

15 February 2022

The Chair
Finance and Expenditure Committee
Parliament Buildings
Wellington

To whom it may concern;

Kaikōura District Council's Submission – Water Services Legislation Bill

1.0 Introduction

Kaikōura District covers 2,046 square kilometres of diverse landscape and is situated on the east coast of the South Island, with our territorial neighbours, the Marlborough district to the north and west, and Hurunui district to the south. We are the second smallest local authority in New Zealand with usually resident population of 4260.

Our total Three Waters assets have a revised audited value of \$64.4 million, which includes eight public water supplies, 1 wastewater system for the Kaikoura township and one wastewater treatment plant.

The November 2016 earthquake caused significant damage to our horizontal infrastructure across the District. In 2021 we completed a \$40 million rebuild programme which included \$18.5M on projects relating to repairing and replacing our Three Waters assets. We are also grateful for the \$1.88 million of Three Waters reforms stimulus money that was provided in 2020 on a "no commitment" basis. As a result of these investments from Government as well as our own investment in our infrastructure, we are not facing significant renewals unlike a few other local authorities. The 30 year Infrastructure Strategy included in our Long Term Plan shows a total required capital investment over the next 30 years of less than \$30 million including depreciation, an average of less than \$1M a year. Our 3 Waters operating costs are also lower than other local authorities.

2.0 Our submission

In preparing our submission to the Finance and Expenditure Select Committee (Select Committee) on the Water Services Bill, Kaikōura District Council (KDC) has taken into consideration ongoing discussions with the Department of Internal Affairs, Local Government New Zealand, C4LD, our local papatipu Runanga and our wider community.

KDC is a member of the Communities 4 Local Democracy – He hapori mō te Manapori (C4LD) which is a coalition of like-minded territorial and unitary authorities formed to develop and propose a set of reforms to the Three Waters policy settings that will deliver similar outcomes to those proposed by the government whilst respecting community property rights and local voice. C4LD has already provided feedback and alternative solutions to the previous Minister for Local Government. KDC believes that unfortunately this constructive feedback fell on deaf ears to date.

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As a member of C4LD, we endorse and support their submission to the Water Services legislation Bill. We are also supportive of the points raised in the extensive submission made by Local Government New Zealand.

It is not intended that our submission will replicate that of C4LD or LGNZ. Our submission instead focuses on highlighting several standout aspects pertinent to our District.

KDC representatives are keen to speak to our submission.

3.0 Our overall recommendation

KDC opposes the Water Services Legislation Bill and recommends that it does not proceed any further pending the outcome of the General Election (now set for 14 October 2023).

The Government's Three waters policy is widely opposed by communities in New Zealand, including the majority of Kaikōura. The breadth of the assault on community property rights by first, the Water Services Entities Act and now the Water Services Bill, has never received an electoral mandate from the people of New Zealand. With only eight months to go to the General Election it is appropriate that a pause now occur and that any further work on the establishment of the water services entities (WSE's) cease until either the Government receives an electoral mandate for its policy or a new Government has the opportunity to recalibrate policy settings. The potential consequences to the local government sector and to our communities are huge if a significant change in direction with regard to policy occurs in October 2023.

4.0 Kaikoura specific concerns and issues

Pending knowledge of any possible change to policy settings, the remainder of our submission has been prepared on the basis that the present Water Services Bill is, and will continue to be, Government policy.

4.1 The need for reform of the Three Waters sector.

KDC understands the need for and supports appropriate reform of the Three Waters sector across Aotearoa. We do not disagree with achieving appropriate health and environmental outcomes.

We fully support the need to ensure that local Iwi and hapu have appropriate input into investment decision-making at a local level. KDC has a strong relationship with our local papatipu Runanga, Te Runanga o Kaikōura (TRoK). We recognise the growing demands that local Iwi and Hapu are facing and fully endorse ways that they could be supported to continue to build capacity and capability and have meaningful input to local decision making. We think that any relationships arrangements between mana whenua, councils and WSE should become tripartite agreements, where the entity and council need to work together to ensure mana whenua can easily engage with all parties together rather than separately.

KDC does however not support the current model of reform for the Three Waters service delivery and believes the desired outcomes can be achieved via alternate means.

KDC does not believe that the local financial case for change has been made. We believe that information provided by Government in terms of required future investment in Kaikōura District is fundamentally flawed and frankly ludicrous. Despite raising this multiple times on multiple levels our concerns have never been addressed.

KDC remains extremely concerned that we cannot show that our community will be better off financially under the new proposed regional entity than if we continued on our own. In the absence of specific detail, we still believe there is a real risk that our community will lose its local voice and will end up paying more for a lower level of service.

4.2 Serious consequences for our CCO.

The draft bill provides a high-level framework for the identification and transfer of Council Controlled Organisation (CCO) water services related assets, liabilities, contracts and staff. This was done without prior notification to the local government sector or consideration of the serious impact that such a decision could have on Councils or their CCO's. The proposal to include this is a material change from what local government understood to be in the bill and is considered a step too far. There is potential for this to have devastating impacts on our CCO and threaten their continued commercial viability.

Innovative Waste Kaikōura (IWK), our KDC CCO, is a service company that for more than just three waters operations and maintenance. They also provide our solid waste management services. The three waters operations and maintenance component of the business accounts for 41 % of total revenue, 26% of total assets and 29% of total personnel. Removal of this section of the business has potential to greatly impact the ability of the organization to provide competitive pricing for other services.

Even if our CCO remains commercially viable post transfer, there are consequential risks from the loss of its key experienced operators to the WSE. The transfer of assets and people from the CCO would also impact our Council as an owner and consequently ratepayers. We are therefore opposed to the capture of CCO's within the new system without careful consideration of the implications to both KDC and IWK. The potential risks would be eliminated if the reform did not define service companies as local government organisations and the only impact our service company was the novation of existing contracts from councils to the WSEs as was originally intended.

4.3 Charging provisions - collecting charges

KDC is majorly concerned about the provisions relating to councils collecting water charges on behalf of WSE's. We oppose being compelled to collect revenue for a service that we no longer control and deliver. We believe this will cause extensive confusion for our community around accountabilities. Should this progress as planned, KDC would expect to be fully insulated from any risk associated with this function and not liable for any failures. We have concerns around who will 'wear the liability' when things go wrong, and what legal remedies will be available to us.

4.4 Geographic averaging and combined cost to ratepayers

The current bill does not direct how, where or when geographically averaged prices should be applied to WSE's. Instead, it leaves it to a WSE board, which will need to act consistently with the general charging principles (clause 331), including the Commerce Commission input methodologies and determinations (which will not be in place on 1st July 2024). KDC has concerns that our community will end up paying more for a lower level of service as a result.

The reform assumes that, all things being equal, the combined costs of water bills and rates bills should not change when water services entities stand up. KDC is highly skeptical that this can be achieved for our and other small rural councils. An operating expenditure of \$80,000 is equivalent to a 1% rate rise for our ratepayers and therefore we do have had the levers and ability to be able. It is unclear whether DIA has a plan to address situations where council rates do not drop by an amount equal to what the WSE is charging for water services. This needs to be addressed.

4.5 Rural Water Supplies

KDC is very disappointed that the bill ignored the recommendation of the Rural Supplies Technical Working Group to create a regime where, in specific and limited circumstances, a local of affected community using a council-owned mixed use rural water scheme could opt out of the initial transfer to WSEs.

The working group worked incredibly hard to come up with workable proposals to ensure rural communities' unique drinking water needs are recognised in the new system, and its recommendations should have been reflected on this point. Our view remains that there should be an opt-out option available for communities that can demonstrate that they satisfy the 'transfer requirements'.

4.6 Other comments

KDC has major concerns around the lack of communication and engagement from DIA and the NTU with our wider community around the reform proposals. It is currently being left to councils to explain the reform proposals to our community. This is not good enough especially given the far-reaching implications of this reform agenda.

5.0 Conclusions

KDC believes that this reform agenda is being single mindedly driven by central government on an aggressive timescale. The implications of which are significant on us as a small council and are unlikely to result in good outcomes for our ratepayers and community. The lack of "active listening" to date by central government agencies has impacted on our trust and confidence in the process and threatens the relationship between central and local government. There are a number of aspects of the reforms that KDC support, but it is important to do this once and do this right. As identified at the start, without clear a public mandate and cross-party political support there is a real danger that

pressing on with the current policy agenda will cause significant damage to the local government sector, our people and our communities.

For these reasons, KDC ***opposes the Water Services Legislation Bill and recommends that it does not proceed any further pending the outcome of the General Election (now set for 14 October 2023).***

We encourage the Select Committee to take into consideration our concerns.

Yours faithfully,



Craig Mackle
Mayor
Kaikōura District Council