

# Submission to the Finance and Expenditure Committee

## *Local Government (Water Services Preliminary Arrangements) Bill*



13 June 2024

### **Introduction**

The Timaru District Council (Council) thanks the Finance and Expenditure Committee for the opportunity to submit on the Local Government (Water Services Preliminary Arrangements) Bill.

This submission is made by the Timaru District Council, 2 King George Place, Timaru. The submission has been endorsed by the Chairperson and Deputy Chairperson of the Infrastructure Committee. The contact person for Council is Nigel Bowen, Mayor of the Timaru District, who can be contacted at Timaru District Council, phone (03) 687 7200 or PO Box 522, Timaru 7940.

The contact person regarding the submission content is Andrew Lester, Drainage and Water Manager, who can be contacted via [andrew.lester@timdc.govt.nz](mailto:andrew.lester@timdc.govt.nz). We do not wish to speak to this submission.

### **Overview of water services in Timaru District**

The Timaru District Council is a local authority in the South Island serving over 48,000 people in South Canterbury. The main settlement is Timaru, with other smaller settlements of Geraldine, Pleasant Point and Temuka.

By way of a statistical overview, the water services provided by Council include:

- Water supply
  - 19,664 residential and 1,889 non-residential connections
  - Five urban drinking water schemes, and six rural drinking and/or stockwater schemes (including some managed with the Waimate and/ or Mackenzie District Councils)
  - Approximately 1,900km of pipeline
- Wastewater
  - 16,420 properties serviced by a reticulated system
  - One wastewater treatment plant, three oxidation ponds and 24 sewer pump stations

- Approximately 350km of pipeline and approximately 4,000 maintenance holes
- Stormwater
  - Urban catchment throughout the district: Timaru (approximately 2,500 hectares), Temuka (approximately 630 hectares), Geraldine (approximately 355 hectares) and Pleasant Point (approximately 290 hectares)
  - Approximately 180km of pipeline or open drainage channel
  - 17,269 properties serviced by a reticulated system
  - Two pump stations, six detention dams and one retention basin

### **General comments**

Council supports the intention of the Bill and, broadly, its content. It is gratifying that the Bill provides for local authorities to retain ownership of and determine the provision of their water services, and the flexibility to develop an operating model that best suits the interests of their districts.

Council's firm and consistent position for several years has been that the ownership and management of water infrastructure, having been developed through the investment of local communities over many generations, should be vested in the local community. Respect for these historic investments and associated property rights was at the heart of Council's support for Communities for Local Democracy (C4LD), and our subsequent legal action.

Notwithstanding these comments, Council does hold concerns about aspects of the Bill, and has identified several areas of potential improvement. These are summarised below and outlined in more detail later in the submission.

Council looks forward to the enhanced regulatory framework that would exist if this Bill were passed with the amendments that we propose.

### **Summary of changes sought**

- Clarify the minimum non-financial performance measures that Service Delivery Plans (SDPs) are required to meet
- Amend the definition of stormwater to include reference to overland flow paths
- Amending the powers of the Secretary and appointees in s16 through s26
- Specify a timeframe for the Secretary to respond to SDPs

### **Clarifying non-financial performance measures**

Council submits that the Bill should explicitly state the non-financial performance measures that SDPs are required to meet, if there are any beyond current water quality compliance requirements. The Bill is currently silent on these "Levels of Service".

First, this inclusion will ensure that SDPs are prepared in-line with the Department of Internal Affairs' (DIA) expectations, streamlining the SDP process and increasing efficiencies for all

parties. Second, it will allow local authorities to accurately price their activities under a range of operating models and determine the respective degrees of financial sustainability. How can local authorities determine the financial sustainability of activities if the expected and required nature and extent of the activities are unclear?

A lack of clarity on this point risks local authorities misunderstanding what is expected of them and potentially preparing inadequate SDPs. Rectifying mistakes and redoing work would likely be expensive and time consuming, with the bill being borne by ratepayers.

### **Amending the definition of stormwater**

Council requests that the definition of stormwater is amended to include reference to “overland flow paths”. We consider that the definition in this Bill is superior to the previous definition utilised in recent water reform Bills, as the inclusion of “water courses” and “receiving waters” would have had significant unintended consequences. In the case of the Timaru District, this could have resulted in Council being responsible for riverways. We submit that the stormwater definition should retain no reference to water courses and receiving waters.

Further, we understand that the Bill provides local authorities with the option to establish a CCO comprising of all three waters, *or* of only water supply and wastewater, with stormwater retained within Council. We appreciate this flexibility as Council considers stormwater to be a fundamentally different activity from the provision of water supply and wastewater.

The former is predominately a land management issue that has interdependencies with, for instance, District Planning, Parks and Reserves, and roading, and provides a wider public good. Council has the ability to charge for stormwater through land rates, and the ability to manage land use. By contrast, water supply and wastewater are a closed system and provides, largely, a private benefit. Its use is able to be quantified, and revenue more accurately charged.

We submit that any requirement to require all three waters to remain together, regardless of whether this is under direct Council control, a CCO or other model, would be a mistake that would undermine the optimal management of stormwater.

### **Amending the powers of the Secretary and appointees**

Council submits that the powers of the Secretary and any of their appointees, as stated in s18 through s26, should be amended and perhaps limited.

For instance, in our interpretation, if an SDP was unacceptable to the Secretary, they could appoint an individual to direct that a local authority adopt an SDP specified by the Secretary. This could include, for instance, requiring the local authority to participate in a joint arrangement with another local authority against their wishes. There is no reference to checks and balances, or an ability for residents to have any input at this point of the process.

Council considers that these powers, if taken to their extreme, are the antithesis of the intention of the Bill to vest decision making in local authorities. Additional safeguards are worthy of consideration.

As an alternative, Council proposes that the wording be amended to either limit the range of options that a Secretary, their appointed Crown Facilitator or appointed Crown water services specialist can unilaterally require of a local authority at this stage of developing the SDP, and/or require them to seek and consider additional community feedback at this stage of the process.

### **Timeframe for the Secretary to respond**

Council submits that the Bill should specify a timeframe for the Secretary to respond to the SDPs delivered by local authorities, and that two or three months would be appropriate.

We consider it important that the Bill is clear on this point to provide certainty to all parties, to discipline the DIA in their consideration of and response to the SDPs, and to allow the local authorities to optimise their planning of future workstreams, for instance if a CCO is proposed to be developed.

As a separate, administrative point that may sit outside of the Bill, we request that the DIA provide local authorities with a SDP template and an example of a best practice SDP. To repeat a theme of this submission, this will facilitate the efficient development and consideration of the SDPs by all parties. Council, and we suspect most local authorities, already hold the majority of the information required to be included in the SDP; the greatest difficulty we anticipate will be in providing the information in a format acceptable to the DIA.

### **Conclusion**

Thank you again for the opportunity to submit on this Bill. Please do not hesitate to contact us via the contact details listed earlier in this submission if you have any questions or wish to discuss aspects further.

Ngā mihi



Nigel Bowen  
**Mayor**