

**Anne - Mayor**

**Speaking points to the Three Waters Submissions**

**Tena Koutou Katoa**

We do not support the model or the legislation proposed by government and have made this abundantly clear through our various submissions and media statements. We support the Community for Local Democracy model proposed.

**With regards to the Water Services Legislation Bill**, Council has many well-founded concerns about

- At the core, the problem is the **lack of an appropriate funding mechanism**, that delivers sustainable funding for local government both for Three waters and for Roothing.
- **Rates do not provide adequate tools** to be able to build resilience into our infrastructure to address the impacts of climate change, more severe weather events and lack of sustained investment over decades. The Future for Local government told us in their draft report that **rates have stayed relatively stable at 2%** whereas other revenue sources for central government have grown in line with inflation.
- Government has constantly supported this new model on economic grounds but the **economic model on which it is based, is fundamentally flawed**. Mackenzie District Council has taken independent analysis on the model. The model significantly **over estimates the capital cost require for investment and the savings proposed from the economies of scale are unrealistic**. The model provides for **debt at levels that are not sustainable**.
- **The Bill ignores the communities at the heart of our current water delivery model**. It describes communities as **homogenous - but I can assure you - that even across the Mackenzie District our communities are distinctly different with varying needs**. Twizel has high growth and high tourism whereas Tekapo has low resident but extremely high peak seasonal tourism Loads. By contrast Fairlie and its surrounds are rural.
- Council is **concerned about the erosion of local influence and local voice over capital investment in our district**. This bill provides the new entities with power to dictate the future shape and development of our communities, **with no accountability** to these communities (the ratepayers or the elected members).
- Clauses relating to charges and recovering costs are detailed **there is no mention of affordability for our ratepayers and users of water services under the proposed entity regime**.

- Powers exist in the electricity and telecommunications legislation - both of which fail small communities and thereby restrict growth socially and economically. Big is not necessarily better. We have not seen cost reductions to residents in either the electricity or telecommunications sectors since their commercialisation.
- Cyclone Gabrielle has demonstrated the **tragic impacts of not addressing resilience**. Cyclone Gabrielle also showed that **the need for local response and communities** will be more robust by having closer knowledge and control of their 3 waters infrastructure.
- Resilience lies within these communities and so it is critical moving forward that the resources and support sits locally within a decentralised model. This Bill, by driving **centralisation, is a significant step backwards in empowering resilient communities**, a critical tool in the ability of New Zealand to respond to the current and significant elements of climate change.
- The **pace of reform has been too fast and has not taken cognisance of the concerns raised by local authorities** throughout the process (the short notice to present for these submissions is a case in point).
- The constant **imposition of requests for large amounts of information** from operational staff has created unsustainable, heavy workloads for our team. There is often duplication across the multiple requests from the National Transition Unit.
- The second bill attempts to **provide a structural change to what is fundamentally a sustainable funding issue. This was shown by the 99% capital delivery rate when funding was provided by DIA Tranche 1.**
- **Structural changes and centralisation seem to be a common approach of the current government**, for example health and polytechnics. In this case it will deliver very poor outcomes at significant cost to communities.
- Council is concerned that the **Commerce Commission will not have the expertise** to effectively regulate the water industry particularly in the areas of asset management, infrastructural performance and resilience. An example of this is seen in the quality of Audits undertaken by the Auditor General, where there is a lack of expertise in the specialist fields of asset management.
- This legislation needs strengthening so that the Commission must access appropriate expertise to effectively regulate the industry and do so within more stringent timeframes. A **six year cycle of regulatory review is too long** for such a critical lifeline infrastructure service.

**I thank you for the opportunity to voice my concerns and re-iterate the need to pause, reflect and refocus the reforms to subregional models.**

**I will end by stating that water suppliers nationwide have always agreed on the need for improvement in water infrastructure, and welcomed a new drinking water regulator. But we've also been exceptionally unified in our opposition to the mandated four-entity model the government is pursuing. To date we've seen piecemeal reform that's been based on faulty modelling, broken promises, and an ideology of centralisation that has been rejected by communities nationwide.** (Swiss canton model example – principle of subsidiarity – broader functions and funded by tax)

We believe that we can do better than the **'one size fits none'** proposals from the Government, and that we can deliver better services while still remaining affordable and locally responsive.

The recent court case (Timaru DC and others v Minister of Local Government) confirmed the reform has been undertaken in a manner that means communities will lose control of the assets they own and that local democratic accountability will be lost

Government's reform proposal amounts to **expropriation of community assets** without compensation. It is not true to say that councils will retain ownership of their assets once the four mega-entities acquire council assets.

It is not true to say that rates will be unaffordable for communities if the status quo remains we **have serious doubts about the validity of the model used for the Water Services Entities.**

What needs to be done is to provide the central government funding to address resilience and resolve these infrastructure deficits and their devastating impacts.

**Kia Ora Rawa atu**

**Mayor Anne**

Angela

Tena Koutou

Thank you for this opportunity to provide feedback on the two legislative bills. Appreciate the extension provided.

The Mackenzie submission refers to more legislative points but I will only highlight the ones that are of key concern:

### Water Services Legislation Bill

- Clause 13: There is **no provision for water services to be planned and delivered where they are needed by the community, or local authorities**. This should be added in because it is **critical for the growth and future development of communities**. The legislation needs to better define what **partnering means as it is a cornerstone of each water services entities** functions are both with territorial authorities and mana whenua.
- Under Clause 331 the board of a WSE must "**consider**" the principles set out in this clause when setting charges. The requirement to "**consider**" is weak. The requirement should be strengthened so that the board must "**give effect to**" or "**implement**" the principles. Otherwise they can be considered and not followed which defeats the purpose of such principles. A further principle of **affordability should be added**. The communities need assurance that costs will remain affordable into the future is important and consumers provided with a longer term view of costs.
- Clauses 153 and 159 This Bill provides that the asset management plan and infrastructure strategy are to be published once finalised. The mechanics of these plans are still in the Water Services Entities Act 2022, which requires the plans to be prepared under the procedure in Part 2 of Schedule 3.

This Part requires engagement with consumers and Council. The final plan must describe comments back from consumers, Council, the regional representative group, and the regional advisory group. However the WSE remains responsible for decisions and priorities.

Feedback from the Council who are the democratically elected representatives of the community and their views should have material weight given their planning and consenting role and district insights into growth.

- Clause 292 - WSE must **publish an infrastructure plan of its network but there are no provisions for timelines to do so**. A timeframe to do this is needed 2 years from the Act being operative. This provides for accountability to communities and local authorities.
- *Clause 301 - Stage 1 approval: grounds for declining applications*  
**An application to connect to infrastructure may be declined if the infrastructure "lacks the**

**capacity to handle the likely increase".** Guidance and a process to follow if the applicant is prepared to fund the upgrades. This will inhibit growth if not addressed.

- **Clause 334 – Charges for water services may be averaged geographically.**  
Limitations placed on this provision as averaging charges as there needs to be a link to actual costs of water and wastewater based on locality.
- **Clauses 340/1 – Charges for stormwater services based on the capital value of a property.**  
Differentials based on high capital value/low demand for stormwater services should be allowed to address unreasonable burdens on certain customers and inequities.
- **Clause 342 - Water services entity not liable for rates in certain cases**  
Assets can be and should be rated. Water assets need to be treated as per all other utility services in regard to rating. Contrary to what recommended in the Future for Local Government Report.
- **Clause 348 - Crown exempt from water infrastructure contribution charges**  
The Crown is exempt from paying water infrastructure contribution charges. Consumers will need to subsidise any such costs which is inequitable.
- **Clause 455/6 - Interim review of governance and accountability arrangements and legislation effectiveness under Act**  
Under clause 455 the Minister must review the effectiveness of governance and accountability arrangements within the 6th year after the establishment date. Six years should be reduced to 3 years. A review should also be required if the governance group requests it of the Minister. Similarly under clause 456 the Minister must review the effectiveness of the legislation in the 10<sup>th</sup> year after the establishment date. Ten years is a long time to wait for a review if the legislation is not effective. This should be reduced to 5 years, or earlier if the Minister considers it needed.
- **Clause 471 and 472 - Requirement to provide information to territorial authority for purposes of land information memorandum/ project information memorandum**  
This will be challenging and inefficient. Make more sense for WSEs to respond to LIM directly There are no provisions stating that a local authority is not liable for the accuracy of information it included in good faith in a LIM that is provided to it by the WSE. This needs to be addressed. In *Clause 472* the requirement under clause 471, it would make more sense for WSEs to respond to PIM requests under the Building Act 2004.

## **Water Services Economic Efficiency and Consumer Protection Bill**

### *Clauses 37-9 – Quality regulation*

"Quality and performance of water infrastructure services" potentially covers a very broad range of quality parameters. Currently it is unclear what is meant by this broad term. "Quality" should include consideration of the needs of specific communities. Urban requirements are different to rural as an example.

*Clause 138 - Additional monitoring and investigation powers based on subpart 8 of Part 4 of Commerce Act 1986*

**The Commerce Commission has extensive monitoring and investigation powers. These include requiring the supply of information and answering of questions in relation to any activity in the previous seven years.** Local authorities could be required to provide information to the Commerce Commission because of a breach of the Act by a WSE. This exercise could be **onerous for local authorities operating under constrained budgets with limited resources following the reforms.** They will have no staff in this area and it should be made clear this obligation is only for WSE's and not local authorities.

**The legislation needs to give the Commission the power to investigate the actual costs at a community, supply and network level and regularly report these against actual costs charged.**

**This is necessary to ensure that it protects the individual communities and the resource from exploitation either through under or over charging, the former could lead to resource exploitation and the later leading to unrealistic economic burdens on some communities.**