

20 July 2022

The Chair
Finance and Expenditure Committee
Parliament Buildings
Wellington

To whom it may concern;

Kaikōura District Council's Submission – Water Services Entities 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 an audited value of \$56 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 for 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 hāpori 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 Minister for Local Government. KDC believes that unfortunately that constructive feedback has largely fallen on deaf ears through the process to date.

As a member of C4LD, we endorse and support their submission, including the Castalia reports outlining the Flaws in the Water Services Entities Bill and the proposed Better Water Reform Options. It is important that we don't just say 'no' but also suggest credible alternatives instead.

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

3.0 Our overall recommendation

KDC opposes the Bill and recommends that it does not proceed.

A delegation from Kaikōura District Council wishes to appear before the Select Committee to speak to our submission.

KDC agrees with the conclusions formed by C4LD in that it considers that the current Water Services Entities Bill is poor legislation. In particular:

- It expropriates, without compensation, council owned community assets contrary to all principles of law;
- It is widely opposed by communities across New Zealand because it removes the local voice in favour of a centralised approach contrary to all principles of localism;
- It is based on data and analysis that is incorrect or, at best, seriously flawed;
- In an asset class that requires regulatory certainty to achieve investment certainty, it has failed to achieve bipartisan support across political parties meaning it will not deliver a durable and sustainable basis for reform;
- Alternative approaches to reform could achieve a more durable outcome to the long-term benefit of the country.

4.0 Kaikoura specific concerns and issues

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 necessarily disagree that there is a national case for change. We support the need to continue to seek improvements in both health and environmental outcomes (including addressing climate change mitigation and adaptation and building resilience to natural hazards).

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.

KDC is fully supportive of the recent establishment of the water regulator, Taumata Arowai. We believe such a dedicated organisation should have been in place much earlier. We have been pleased with the approach the organisation has taken to relationship building to date whilst being clear around their expectations.

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.

4.2 Local financial case for change

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.

The WICS initial assessment of the capital investment required for improving the quality or capacity of KDC 3 waters assets over the next 30 years (excluding renewal costs) was **\$420 million**. This was subsequently reduced to **\$280m** through applying a ‘cap’ of \$70,000 per connected citizen to an assumed 4000 connected citizens.

These large numbers have apparently been derived from taking total costs estimated at a multi-regional level and apportioning them to districts without any particular regard to the technical details of each district. Details for Kaikōura were supplied by us as part of our response to the initial request for information. Those details were however not recognised in the WICS broad brush assumptions and analyses.

The high level of capital investment indicated to be required in Kaikōura by WICS, which takes place at a rate of \$9.33 million per year for every year till 2051, appears inconceivable given that the most recent valuation of all of KDC’s 3 waters assets was \$56m, and that KDC’s estimate of the total required capital investment over the next 30 years including depreciation was only **\$27.2 million** (a 10th of that proposed by Government)

That WICS indicated required investments are excessive is also supported by our consultants Morrison Low who noted that whilst their estimate of the potential investment required in Kaikōura over the next 30 years was higher than the figures of KDC it was still at worst only one-quarter of that indicated by WICS.

On the face of it, using the WICS numbers, we could replace our existing Three Waters network five times in the next 30 years.

Despite numerous frustrating attempts to clarify these numbers, we have not received a response that applies common sense. Even with significant future growth in the district and considering any impacts of climate change these numbers just do not make sense. This has resulted in a loss of credibility of the proposed reforms in the eyes of our Council and our community. It is very easy to make a ‘financial case’ that “everyone is a winner” stack up if your base assumptions are fundamentally flawed.

KDC is 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 detail around future funding and pricing, and debt transfer mechanisms, we believe there is a real risk that our community will end up paying more for a lower level of service.

4.3 Assets

As a local authority, KDC are the current owners of Three Waters assets on behalf of our community. These assets have been bought and paid for by the community over many generations. Under the Bill before the Select Committee, these assets are to be compulsorily transferred to the four new water services entities. It is a compelled transfer not an agreed transfer. Further, the Bill allocates to KDC, proportionate to our population size, a “share” which entitles us solely to vote on a possible (but highly unlikely) privatisation proposal. All other rights and obligations as present owners of the Three Waters in our district are extinguished.

KDC supports the C4LD view that the Bill is expropriating without compensation the asset held by KDC on behalf of our community. We do not support the view held by Government that under the proposed entity structure, we will continue to own our Three Waters assets.

4.4 Local voice and working with Mana Whenua

Under the proposed Bill, KDC does not believe we will be able to retain meaningful control and influence over the property that we own on behalf of our community. As the second smallest local authority KDC and smallest within proposed Entity D, we have major concerns that our voice at the table will not be heard and that work required in our District will be not be prioritized in the scheme of wider entity priorities.

We need to ensure that local voice is not compromised by centralisation. Our community must still have their say on things that matter to them, and influence over decisions that affect them.

We support the Government’s focus on Te Mana o te Wai, which makes the health of water central. We also support the requirement for the Water Services Entities to give meaningful effect to the principles of Te Tiriti o Waitangi/Treaty of Waitangi. We need to ensure that our local iwi and hapu also 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 fully endorse ways that TRoK could be supported to continue to build capacity and capability and have meaningful input to local decision making.

KDC has concerns that under the current reform proposals local community voices including our local Iwi will be further distanced from the decision makers. We reiterate our view that under the current reform proposals, ***there is a real risk that our community will have less of say, but will end up paying more for a lower level of service.***

We cannot see appropriate safeguards against this in what we have seen to date. (It is unlikely that KDC will be directly represented in the proposed Regional Representative Group (RRG)).

4.5 Interface with other reform agendas and engagement with the sector

Central Government is committed to a reform agenda across multiple sectors that is unparalleled in recent times. The impacts on local authorities and our communities will be extreme and will change the landscape for the future. Each proposed piece of reform is a significant undertaking, and many are interrelated.

KDC has concerns that the scale and magnitude of reforms being undertaken simultaneously are going to result in less than optimum outcomes for all parties. It is painfully apparent from the outset, that there is little joined up thinking across the reform agenda within Government, let alone ensuring meaningful interface with local authorities and other affected agencies.

In many cases, and especially with the three water reform agenda, the nature of engagement between Central and Local Government has left much to be desired and has caused frustrations on both sides. In terms of the Three Waters reforms, what started as a collaborative process changed dramatically with the decision from Government in October 2021 to mandate the reforms. This effectively removed the local democratic voice and decision-making ability. In our small community there is an overwhelming lack of support for the Three Waters reform proposals as they currently stand which we understand is replicated across the country in many other local authorities.

KDC believes that Government is simply not listening to the local voice.

KDC has always had strong working relationships with Government departments and agencies. We have been grateful for the collaborative nature of those relationships and the support that we have received, notably after the November 2016 earthquake. Our approach has always been that we can achieve better outcomes working together. The way that Government is undertaking some of the reform agendas is severely testing this collaborative approach. At a national level the complex reform agenda has been very divisive and KDC has concerns that the chasm in the relationship between Central and Local government is widening rather than closing.

KDC wishes the Select Committee to consider the Bill in the light of these comments, and the alternative proposals put forward by C4LD, to ensure that you are satisfied that the Bill provides the best solution for proposed reform to achieve the desired outcomes.

4.6 Transition arrangements

KDC notes that currently the Bill states an “establishment date” for the new water services entities is regarded as the earlier of 1 July 2024 or a date set by Order in Council. There is need to confirm a definitive date. Should the Bill proceed as expected, extensive work is required in the transition over the next two years. This will put considerable pressure on the resources of a small council such as ours and our local service providers. As a good employer, KDC needs to ensure that our Three Waters staff are appropriately supported through the transition process, whilst also prioritising our focus on continued delivery of high quality Three Waters services to our community as well as working with Taumata Arowai.

Should the Bill proceed, KDC will be expecting that the new entities are fully operational from the agreed date with no remaining aspects of the service being undertaken by KDC. This includes passing all responsibilities for Three Waters services billing to the new entities.

5.0 Conclusions

Kaikōura District is in the fortunate position of having a Three Waters network that is in relatively good condition, requiring limited further capital investment over the next 30 years. We acknowledge the support received from Government following the November 2016 earthquake which assisted our rebuild programme. Since 2016 we have been able to invest over \$20m (one third of the overall value) in our Three Waters networks.

KDC does support many aspects of the Three Waters reform agenda and the outcomes that are sought. We have also always been supportive of Entity D taking a Ngai Tahu takiwā approach to its geographical boundary (recognising the issues it causes for our Marlborough neighbours) should the entity model proceed.

However, as a small local authority we do not believe that the current proposed Water Services Entity Bill will be in the best interests of our local community. As outlined in our submission, we believe the financial assumptions are fundamentally flawed and the benefits are grossly overstated. Far from there being strength in numbers, KDC believes we will lose our local voice and decision-making ability and our community will end up paying more for a lower level of service.

For these reasons, KDC ***opposes the Bill and recommends that it does not proceed.*** We encourage the Select Committee to take into consideration recommendations for alternative solutions proposed through the C4LD submission.

Yours faithfully,



Craig Mackle
Mayor
Kaikōura District Council