

Office of the Mayor



8 August 2022

The Chair
Finance and Expenditure Committee
Parliament Buildings
Wellington 6160

fe@parliament.govt.nz

Tēnā koe Madam Chair,

DUNEDIN CITY COUNCIL SUBMISSION: WATER SERVICES ENTITIES BILL

INTRODUCTION

1. The Dunedin City Council (the Council) thanks the Finance and Expenditure Committee for the opportunity to provide a submission on the Water Services Entities Bill (the Bill).
2. The Council shares some common goals with Government in wanting to ensure communities are provided with safe and affordable water services that support good public health and environmental outcomes, as well as stronger recognition of the Treaty partnership in the three waters context. The Council wants to be an active participant in ensuring these goals are met.
3. The Council is therefore fully supportive of and accepts the need for *regulatory* reform to achieve these goals. However, the Council fundamentally opposes the service delivery model proposed under this Bill, the haste with which the Bill is being progressed through Parliament and the current lack of detail in the Bill. It is difficult to provide a submission on the Bill because so much detail is not yet available.
4. Based on the Council's discussions with other territorial authorities in relation to the Bill, the Council is not alone in its concern over the proposed service delivery model. In the Council's view, there are better ways to achieve the desired outcomes than to have wholesale change involving such large and complex entities where local voices are distanced from the decision makers.

OVERRIDING COMMENTS

5. The proposed service delivery model needs to be paused to allow time to consider the most effective service delivery model, and to ensure a truly collaborative partnership with territorial authorities and iwi/Māori.

6. The Government has not fully considered alternative models for water services delivery, such as smaller regional entities or other models. A regional model such as an Otago/Southland entity would better ensure direct representation and the desired efficiencies. This is based on proven cooperation between these regions and a report from Morrison Low (referred to in Attachment A).
7. Under the proposed four entities model, ***most*** territorial authorities within the Southern Water Services Entity will not have a representative on the Regional Representative Group (RRG) and therefore will not have a direct voice at the RRG strategic level. Given the Otago/Southland region has eight territorial authorities and seven rūnaka, a regional model would achieve fairer representation, better preserve local voices, provide better water outcomes and allow for better land use planning.
8. There are also substantial overlaps between the Three Waters Reform Programme, the Resource Management Reform, and the Local Government Review. Ideally, these reforms should be considered at the same time so that the relationship between them is clear, including a consideration of timeframes, sequencing of changes, dependencies and resourcing.
9. It is likely the Resource Management Reform will focus on a more collaborative and regional approach, so a regionally structured three waters entity would better align with this.
10. The Council is concerned that the protection mechanisms to prevent privatisation are insufficient as they could be repealed or amended by a simple majority in Parliament.
11. The Bill does not address many core issues regarding water services, such as:
 - a. the inter-relationship with land planning;
 - b. the transfer of assets and liabilities;
 - c. how properties that provide recreational and biodiversity values for the community will be protected if there are three waters assets within these properties;
 - d. the pricing and charging arrangements;
 - e. how civil defence matters will be managed in practice;
 - f. economic regulation and consumer protection; and
 - g. amendments that will need to be made to other legislation.
12. While the Council recognises that the Government's intention is that many of these core issues will be dealt with in subsequent legislation or in the first constitution of the new Water Services Entities (WSEs), these issues are of such fundamental importance to the local government sector that it is difficult to consider this Bill in isolation from such key issues.
13. The Council is also concerned by the absence of any reference to “community wellbeing” in the Bill. Water services are integral to community wellbeing and promoting the wellbeing of communities is a critical role for territorial authorities. This omission seems at odds with the aims of the Local Government Review.
14. In the Council's letter of 30 September 2021 to the Minister of Local Government (Attachment B), the Council raised concerns regarding the control that the WSE will hold in exerting power over the Council's ability to plan for future land use. The Bill provides

no clarity on how competing developments from various geographic areas (within a WSE area) will be prioritised, nor how in practice this will impact on the Council's everyday planning functions and subdivision processes.

15. The Council maintains that a smaller Otago/Southland entity would be better placed to manage land use planning in a considered and practical way.
16. In the Council's view:
 - a. The Bill needs to be paused to allow time to consider the most effective service delivery model, and to ensure a truly collaborative partnership with territorial authorities and iwi/Māori.
 - b. If the Bill is not paused, then either:
 - i. The core issues intended to be dealt with in subsequent legislation and regulations, should be incorporated into this Bill so that all key issues are considered together. The public and other affected parties would then need the opportunity to make submissions on the amended Bill.

OR

 - ii. The current Bill should be delayed until subsequent legislation is introduced so that all core issues can be addressed together.
17. If, despite the Council's recommendations above, the Government proceeds with the proposed service delivery model then Council sets out below its recommendations and comments on the Bill. These recommendations and comments are intended to improve implementation and outcomes.

COUNCIL'S KEY CONCERNS ON THE BILL

18. The Council's key concerns regarding the Bill include:
 - a. whether the Bill will achieve its objectives;
 - b. the proposed governance and ownership structure of the WSEs;
 - c. the protections against privatisation, joint arrangements and the amalgamation or division of a WSE; and
 - d. the transitional provisions.
19. For ease of reading, the Council has put its key points in italics at the beginning of each section and the Council's recommendations in a table at the foot of each section.
20. A summary of Council's recommendations is set out at the end of this submission.

SECTION 1 -WILL THE BILL ACHIEVE ITS OBJECTIVES?

21. *Key points regarding achievability of the Bill's objectives: The Council supports and agrees with the Bill's objectives and wants to assist the Government achieve them. However, given the lack of information on core issues, it is impossible to know if the objectives are achievable under the proposed model. It is essential that retention of water assets in public ownership is included as an objective in clause 11 of the Bill. The management of emergency events needs to be properly addressed in this Bill.*

22. Clause 11 of the Bill states that the objectives of each WSE are to:
 - a. deliver water services and related infrastructure in an efficient and financially sustainable manner;
 - b. protect and promote public health and the environment;
 - c. support and enable housing and urban development;
 - d. operate in accordance with best commercial and business practices;
 - e. act in the best interests of present and future consumers and communities;
 - f. deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.
23. The retention of water assets in public ownership is critical yet is not identified as an objective of the WSEs. The objectives need to explicitly state that retaining water services in public ownership is an overriding objective.
24. Community well-being should also be listed as an objective of the WSEs and addressed in the Bill. It is essential that protection is put in place for the public's recreational use of land currently used for both water and recreational purposes.
25. There is currently no certainty around there being an "on-the-ground" presence of WSE staff in different locations, nor that there will be local teams available to provide 24/7 responsiveness. This is critical for a variety of reasons, including the need for a quick response to broken pipes or blockages and for civil defence purposes.
26. Councils play a key leadership role in civil defence and emergency management. The Council is concerned that there is no clarity on the WSEs' roles and responsibilities for preparing for, responding to and recovering from emergency events. It is critical to have proper co-ordination and resourcing to manage emergency events.
27. The Bill must also recognise the importance of local businesses. There should be a preference for using local contractors for scheduled and re-active works, and a requirement for WSEs to pay the living wage to its staff and contractors.
28. Given the current lack of information (particularly regarding financial matters and consumer protections), it is unclear whether each WSE will be capable of achieving the clause 11 objectives.
29. Success is likely to depend, at least partly, on the level and sources of funding for the WSE. Under clause 129 of the Bill, the Minister can issue a Government Policy Statement on water services. However, there is no corresponding commitment from the Government to assist in funding the WSE. This means that WSEs may be in the position of being given an unfunded mandate. Without government funding, the costs will inevitably fall to consumers.
30. If WSEs take on significant amounts of debt (which seems inevitable if Government funding is not guaranteed), there is a risk that the costs will be higher for consumers than they would be if the current model was retained. It will be vital to have robust consumer protections and economic regulation.
31. Although there is balance sheet separation for three waters, the Council is concerned this comes at the expense of added complexity, the loss of direct community voices and the removal of democratic decision making.

32. The Bill gives no guidance on how resolution is achieved between competing priorities of a WSE and an individual territorial authority or community.

33. Recommendations:

Bill Clause	Commentary	Recommendation
Clause 11	Retaining water services in public ownership is critical to the Council.	The Council recommends retention of public ownership be included as an objective at clause 11 of the Bill.
Clause 11	Community well-being should be an objective of WSEs.	The Council recommends that community well-being be included as an objective at clause 11 of the Bill, and requirements be included in the Bill aimed at helping with community well-being.
Part 4 Subpart 1	Further consideration is required regarding economic regulation, pricing and consumer protection.	This Bill should be paused until such time that there is certainty around economic regulation, pricing and consumer protection.

SECTION 2 – GOVERNANCE AND OWNERSHIP STRUCTURES

34. Key points regarding governance and ownership structures: *The Council supports equal representation of Māori/iwi on the proposed RRGs and Regional Advisory Panels (RAPs). The Council is concerned that **most** territorial authorities will not have a direct representative voice on the RRG. In the case of the Southern WSE, there are up to seven places for 22 Councils. The Council's shareholding in the WSE does not create rights of representation, as the shareholding essentially only becomes relevant if there is a divestment proposal.*
35. Given the strategic role of the RRG, it is a priority for the Council to have a direct voice on the RRG. However, the Council is not assured of this under the proposed model. The RRG consists of between 12 and 14 members. Half of these members are required to be represented by mana whenua and half from the territorial authorities (clause 27). The Southern WSE (Schedule 2, Part 4) includes the districts of 20 territorial authorities plus part of the Marlborough District Council and Tasman District Council. Given a maximum of seven membership spaces for territorial authorities, there are clearly many territorial authorities without a direct voice at the RRG strategic level. In fact, **most** territorial authorities will not have a direct voice on the RRG.
36. The exclusion of most territorial authorities from direct representation on the RRG is compounded by the fact that it is RRG members who are appointed to the Board Appointment Committee. Not only do most territorial authorities not get a direct representative voice on the RRG, but they will be excluded from any decision-making regarding appointment of a WSE Board.
37. The Bill provides no clarity on how members from 22 territorial authorities will be selected for 6 or 7 positions. The Council anticipates that the constitution of the WSE will largely determine the composition and procedures of the RRG. However, this is not clear as the constitution is not yet available for review.

38. A mechanism needs to be provided where decisions cannot be reached by consensus. The Council cannot foresee a mechanism that ensures equal representation except under smaller regional models (such as an Otago/Southland entity model).
39. The territorial authorities without a direct voice on the RRGs need to rely on the “collective duty” of the RRG members. This duty is set out at clause 29 of the Bill which states that the RRG must perform their duties, functions and powers “wholly or mostly for the benefit of all communities in the entity’s service area”. The Council questions what this means and recommend that “mostly” is deleted to ensure all regions are considered. This is particularly concerning in the Southern WSE given the large geographic area, the disparate needs of such diverse regions and the fact that most territorial authorities will not have a
1. representative on the RRG.
40. No clarity is provided as to what real influence the RAPs have on the WSEs and/or RRGs. There is also no detail on the geographical composition of the RAPs apart from requiring an equal representation by territorial authority members and mana whenua panel members.
41. Again, the Council anticipates that the constitution of the WSE will largely determine the composition and procedures of the RAP but is concerned that it has not yet seen the proposed constitution.
42. Given it is the members of the RRG who can amend or replace the constitution, again the territorial authorities that do not have direct representation on the RRGs will be relying on members of the RRGs to ensure geographic representation on the RAPs.
43. The Bill states that the role of a RAP is to provide advice to the RRG about how to perform or exercise its duties, functions and powers *in respect of a particular geographic area*. This conflicts with the RAP’s “collective duty” to perform their duties wholly or mostly for the benefit of all communities in the WSE’s service area (clause 47). If the RAP is considered a representative panel of the geographic areas, the Council recommends removing the collective duty to benefit all communities in relation to the RAP.
44. The Council requests instead of RAPs being optional and left to the constitution of the WSE to determine, that they are mandatory to ensure all geographic areas are considered within the WSE area. This is critical for those areas of the WSE region that do not have a direct representative on the RRG.
45. Given the lack of certainty regarding the Council's representation at the governance level, the Council would have expected more engagement as a shareholder. Unfortunately, this is not the case. Other than engagement relating to planning documentation required by the WSE Board at Schedule 3 of the Bill, shareholding rights are of limited value.
46. Under the Bill, the Council only has a direct voice as a WSE shareholder if there is a divestment proposal. In that instance, if a RRG resolves by 75% majority in support of a divestment proposal, the territorial owners must unanimously accept the proposal before it progresses to a poll. However, unless this process is entrenched in legislation, this voice could also be removed by a simple majority in Parliament.

47. Despite the fact the Council currently has a larger shareholding than other territorial authorities in the Southern WSE (excluding Christchurch City Council), this larger shareholding offers no greater weight relating to matters authorised under the constitution. Clause 93(2)(b) states that a constitution cannot confer decision-making rights weighted by shares held by a territorial authority for any matter. Again, Council has no assurance that it will have a direct representative voice on the RRG.
48. Clauses 115 and 166 of the Bill state that territorial authorities have no right to instruct a WSE and no financial interest in the WSE. It is therefore hard to accept that territorial authorities have any "tangible ownership" in the WSEs.
49. Clause 115 needs to be considered in the context of emergency events. Often, emergency events are managed without needing to declare a civil defence emergency. An example is the recent heavy rainfall event in Dunedin in late July 2022 where there needed to be a high level of co-ordination to manage flooding and risks associated with high water flows, but the declaration of a civil defence emergency is not warranted. Clause 115 appears to prohibit how emergency events are currently handled in practice. This requires detailed consideration so that the management of emergency events is workable in practice.
50. Clause 166(1)(d) appears to prevent a territorial authority from making a grant to a WSE to help fund a project in its region. Is that the intent of the Bill? There may be occasions where the WSE advises that it is unable to fund infrastructure within a specified area, but the territorial authority considers that the infrastructure is of such importance to the specified area that it is prepared to fund it. The Council recommends the Bill allow for this type of scenario.
51. Recommendations:

Bill Clause	Commentary	Recommendation
Clause 27 Establishment and membership of RRG & Clause 91(a) Constitution - Composition of RRG	Most territorial authorities will not have a direct representative voice on the RRG. This provides no certainty for the Council as to its role (if any) at the strategic level. Given only members of the RRG are appointed to the Board Appointment Committee further clarity on the Council's representation is essential.	The Council recommends review of the selection process and composition of the RRG to avoid the situation where most territorial authorities will not have a direct representative on the RRG (eg through the adoption of smaller regional models). If there will be more territorial authorities than places available on the RRG, a mechanism needs to be provided to address the situation where decision cannot be reached by consensus.
Clause 45 Establishment and membership of RAP & Clause 91(f) Constitution - Composition of RAP	There is a lack of detail on actual influence of the RAPs and when/where they will be established. This provides no certainty for the Council as to representation on a RAP.	The Council recommends review of the RAPs and propose instead of RAPs being optional and left to the constitution of the WSE to determine, that clause 45(1) is amended to state "must" rather than "may" to ensure all geographic areas are considered within the WSE area and to ensure a RAP's voice is heard by the RRG. There should be at least as many RAPs as there are territorial authorities within each WSE.

Shareholder provisions	The shareholder rights are extremely limited.	While still ensuring balance sheet separation, given the importance to local communities in transferring its assets, the Council recommends further consideration of greater shareholder influence.
Clause 115	Clause 115 would prohibit how emergency events are currently and routinely handled in practice.	The Council recommends that clause 115 be considered in the context of emergency events.

SECTION 3 – PROTECTIONS AGAINST PRIVATISATION, JOINT ARRANGEMENTS, AMALGAMATION AND THE DIVISION OF WSEs

52. Key points regarding privatisation, joint arrangements, amalgamation and division of WSEs: *Although there are mechanisms to protect against privatisation, these mechanisms can be repealed or amended by a simple majority in Parliament. The protection mechanisms are somewhat illusory. There should be mechanisms to protect against the amalgamation of WSEs. This is a concern as an amalgamation (say into one WSE for the whole of New Zealand) would further remove local voices.*
53. Section 130 of the Local Government Act 2002 currently protects against privatisation. In contrast, while the Bill has mechanisms to protect against privatisation, it is still technically possible.
54. On its face, the Bill has significant mechanisms to protect against privatisation. However, the protection mechanisms are not strong enough as Parliament can remove the protection mechanisms by a simple majority. The protection mechanisms need to be entrenched.
55. The Council notes the ability for WSEs to enter joint arrangements for providing water services (up to 35 years in term) under clause 118 of the Bill. The Council is concerned this clause also raises the possibility of the sale or transfer of existing infrastructure where the WSE believes it is incidental to the joint arrangement, or desirable for the success of the joint arrangement.
56. While there is no mention in the Bill of whether WSEs can potentially amalgamate or be divided in the future, the operation of clause 118 raises concerns that such re-organisations could happen in the future without having to necessarily go through the divestment process set out at Schedule 4 of the Bill.
57. The Council requests further review on the potential for joint arrangements and the amalgamation/divisions of WSEs under the Bill. Currently, there are limited checks and balances for such reorganisations. This is a concern as an amalgamation (say into one WSE for the whole of New Zealand) would further distance local voices.
58. Recommendations:

Bill Clause	Commentary	Recommendation
Schedule 4 Divestment Proposals	The Council supports the strengthening of the divestment proposal process but is concerned regarding Parliament's power to amend or repeal the protection mechanisms by a simple majority.	The Council recommends entrenchment of the provisions at Schedule 4 to reduce the risk of privatisation.

Clause 118 Joint Arrangements - Particularly clause 118(3)(d)	The Council supports the cooperation between WSEs and other non-WSEs but wants to ensure ownership of water infrastructure is not lost.	The Council recommends clause 118 is amended to prevent the sale of infrastructure that has a material impact on the delivery of water services.
Potential amalgamation of WSEs into (say) one WSE for the whole of New Zealand	The Council is concerned that there are no checks and balances regarding the potential for WSEs to amalgamate.	The Council recommends specific protection mechanisms are included in the Bill to prevent further amalgamation of WSEs.

SECTION 4 – TRANSITIONAL PROVISIONS

59. *Key points regarding the transitional provisions: The transitional provisions are operationally difficult, and clause 21 in Schedule 1 of the Bill is unworkable. The transitional provisions will create resourcing and scheduling issues for territorial authorities. It is seen as undemocratic to take decision making away from democratically elected Councillors (who are directly accountable to the public) and give such powers to unelected officials. Key details are left to be determined by the chief executive of the National Transition Unit (NTU). The Council recommends a more trust-based approach, so that the focus can be limited to significant decisions. The money currently being spent on establishing the new entities and setting up transitional arrangements would be better spent on funding pipes in the ground.*
60. The Council acknowledges that, to establish new WSEs, there needs to be robust cooperation and information sharing between territorial authorities and an establishment entity. However, it is essential that the Council is still able to provide "business as usual" water services to their communities during the establishment period.
61. The Council's key concerns during the establishment period include:
- the ambiguity in clause 21 of Schedule 1;
 - the likely time commitment involved in providing information, and seeking and obtaining approvals from the NTU;
 - the ability of territorial authorities to make timely decisions and deliver services during the establishment period; and
 - the fact that key details are left to be determined by the chief executive of the NTU at a later date (such as the value of any water related contract that a territorial authority can sign).
62. The definition of "decision" in clause 21 of Schedule 1 is ambiguous and unworkable as drafted. Currently, the clause has the potential to capture routine daily transactions that are probably not intended to be caught (e.g., standard drainage easements). The ambiguity arises because of the word "and" at the end of clause 21(a)(ii) and the word "includes" in clause 21(b). Does the clause 21 definition mean that **any** decision that relates to the provision of water services or may affect the provision of water services will be captured, and is not limited by clause 21(b)? If so, this clause is extraordinarily wide and would include hundreds of routine daily transactions that relate to water services. It is difficult to imagine that this is what is intended, but the use of the word "includes" indicates that the list in clause 21(b) is not exhaustive. Alternatively, does clause 21 mean that the decisions are limited to decisions that fall within the subparagraphs of clause 21(b)? This would make more sense, but the clause needs to be

amended so that the intention is clear. The Council recommends that the word "includes" be deleted and substituted with the word "is".

63. The decision-making approvals process will be time consuming and will cause delays. It is vital that decisions the NTU need to review is limited. This could be achieved by narrowing the definition of "decision" in clause 21 so that it affects only significant decisions (using the criteria in clause 24(3) of Schedule 1). Instead of all decisions that "relate[s] to the provision of water services or may affect the provision of water services" going to the NTU for approval, only decisions that are reasonably considered significant should be caught.
64. The transitional provisions will create resourcing and scheduling issues for territorial authorities, as the proposed workload would be in addition to current workloads. Resourcing is further limited if the Council's staff is seconded to the NTU (as permitted by the Bill). There should be limits on the NTU's ability to second staff, particularly if this would affect a Council's ability to appropriately respond to an emergency event
65. The Council is concerned key decisions will be taken away from democratically elected members and that key details will be decided later by the chief executive of the NTU. For example, the chief executive of the NTU will be able to decide:
 - a. the length of the Council's water-related contracts (clause 21(b)(vi)(A) in Schedule 1);
 - b. the value of the Council's water-related contracts (clause 21(b)(vi)(B) in Schedule 1);
 - c. the length of any term borrowing by the Council (clause 21(b)(vii) in Schedule 1); and
 - d. who within a territorial authority is classed as having a "senior" management role within the Council (clause 15(1)(b) in Schedule 1).
66. It is essential these decisions are made now as they affect the practicality of the transitional provisions. If the thresholds in matters a, b and c in the preceding paragraph are set too low, then this will be unworkable for territorial authorities. The thresholds will have a different impact depending on the size of the territorial authority. What may be a reasonable threshold for a small territorial authority may be unreasonable for a large territorial authority.
67. The distinction between "senior management" and other staff needs clarified given senior management will not necessarily be offered employment by the WSE. This creates uncertainty for territorial authority staff. The Council recommends the distinction is removed or clarified, as opposed to being left to the judgement of the chief executive of the NTU.
68. The Council requests further review of the transitional provisions. It is critical that territorial authorities can operate successfully during the transitional period so there are no detrimental impacts on ratepayers.
69. The Council recommends a trust-based model during the establishment period with less restrictions for routine matters.

70. Recommendations:

Bill Clause	Commentary	Recommendation
Decision subject to department's oversight powers (Schedule 1 clause 21)	Clause 21 is ambiguous, and potentially has unintended consequences.	The Council recommends clause 21 is amended to remove ambiguity – possibly through the deletion of the word "includes" in clause 21(b) and substitution of "is".
*Allocation Schedule (Schedule 1 clause 5(2)) *General Cooperation Duty including Secondment of Employees (Schedule 1 clause 11) *Review of Decisions and Meeting Agenda in Establishment Period (Schedule 1 Clause 22) *Decision Making during Establishment Period (Schedule 1 Clause 23)	The Council supports efforts to create a seamless transition for ratepayers, however, is concerned about staffing and other resourcing in the interim (particularly noting that non- compliance can result in court action).	The Council recommends review of Schedule 1 in conjunction with territorial authorities and to amend where necessary to ensure delivery of effective water services during the establishment period (e.g., providing an overriding clause that allows cooperation but provides some exception where necessary for effective delivery of the water service). Additional resourcing must be considered.
*The length of the Council's water- related contracts (clause 21(b)(vi)(A) in Schedule 1) *The value of the Council's water- related contracts (clause 21(b)(vi)(B) in Schedule 1) *The length of any term borrowing (clause 21(b)(vii) in Schedule 1) *Who within a territorial authority is classed as having a "senior" management role (clause 15(1)(b) in Schedule 1).	These types of details are key details. The Council is concerned these details are being left to be determined later by the chief executive of the department.	The Council recommends these details are clarified now and that territorial authorities are consulted for feedback.

SUMMARY OF RECOMMENDATIONS

71. As detailed above, the Council's key submissions are:
- The Council supports the goal of providing communities with safe and affordable water services and stronger recognition of the Treaty partnership in the three waters context.
 - It is difficult to make a submission on the Bill given that key details are not yet available and core issues have been left for a later date. Territorial authorities are being asked to make a submission without being given all the necessary information.
 - The Bill should be paused to allow time to consider the most effective model and to ensure a truly collaborative partnership with councils and iwi/Māori.
 - While the Council supports the Bill's objectives, key objectives are missing – such as the retention of water assets in public ownership and community well-being.

- e. The Council opposes the proposed service delivery model. A model which excludes most territorial authorities from a direct voice at the RRG strategic level is fundamentally flawed. The proposed model is complex, reduces local democratic decision making and distances local voices.
- f. Other models need to be considered, such as smaller regional WSEs so that territorial authorities are appropriately represented on the RRGs. Smaller regional models would also better align with other current reforms.
- g. The mechanisms to protect against privatisation need to be entrenched.
- h. An amalgamation of WSEs would further distance local voices. There needs to be some protection against amalgamation.
- i. It is critical that there are local people on the ground who can respond quickly to broken pipes or blockages and if there is an emergency event. There needs to be greater clarity around the roles and responsibilities of WSEs in the context of civil defence and emergency management.
- j. The transitional provisions will be challenging and will create operational/staffing difficulties within territorial authorities. Resourcing the transition will be critical. This resourcing includes funding and maintaining sufficient staffing levels to ensure current levels of service.
- k. The transitional provisions are not based on a spirit of trust and move away from democratically elected decision making.
- l. Clause 21 of Schedule 1 is ambiguous and has the potential to create unintended consequences. As drafted, clause 21 is unworkable.

CONCLUSION

- 72. The Council thanks the Committee once again for the opportunity to provide a submission on the Water Services Entities Bill.
- 73. The Council, as previously indicated in our submission of 1 July 2022, requests the opportunity to make an oral submission to the Committee on the Bill.

Kā mihi,



Aaron Hawkins
MAYOR OF DUNEDIN

Attachment A: Report to Full Council on 26 July 2022

Attachment B: Letter dated 30 September 2021 from Council to the Minister of Local Government

DCC SUBMISSION: WATER SERVICES ENTITIES BILL

Department: 3 Waters

EXECUTIVE SUMMARY

- 1 This report seeks the Council's approval of a draft Dunedin City Council (DCC) submission (Attachment A) to Parliament's Finance and Expenditure Select Committee on the Water Services Entities Bill.
- 2 Submissions closed on 22 July 2022. On 1 July 2022, the Mayor lodged a short 'placeholder' submission on behalf of the Council, stating that the DCC would like to make an oral submission on the Water Services Entities Bill. If the Council approves the DCC draft submission at the 26 July Council meeting, the submission will be considered by the Finance and Expenditure Committee alongside the 'placeholder' and oral submission.

RECOMMENDATIONS

That the Council:

- a) **Approves**, with any amendments, the draft DCC submission to the Finance and Expenditure Select Committee on the Water Services Entities Bill.
- b) **Authorises** the Mayor (or his delegate) to speak to the submission.
- c) **Authorises** the Chief Executive to approve any minor editorial changes if required.

BACKGROUND

- 3 During August and September last year, the Minister of Local Government asked for feedback from local authorities on the Government's Three Waters Reform Programme.
- 4 In September 2021, the DCC provided feedback to the Minister (Attachment B). The primary message to the Minister was the DCC wanted the Three Waters Reform Programme to be reset with a full exploration of options for future three waters service delivery arrangements. Council also asked for further work to be completed to reassess and clearly define the relationship between the Three Water Reform Programme and other major Government reform initiatives. Other feedback items included:
 - a) Allow time for meaningful engagement with communities

- b) Council's support for Ngāi Tahu participation in water services decision making
 - c) Mechanisms to enable local influence in a new Three Waters service delivery model were needed
 - d) Refinement of assumptions and analysis of financial impacts on projected household costs
 - e) Support for existing Three Waters workforce and their development
 - f) Ensure local decision making was maintained for urban growth planning and city development.
- 5 In October 2021 the Government announced that local government participation in the Three Waters Reform Programme would be mandatory. Soon after, the Government released an exposure draft of a Bill that would establish the proposed four new water services entities: the Water Services Entities Bill.
- 6 In response to feedback from local government, the Government established three working groups to advise on refinements of the Government's reform proposal:
- a) Representation, Governance and Accountability Working Group
 - b) Planning Technical Working Group
 - c) Rural Supplies Technical Working Group
- 7 The Working Group on Representation, Governance and Accountability considered the exposure draft of the Water Services Entities Bill and released its report on 9 March 2022. The report made 47 recommendations to amend the reform proposal.
- 8 The Government considered these recommendations and agreed to progress almost all of them. These recommendations were incorporated into the Water Services Entities Bill.

Water Services Entities Bill

- 9 The Water Services Entities Bill (the Bill) is part of a suite of legislative changes required to give effect to the Three Waters Service Delivery Reform. Its purpose is to establish four publicly owned water services entities to deliver three waters services across New Zealand in place of local authorities.
- 10 The Bill does not apply to water services that are not delivered by local authorities, for example services delivered by small private rural suppliers and domestic self-suppliers.
- 11 The Bill's provisions relate to:
- a) entity ownership and protections against privatisation
 - b) entity governance, accountability and consumer engagement
 - c) transitional arrangements.
- 12 The Bill does not include provisions relating to:
- a) the inter-relationship of new water services entities with the land-use planning system

- b) the transfer of assets and liabilities from councils to the new entities
- c) how properties that provide recreational and biodiversity values for the community will be protected if there are three waters assets within these properties
- d) the new entities' pricing and charging arrangements
- e) economic regulation and consumer protection
- f) various amendments that will need to be made to other legislation.

The Government has said these matters will be addressed in future legislation.

- 13 The Bill was introduced to Parliament and had its First Reading on 9 June 2022. Parliament referred the Bill to the Finance and Expenditure Select Committee, which has invited public submissions.
- 14 The Select Committee has a deadline of 11 November 2022 to consider submissions and release its report. The Government's timeline intends for the Bill to be passed by the end of 2022. The entire Bill can be read on the New Zealand Legislation website: <https://legislation.govt.nz/>. Additional information from the Department of Internal Affairs regarding Three Waters Service Delivery Reform and the Bill is attached to this report as Attachment C.

DISCUSSION

- 15 The draft DCC submission states that the DCC opposes the Government's proposed model for three waters service delivery and the process for undertaking the Three Waters Service Delivery Reform. The draft submission also raises issues with the Bill's scope, which excludes core details about how the proposed service delivery model will be implemented.
- 16 The draft DCC submission recommends that establishment of a new three waters service delivery model through the Bill should be paused. The reason for a pause would be to provide time for:
 - a) consideration of other service delivery options;
 - b) incorporation of the entire three waters service delivery reform legislation into one Bill (as opposed to the proposed three bills) which would enable local government and communities to make submissions informed by the full package of relevant information; and
 - c) more detailed consideration of the interfaces between the three waters service delivery reform and the resource management reform and local government review.
- 17 The draft submission also recommends changes to the Bill itself, should the Finance and Expenditure Committee recommend that the Bill continues to proceed through Parliament. The Council's recommendations relate to:
 - a) the objectives of the Water Services Entities set out in clause 11;
 - b) the proposed governance and ownership structure of the Water Service Entities and the lack of a "local voice" in this governance arrangement;

- c) the protections against privatisation, joint arrangements, amalgamation and division of the Water Services Entities; and
 - d) the transitional provisions.
- 18 A fundamental issue with the Government's proposed model is entity ownership does not equal representation in the governance arrangements. This will result in a dilution of a local voice in the new system.
- 19 The draft DCC submission recommends that a smaller regional entity be considered for Otago and Southland if the establishment of a new three waters service delivery model is not paused. An Otago-Southland entity would better ensure local representation and would also be better placed to manage land use planning in a considered and meaningful way for local communities. This could be achieved while still delivering on central government three water service delivery reform objectives, including operational efficiencies and workforce development.

Proposed Alternative Model to Support Local Voice

- 20 The draft DCC submission states that a smaller, more localised scale of the new entity could deliver better local authority representation in the governance arrangements.
- 21 In late 2020, the 10 councils of Otago and Southland (both territorial authorities and regional councils) commissioned Morrison Low to assess council three waters infrastructure and services across Otago and Southland. The purpose of the assessment was to inform discussions within the two regions about options and future decisions relating to the Government's reform programme.
- 22 Morrison Low concluded there are expected to be financial efficiencies and benefits from a combined Otago-Southland regional entity.
- 23 Morrison Low assessed the financial impacts of three potential future scenarios for three waters service delivery in Dunedin which were:
- a) Continue participation in Government-led service delivery reforms
 - b) 'Opt out' of Government-led service delivery reforms: establish Otago-Southland entity
 - c) 'Opt out' of Government-led service delivery reforms: continue Dunedin City Council delivery model.
- 24 The three potential future scenarios and the corresponding water services household costs by 2031 are illustrated in the table below where the Morrison Low costs are compared to the Water Industry Commission for Scotland (WICS – the agency the Government commissioned to provide analysis for Three Waters Service Delivery reform) costs.
- 25 The Morrison Low analysis of the modelling done by WICS found the scale of the financial impact on the existing model (i.e., the status quo) had used a number of assumptions that could lead to inflated financial benefits of the proposed four entity model.

Water Services Costs per Household by 2031

	Entity D – South Island/Ngāi Tahu takiwā	Otago – Southland Model	DCC (Status Quo)
Morrison Low report	\$1,700 – 1,900	\$2,000	\$2,200
Water Industry Commission for Scotland (WICS)	\$1,543	Not Assessed	\$3,843

- 26 Morrison Low concluded that while the projected household charges from the WICS analysis for the four entities may be the subject of some contention, it was likely household costs would need to increase under all models.
- 27 The Otago-Southland model's projected household costs are not significantly more expensive than the projected cost per household for Entity D by 2031.
- 28 Morrison Low's financial modelling suggests the Otago-Southland model could provide affordable services for customers as a viable alternative to the Government's proposed Entity D. The result of this would also enable more of a local voice and representation for the delivery of three waters in a new smaller entity, as well as creating a smoother transition merging the territorial authorities of the Otago and Southland region, rather than 22 territorial authorities across the Ngāi Tahu takiwā.

OPTIONS

Option One – submit on the Water Services Entities Bill (Recommended Option)

- 29 Approve, with any suggested amendments, the submission to the Finance and Expenditure Select Committee on the Water Services Entities Bill.

Advantages

- Opportunity to provide further feedback on three waters service delivery reform, including DCC's preferred Otago-Southland model.
- Opportunity to recommend changes to the Finance and Expenditure Select Committee on particular provisions of the Water Services Entities Bill.

Disadvantages

- There are no identified disadvantages.

Option Two – do not submit on the Water Services Entities Bill

- 30 Do not approve the draft submission.

Advantages

- There are no identified advantages for this option.

Disadvantages

- Missed opportunity to provide further feedback on three waters service delivery reform, including DCC's preferred Otago-Southland model.
- Missed opportunity to recommend changes to the Finance and Expenditure Select Committee regarding the provisions of the Water Services Entities Bill.

NEXT STEPS

- 31 If the Council approves the draft DCC submission, it will be sent to the Finance and Expenditure Select Committee.
- 32 Approval is sought for the Chief Executive to make minor editorial changes.

Signatories

Author:	Katherine Quill - Policy Analyst Scott Campbell - Regulation and Policy Team Leader
Authoriser:	Simon Drew - General Manager Infrastructure and Development Jeanette Wikaira - Manahautū (General Manager Māori Partnerships and Policy)

Attachments

	Title	Page
A	Attachment A: Draft DCC Submission on the Water Services Entity Bill	
B	Attachment B: Feedback on Three Waters Reform Programme Sept 2021	
C	Attachment C: DIA - Three Waters Service Delivery Reform	

SUMMARY OF CONSIDERATIONS

Fit with purpose of Local Government

This decision enables democratic local decision making and action by, and on behalf of communities and promotes the social, economic, environmental and cultural well-being of communities in the present and for the future.

Fit with strategic framework

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Economic Development Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Waters Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spatial Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks and Recreation Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other strategic projects/policies/plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This report has been prepared with reference to Dunedin's strategic framework.

Māori Impact Statement

The Government has undertaken extensive high level engagement with iwi/Māori in relation to three waters reforms, including with Te Rūnanga o Ngāi Tahu. Central Government officials have worked closely with Ngāi Tahu to develop the boundary for the South Island water services entity.

Sustainability

Any changes to New Zealand's Three Water service delivery model may change the economic and environmental sustainability of three waters infrastructure and services across New Zealand.

LTP/Annual Plan / Financial Strategy /Infrastructure Strategy

This report and a decision to approve the submission to the Finance and Expenditure Select Committee has no direct implications for these plans and strategies.

Should the Bill go ahead in its current form, there will be implications for the next LTP and annual plan.

Financial considerations

There are no financial implications directly associated with this report and the decision to approve the draft submission to the Finance and Expenditure Select Committee.

Significance

The decision to approve the draft DCC submission is considered low in terms of the Council's significance and engagement policy.

Engagement – external

Elected members and staff have engaged with elected members and staff from other Otago and Southland councils and with mana whenua in relation to the Bill and the development of the draft DCC submission.

SUMMARY OF CONSIDERATIONS***Engagement - internal***

Staff from the 3 Waters Group, Executive Leadership Team and the Legal Team have contributed to the development of the draft DCC submission.

Risks: Legal / Health and Safety etc.

There are no identified risks directly related to a DCC submission on the Water Services Entities Bill.

Conflict of Interest

There are no known conflicts of interest.

Community Boards

Community Boards are likely to be interested in the three waters reform updates and staff will consider how to update the Community Boards in future.



30 September 2021

Hon Nanaia Mahuta
Minister of Local Government
Parliament Buildings
Wellington
n.mahuta@ministers.govt.nz

Tēnā koe e te Minita

DUNEDIN CITY COUNCIL FEEDBACK ON THE THREE WATERS REFORM PROGRAMME

Ko Te Mana o te Wai, he mana taketake. Mā wai e kawe, e hiki i te mana o te wai? Mā tātou.

Water has always had mana. Who will uplift and carry the mana of water? We all will.

Introduction

1. Thank you for the opportunity to provide feedback on the Three Waters Reform Programme.
2. The Dunedin City Council has watched the development of the programme closely since its inception. While we have felt challenged by the scale of the proposed reforms and the uncertainty that still surrounds some aspects, we accept there is a case for changing the way three waters services are regulated at the national level.
3. This letter provides our feedback on the Three Waters Reform Programme and the recent service delivery reform proposals.
4. In offering this feedback, we acknowledge we share common goals with the Government. We too are motivated to ensure communities across New Zealand get safe, reliable and affordable water services that support good public health and environmental outcomes. We too are motivated to ensure any changes to the three waters service delivery system are undertaken in a way that enables local communities to participate meaningfully in discussions about issues that affect them. We are eager to work in partnership with the Government and iwi/Māori to achieve these goals.

Our primary feedback: reset the Three Waters Reform Programme

5. We submit the proposed establishment of the four water services entities is premature and represents a design position the Government has adopted without sufficient input from councils and iwi/Māori.
6. We are disappointed the Government appears to have given little consideration to alternative models for water services delivery besides the proposed establishment of asset-owning, multi-regional water services entities. At this stage it is not clear to us how, either quantitatively or qualitatively, the Government arrived at the establishment of four entities as its preferred reform option. Nor is it clear why the Government has discounted alternative models that would provide for continued council delivery of water services – for example, a Waka Kotahi-style model, or a model in which council three waters debts were guaranteed by the Government.
7. Maintaining the asset base in public ownership is a bottom line for us. At this point, we are concerned that aggregating three waters assets in a small number of new entities creates a pathway to future privatisation of water services. The best way to protect against privatisation is to have the ownership of water services dispersed, as is the case now.
8. Community support is critical to the success of such a major change to the way core community services are delivered. Councils and councillors must buy in to the proposed changes, or at least the quality of analysis, in order to lead meaningful engagement with their communities. You have asked us to be ambassadors for these reforms in our communities, but at this stage this is not a role we feel able to perform. The Programme has advanced too far, too fast, without sufficient involvement from local government.
9. In addition, there are substantial overlaps between the three waters reform programme, the reform of the resource management system and the future for local government review that councils and communities need to understand in order to consider the reforms holistically. We have significant reservations that these interrelated activities have not been fully addressed in Government planning and seek an explanation as to why the Three Waters Reform Programme sits where it does in the order of these reforms.
10. In our view, the Three Waters Reform Programme needs to be reset.
11. We request that the Government, in a truly collaborative partnership with councils and iwi/Māori, undertakes:
 - a. a full exploration of options for future three waters service delivery arrangements; and
 - b. further work to reassess and clearly define the relationships between the Three Waters Reform Programme and other major Government reform initiatives, including timeframes and sequencing of changes, dependencies, and resourcing considerations.

Our supplementary feedback

12. Notwithstanding our request for the Three Waters Reform Programme to be reset, we offer the following feedback on the current service delivery reform proposals before us. Our feedback is intended to improve implementation and outcomes for communities should the Government resolve to continue advancing the proposed changes announced in June 2021.

Meaningful engagement with communities

13. Since the beginnings of the Three Waters Reform Programme, the Council has expected community consultation would precede any substantial changes to New Zealand's three waters service delivery system. We are concerned that recent timelines and approaches signalled by the Government preclude councils meaningfully engaging with their communities on the proposed reforms.
14. We submit that communities deserve meaningful engagement before any decisions are made. Meaningful community engagement on this issue has two fundamental pre-requisites: adequate time and an appropriate level of information.
15. In August, you received a joint letter from the members of the Otago and Southland Mayoral Forums. The letter requested communities be given adequate time to clearly understand the implications of the three waters proposals. We endorse the contents of that letter. We note you have scheduled a meeting to discuss the contents of the letter with the members of the Forums this week.
16. If the Government was to make a proposal to Council and require a decision on continued participation in the reform programme, the Council would need at least 20 weeks to engage meaningfully with the community and make an informed decision.
17. This would involve 6 weeks to assess the information, 4 weeks to develop engagement materials, 6 weeks to run a consultation process, and 4 weeks to analyse feedback, deliberate and make final decisions.
18. This timeframe would be similar to the 10 Year Plan engagement timeframe councils work to every 3 years. However, the proposed three waters reforms are set to be the biggest changes to the form and function of councils, including ours, in over 30 years.
19. At this point, we are concerned that meaningful community engagement will not be possible under the current timeframes for implementing the proposed service delivery reforms.
20. The letter from the members of the Otago and Southland Mayoral Forums also drew your attention to the substantial gap between the Government's highly simplified three waters reform advertising campaign and the technical information provided in reports, Cabinet papers and other sources published on the Department of Internal Affairs website. This is leaving individual councils doing their best with limited resources to inform the public about the proposed reforms. We also believe that the public advertising campaigns are designed to scare rather than provide balanced information and result in confused narratives. The Department of Internal Affairs' response to councils' feedback on the advertisements highlights the very real concerns about the intent of the Government to genuinely partner with councils on three waters reform.

21. Better information is required to enable councils to meaningfully engage with communities on the proposed reforms. In particular, we ask the Government to share further information that makes it clear:
- a. why alternative models that would provide for continued council delivery of three waters services have not been tested with the same rigour as the proposed new entity-based model; and
 - b. the rationale for the current sequencing of the Three Waters Reform Programme in relation to reform of the resource management system and the future for local government review.
22. We submit that communities need to understand all the options considered and how those options were assessed.
23. We also recommend the Government provide clearer information on what impact, if any, it expects the proposed service delivery reforms will have on those that do not currently receive three waters services from a council provider. At present, there is uncertainty among domestic self-suppliers (for drinking water) about what the reforms could mean for them. This uncertainty may grow as any new water services entities are established and move to expand and/or rationalise their customer base. We are wary that the current Government messaging around the reforms being about improving access to quality water services for all New Zealanders may unreasonably raise expectations among self-servicing communities.

Ngāi Tahu participation in water services decision making

24. The Council acknowledges the work the Government and iwi/Māori have done to date to design a water services system that supports the exercise of rangatiratanga in relation to water services.
25. Throughout the reform process, we encourage the Government to continue engaging with Ngāi Tahu to ensure the system gives effect to Treaty principles, Treaty legislation (including the Ngāi Tahu Claims Settlement Act 1998) and enables Ngāi Tahu to participate in decision making about water services in the Ngāi Tahu Takiwā. We also ask that during those discussions the councils in the Ngāi Tahu Takiwā be included from time to time in the spirit of partnership.
26. The Council also notes the progress many councils have made towards providing for mana whenua representation in local government. In Dunedin, we recently made changes to the Council's committee delegations to provide for representatives of the two Papatipu Rūnaka to sit on the Infrastructure Services Committee and the Planning and Environment Committee.

Mechanisms to enable local influence in a new Three Waters service delivery model

27. We note the information recently provided by the Government on the proposed entities' ownership and governance structures.
28. However, the information lacks detail on how the proposed structure will work in practice. The large degree of separation between individual councils (as owners) and the proposed

entities' governance boards leaves it unclear how much ability local communities, through their councils, will have to influence the new entities' decision making.

29. The Council submits the proposed new water services entities must have strong mechanisms to enable local influence. To help achieve this outcome, we would encourage the Government to undertake further work in partnership with councils and mana whenua on:
 - a. the composition of the regional representative group. This work would need to address the greater number of iwi and councils in each proposed entity than the proposed number of members of the regional representative group, and that iwi and councils come in a range of sizes.
 - b. how a consumer forum would work in practice at the local level.
 - c. how the role of iwi/Māori in decision making and governance of the three waters system will work in practice, particularly with regard to the status of Te Mana o Te Wai statements.
 - d. specific community reporting requirements that could be provided for through the new entities' establishing legislation.
 - e. specific requirements to engage with councils and communities about their priorities (which, again, could be provided for through the new entities' establishing legislation). Prescribed engagement could, for example, provide an opportunity for councils to regularly brief the water entities on their strategic direction for land use planning, and for communities to discuss issues like continued public access to land used for water services purposes that also has recreation or amenity values. Work on engagement requirements would need to address the significant logistical challenges the proposed entities would face, given the large numbers of councils and iwi groups in each entity. It is reasonable to infer that if the entity was to meet with each group individually it would need to have a meeting with somebody almost every week. This highlights just how disproportionately large these proposed entities are.
30. The Council also encourages the Government to undertake further engagement with councils and mana whenua on measures to strengthen the proposed protections against future privatisation of the water services entities. We remain unconvinced that the proposed protections against privatisation provide sufficient protection against the actions of future governments (central and/or local) that may pursue a privatisation agenda.
31. Currently, privatisation of water assets is prohibited under section 130 of the Local Government Act 2002. If it strikes this section of the Act to enable the establishment of the proposed water entities, the Government will prove that legislative protections are a myth and that any such protections can easily be reversed by later governments. As mentioned earlier in this letter, we consider the best way to protect against future privatisation is to continue with the current model where the ownership of three waters assets is dispersed among a large number of councils.

Financial impacts

32. We encourage the Government to work with councils and the Water Industry Commission for Scotland (WICS) to refine the assumptions and analysis behind the modelling of household cost impacts under the proposed new service delivery model and the status quo.
33. Our independent analysis of the modelling done by WICS found it provides an indication of the direction of impacts of the two service delivery systems assessed. However, we consider the scale of financial impact on the existing model has been inflated and the assumed financial benefits of the proposed new model have been overstated. The independent analysis also showed that the modelling was particularly sensitive to assumptions about:
 - a. the scale of future investment required;
 - b. debt to revenue ratio; and
 - c. operating efficiencies.
34. The assumptions WICS made for Dunedin City Council were applied unevenly and are both inaccurate and inflammatory.
35. In addition, our independent analysis found WICS's modelling did not consider the ongoing stranded costs that are reasonably expected to be incurred by councils following the removal of three waters service delivery functions from their organisations. It also did not account for inefficiencies that are experienced when two different entities are operating in the same geographic space.
36. We submit that communities deserve detailed, transparent and nuanced information about the likely financial impacts of different water service delivery models under consideration. We urge the Government to undertake a further process to refine and/or justify the assumptions made about items like operating efficiency savings under different future service delivery models.

Workforce development

37. The Council acknowledges the Government's statements about post-reform continuity for the existing three waters workforce based in councils. However, we feel there is a substantial delivery gap between the Government's aspirations and the reality of the current workforce capacity. Therefore, significant further work is needed to support the existing workforce and continue to grow it. We do not see evidence that Government has fully grasped this challenge.
38. Councils are currently experiencing difficulty recruiting and retaining three waters staff. In addition to a general sector-wide skill shortage, councils have been grappling with challenges including:
 - a. uncertainty about the future of council-based three waters services;

- b. competition with other organisations like the Ministry for the Environment, Taumata Arowai and regional councils, who are resourcing-up in relation to three waters, resource management and freshwater reforms; and
 - c. the impact of COVID-19 on the ability to recruit staff from overseas.
- 39. We submit that a nationwide three waters workforce development initiative will need to be established as a meaningful parallel workstream to both service delivery and regulatory reforms. Without the support of the workforce, these reforms will be at a real risk of not meeting their objectives.
- 40. In particular, we recommend the Government significantly increases funding and training of new personnel and provides incentives that could be applied both to upskill and retain in the sector the existing workforce. We see no evidence of this activity.

Planning for urban growth and development

- 41. The Council is gravely concerned that a water services entity with a geographical footprint much larger than the local communities it services will exert an investment power over councils' ability to plan for future land use.
- 42. The Council urges the Government to ensure any legislation that establishes new water services entities requires the entities to give effect to councils' land use strategies, policies and plans.
- 43. The balance of power for setting the strategic direction for land use planning must stay with councils.
- 44. Councils are best placed to balance the wide variety of considerations that inform land use planning decisions, of which three waters service provision is but one part. The Council does not want to see these reforms create a situation where the costs of putting pipes in the ground or upgrading treatment plants dictate where and how an urban area grows.
- 45. Ensuring local decision making is maintained through the reforms in this area is a bottom line for us. The Council requests assurances, through legislation, that any new water services entities will answer to councils in relation to the provision of three waters infrastructure to support growth and increased housing capacity. We cannot see this relationship guaranteed in the current governance structures of the proposed water entities.
- 46. In the more immediate term, the Council seeks an assurance that the Three Waters Reform Programme and the reform of the resource management system will coordinate to ensure there are strong mechanisms in place to implement local communities' aspirations for growth and development.

Civil defence and emergency management

- 47. Heavy wet weather events require an integrated approach to drainage management in urban areas. Balancing needs to protect people, property and the environment requires coordinated management of the event.

48. The council urges the Government to ensure legislation that establishes any new water services entities requires the entities to actively work with Civil Defence and local communities on response planning and emergency event response.
49. Adequate provision needs to be made for managing local emergency response in a coordinated way. Currently, flood events are managed effectively and in an integrated way because councils operate both the roading and water infrastructure. Transition plans need to ensure this local response capability is not compromised.
50. Any proposed new entity should be accountable for integrating into local Civil Defence structures and working with communities on preparedness.

Summary of feedback

51. In summary, we recommend the Government resets the Three Waters Reform Programme. We request that the Government partners with councils and iwi/Māori to:
 - a. fully explore options for future three waters service delivery arrangements; and
 - b. reassess and clearly define the relationships between the Three Waters Reform Programme and other major Government reform initiatives, including timeframes and sequencing of changes, dependencies, and resourcing considerations.
52. If the Government resolves to continue with the current service delivery reform proposals, we ask that the Government:
 - a. enables councils to engage meaningfully with their communities on service delivery reform by providing adequate time and appropriate information.
 - b. undertakes further engagement with councils and iwi/Māori on mechanisms to enable local influence in the proposed new water services entities or other delivery models that may be developed.
 - c. undertakes further engagement with councils and mana whenua on measures to strengthen the proposed protections against future privatisation of any new water services entities.
 - d. undertakes further engagement with councils to improve the modelling of financial impacts of the proposed reforms.
 - e. undertakes further engagement with councils on three waters workforce development initiatives to help ensure the objectives reforms can be achieved.
 - f. ensures councils will retain the balance of power for setting the strategic direction for land use planning post-reform.
 - g. provides an assurance that the Three Waters Reform Programme and the reform of the resource management system will coordinate to ensure there are strong mechanisms in place to implement local communities' aspirations for growth and development.

- h. ensure any new entities will have clear civil defence and emergency management roles and responsibilities to support coordinated management of events.

Concluding remarks

- 53. The Council thanks you once again for the opportunity to provide feedback on the Three Waters Reform Programme.
- 54. We would welcome the opportunity to engage further with you and your officials on the matters we have raised. We invite you to meet with us in Dunedin to discuss our letter kanohi ki te kanohi.

Kā mihi

A handwritten signature in blue ink, appearing to read 'Aaron Hawkins', with a stylized flourish at the end.

Aaron Hawkins
MAYOR OF DUNEDIN

CC: threewaters@dia.govt.nz; feedback@lgnz.co.nz