision-making powers to the Chief Executive of the Department of Internal Affairs whereby any decision made by the territorial authority which holds the three waters assets on behalf of its community regarding those assets must be approved by the Chief Executive of the Department of Internal Affairs before it takes effect.
17. Currently the democratically elected governors of the three waters services are making decisions on the development of three waters services based on the social, environmental, cultural and economic wellbeing of the communities they represent. The powers vested in the Chief Executive of the Department of Internal Affairs by this bill do not have any purpose related to decision making and it is highly likely that in the absence of direction, the Chief Executive of the Department on Internal Affairs will be acting in the best interests of the water entities, not the communities who own the water assets. This draconian power will likely have a chilling effect on decision making by the lawfully elected governors of the water services.

18. The bill does not provide any recompense to communities disadvantaged by decisions of the Chief Executive of the Department of Internal Affairs and there is no appeal process or accountability to the asset owners for decisions made under this section of the bill.

**Hurunui District Council recommends that Schedule 1 Subpart 4 of the Water Services Entities Bill is struck out in its entirety.**

*General comments*

19. Hurunui District Council on behalf of its communities operates a complex range of three waters systems which supply drinking water, stock water, waste water and storm water services across the district. These services are fit for purpose, consented, compliant and affordable both now and in the future. Elected representatives are directly responsible to Hurunui District residents and ratepayers and the consumer voice is heard strongly through direct governance arrangements.
20. The Water Services Entities Bill is founded on poor modelling which needs to be properly reviewed in detail and revised to present the true status of affordability of three waters services nationally. If this review confirms the case for larger entities, then the Hurunui District Council holds significant concerns around the structure, governance, shareholding and transitional powers contained in the bill
21. If the Water Services Entities Bill is to proceed:
- **Hurunui District Council recommends that the current process of this bill is paused to allow for a proper and detailed independent review of the base modelling conducted by the Department of Internal Affairs; and**
22. Once the proper independent review of the base modelling above is completed, and if it is determined at that point that the bill is to proceed, then:
- **Hurunui District Council recommends that the process of this bill is paused until such time as all the proposed bill/s reforming the delivery of three waters services are available for review; and**
  - **Hurunui District Council recommends that the process of this bill is paused, and a governance model is developed where the governors of water service entities are directly accountable to consumers; and**
  - **Hurunui District Council recommends that the process of this bill is paused, and a direct conventional shareholding model is developed where the shareholders of the water service entities have the power to hold the Board to account and hold a financial stake in the organisation, or that the bill is redrafted to remove any reference to shareholders; and**

- **Hurunui District Council recommends that Schedule 1 Subpart 4 of the Water Services Entities Bill is struck out in its entirety.**