

20 July 2022

Committee Secretariat
Chair of the Finance and Expenditure Committee
Parliament Buildings
Wellington

fe@parliament.govt.nz

SELWYN DISTRICT COUNCIL SUBMISSION ON WATER SERVICES ENTITIES BILL

1. Introduction

- 1.1. Selwyn District Council (the Council) thanks the Finance and Expenditure Committee for the opportunity to provide comment on the Water Services Entities Bill (the Bill).
- 1.2. The Selwyn District is the fastest growing district in New Zealand, growing from 42,900 people in 2011 to around 75,000 today. The Council provides reticulated water supplies to 77% of the District's population, from 27 schemes. Wastewater services are provided to approximately 66% of the District (15 schemes plus ESSS and Ellesmere WWTP), stormwater services are managed for 21 communities. Council also manages the districts land drainage network for our rural community (7 schemes + 2 River management schemes) along with 3 Water Race networks providing stock water services.
- 1.3. The Council supports the Government's intent to provide for a more robust and comprehensive three waters management regime which began with the enactment of the Taumata Arowai Water Regulator Act 2020 and the Water Services Act 2021. The Council supports the intention to improve the delivery and management of waters within New Zealand, to improve health and environmental outcomes, and the effect given to Te Tiriti o Waitangi and Te Mana o Te Wai, sought by the reform programme.
- 1.4. Selwyn District Council acknowledges the need for substantive improvement in water service delivery across New Zealand. However, we do not believe the current reform package is right for our Selwyn communities.
- 1.5. The mandatory establishment of the entities, and the lack of any effective consultation has alienated a significant portion of our community.
- 1.6. Selwyn identified the need for reform early, we meter our potable supplies, charge by volume used, whilst maintaining equitable access charges across the District, and have implemented a multi-barrier approach to drinking water safety.
- 1.7. All our wastewater services are fully consented, and discharge to land rather than rivers or ocean.
- 1.8. We have some of the newest and best quality infrastructure in New Zealand, as well as providing the most affordable drinking water.
- 1.9. We have invested heavily and appropriately in quality systems
- 1.10. We identify that the impact of the 4 Entity model, will require our customers to subsidise many others who have chosen not to, nor had the ability to invest.
- 1.11. Our rūnanga partners, Te Taumutu and Te Ngāi Tūāhuriri are working with us to co-design and scope a One Water Strategy for Selwyn.

- 1.12. We acknowledge Ngāi Tahu rangatiratanga within the takiwā, and support co-governance.
- 1.13. However, we strongly affirm, that in Canterbury we could have achieved an effective and more meaningful structure, if we had been able to advance a Canterbury regional entity which sits within the Ngai Tahu takiwa.
- 1.14. The Canterbury Region has a proven record of regional water management through the Canterbury Water Management Strategy (CWMS) and Water Zone Committees, including rūnanga partnerships. The CMWS, initiated in 2005 by the Canterbury Mayoral Forum, is a collaborative process between the Canterbury Regional Council, the ten territorial authorities of Canterbury and Ngāi Tahu, as well as key environmental and industry stakeholders. The CWMS addresses critical water management issues: the declining health of both surface and groundwater, habitats and ecosystems, an ongoing loss of cultural value and recreational opportunities as well as the declining availability and reliability of water for agricultural and energy use. This, along with other regional collaborations, highlight the value added through regionalised management, an opportunity and scale which the Council supports for the Water Services reform.
- 1.15. Fundamentally Selwyn has achieved its stellar growth, by being flexible and agile, willing to form strong partnerships with Developers and key stakeholders, to deliver quality infrastructure and provide effective and efficient delivery systems to meet the demands of our growing community and deliver on key Government objectives in providing ongoing and sustainable housing provision.
- 1.16. It is paramount that our ability to meet that demand, is not compromised by the reform, by providing delivery services at arm's length from our community. The entity's should be growth plan takers from Councils and joint special planning process.
- 1.17. We again affirm that the Council is committed to ensuring that our residents continue to have access to safe drinking water.
- 1.18. The Council wishes to appear in support of this submission, either in person or via audio or videoconference link. The Council will be represented by Mayor Sam Broughton, supported by a staff member.
- 1.19. In our submission we address seven key issues as well as additional specific submission points we would like the Select Committee to consider.

2. Key issues

- 2.1. There are seven key issues the Council wishes to draw to the attention of the Select Committee:
 - Planning and Strategic documents – Growth and Planning
 - Clarity around Surface Water Management
 - Timing and staging of the transition, specifically stormwater
 - Concerns around the scale of the four entity model
 - Debt transfer and Development Contributions
 - Local talent pipeline
 - Community input and local governance

Planning and Strategic documents - Growth and Planning

- 2.2. As the fastest growing district in New Zealand, Council is required to undertake integrated planning and work with developers and stakeholders to instate efficient and effective service delivery, in an adaptive and responsive manner, while carefully balancing the costs and effects. This requires integrated planning across the activities of Council, and strong relationships with developers, contractors and stakeholders.

- 2.3. The Council is concerned that the transfer of water services to the WSE will result in restrictions in growth planning and infrastructure provision in the District due to the size and scope of Entity D, and inability to prioritise the needs of Selwyn District communities to plan for growth.
- 2.4. To enable continuation of efficient and effective spatial planning, the Council seeks to retain planning and delivery flexibility necessary to provide for the development demand, supported by the National Policy Statement on Urban Development 2020 (NPS-UD), in which Selwyn District was recognised as a Tier 1 Urban Environment.
- 2.5. The Council seeks confirmation that the WSE will be a growth enactor not the planner of growth, and that Council, will be enabled to continue to support growth under the intention of the NPS-UD, in line with development demand and community expectations and that the WSE will support the implementation of the necessary infrastructure requirements, within an integrated planning approach. As leaders in community wellbeing and placemaking, the Council needs to be supported by the WSE in this intent, as enablers and implementers of wider community plans for wellbeing, growth and development.
- 2.6. The Council recommends that clauses 11 and 13 of the Bill require the WSEs to recognise, support and enable councils' role in placemaking and community wellbeing, as expressed in the long-term plan and annual plan adopted following a community consultation process, consistent with the requirements of the Local Government Act 2002. The Council support the specific wording proposed in the submission by Local Government New Zealand to this effect.
- 2.7. Council seek additional clarity around how existing council engagement with communities and their strategic planning and decision-making will inform the various planning and accountability documents that the WSEs will be responsible for preparing. This includes our existing documents such as long-term plans, annual plans, asset management plans, infrastructure strategies, strategies and policies as well as regional policy statements, regional and district plans, and other community plans.

Clarity around Surface Water Management

- 2.8. Council manages the following surface water: Stormwater (21 urban schemes), Land Drainage (7 schemes + 2 River schemes) and Water Races (3 rural and urban schemes), as part of our integrated Five Waters activity.
- 2.9. Council note that the Government's proposals for stormwater remain underdeveloped, and acknowledge the complexity in reviewing and structuring stormwater management across significant areas of rural and urban environments, under a range of current operating environments. Given the nature of these complexities, intended timeframes are a matter of concern for Council (refer *Timing and Staging of the Transition, Specifically Stormwater*).
- 2.10. Due to the integrated management of Five Waters by Selwyn District Council, the Council support an 'all in or all out' approach to stormwater. If stormwater services are to be managed by the new WSE, then the other two surface waters (land drainage and water races) should also transfer to the new entity. Council is concerned that the current scope would result in Selwyn District Council being left with stranded, inefficient assets, further impacted by the movement of staff to the WSE. Not including other land drainage assets neglects the connected nature of the flow of water and importance of its continuity.
- 2.11. Council seeks timely clarity to enable the WSE to understand the complexities of our entire water management activities, the interactions with other activities within our district including flood management, land use planning, transport and parks and reserves and to enable a smooth transition of assets.

Timing and staging of the transition, specifically stormwater

- 2.12. As part of our growth and earthquake recovery in the Selwyn District, the Council has invested in quality infrastructure, placing our district and communities in a good position with water services.
- 2.13. As a sector, local government is facing significant capacity and capability and wide ranging, simultaneous review and reform programmes, with similar pressures on iwi and rūnanga. To help relieve these pressures on the sector and iwi, and to maximise on the effectiveness of reform, a staged implementation is recommended. While Council do not support a single entity transitioning first due to the differences between the entities and communities, we are supportive of a staged transition of services.
- 2.14. Given the complicated delivery of current stormwater services, a one-size-fits-all approach to stormwater is unlikely to work. The Council seek that the transfer of stormwater (including water races and land drainage) be staged, allowing for further consideration of the complexity and variation of stormwater management across New Zealand and the entities, including Selwyn District Council's integrated stormwater, land drainage and water races activities (refer *Clarity about Stormwater Management*).

Concerns around the scale of the four entity model

- 2.15. There is a clear, and recognised need for the WSE model to be scaled to deliver of the needs of councils, our communities, including mana whenua, while providing improved water services. As identified in this submission, there are complexities and variations within the communities and districts which warrant particular, and localised decision making and delivery, such as Selwyn's growth, which should be balanced with the efficiencies and effectiveness of larger scale.
- 2.16. The Council is concerned by the scale of the proposed Entity D, the variation and complexities of the wider takiwā, including differences in drivers and investment, and the limited representation to support participatory deliver of water services, which meet community expectations, development drivers and delivery on community wellbeing.
- 2.17. The Council is supportive of a smaller scale entity, aligned with regional boundaries. This is consistent with a range of other regionalised services or regional collaborations which our district benefits from, including the CWMS as identified in this submission, the Canterbury Mayoral Forum and activities and Emergency Management. The Council is confident that this scale would enable appropriate participation of all councils and communities, build on developed papatipu rūnanga relationships and enable localised input and delivery to water services which align with and deliver our community wellbeing and outcomes.

Debt transfer and Development Contributions

- 2.18. As a high growth Council, we have been utilising development contributions and internal and external debt-funding to ensure that our communities have high-quality and effective infrastructure. These activities are closely linked to other aspects of Council's operating model.
- 2.19. To be able to assess the impact of the new WSE model (including the post-transfer shape of the Council's balance sheet), we require certainty on how the debt and development contributions transfer will work. This includes what borrowing and development contributions will be eligible, the process to identify and confirm amounts, as well as transfer mechanics. We request that this be clarified as a matter of urgency.

Local talent pipeline

- 2.20. Regardless of the scale of the WSEs, Council supports the use of local providers and contractors to support service delivery and community wellbeing outcomes achieved

through contribution to local economies and the employment levels of communities. The development of local capability, through the development and support of local, New Zealand staffing and supporting businesses in the new entities is encouraged. We also support the legislation (or constitutions) preserving a preference for local contractors to be used and retained for scheduled and reactive works. Legislation should remain broad enough to allow entity constitutions to reflect their location and partners.

- 2.21. Council is supportive of the role of iwi in the management of water services but urge the government to recognise capacity constraints on rūnanga, particularly under the current reform programmes. Council urges that financial and capacity/capability support for iwi is provided. This is to allow the backfilling of roles. Not just the movement of a person into a role somewhere else.

Community input and local governance

- 2.22. The entities at the current scale, mark a proposed shift to pan-regional planning and delivery. This must be balanced with local consultation and democratic input from our communities. Provision must be made to ensure that local communities continue to exercise their right to contribute to decisions which affect their community, and to ensure localised decision making aligns with community wellbeing and outcomes. Council urges the Finance and Expenditure Committee to ensure that local voices are not further alienated from decision making. Further consideration on effective, direct channels must be considered to overcome additional administrative layers with the proposed structure. There is little confidence in the community that the proposed reform will achieve similar or improved public participation.
- 2.23. The Council, and our communities have concerns about how genuine and meaningful engagement will occur within the scale of the proposed WSEs, particularly considering existing relationships we have facilitated within our district, with community members, rūnanga, developers and other stakeholders. Council is also concerned by the lack of explicit commitment to the local presence within the entities takiwā, to support timely response and 24/7 service support (refer *Local Talent Pipeline*). We agree with the requirements for the WSEs to engage with and seek input directly from communities and the engagement provisions set out in the Bill. We also support the establishment of consumer forums. However, it's critical that the breadth of communities covered by each WSE area is represented and suggest that legislation would provide accountability.

3. Other matters

- 3.1. **Funding and pricing:** to better understand the financial implications of the reform on our communities., Council seek detail on how funding and pricing decisions will be made. The Council is concerned that, the staging of funding and pricing in the Stage 2 Bill does not provide for informed decision making and input into the reform, with an assumption being that this will be satisfactorily resolved at a later date. Council also requires this information to support our funding and planning responsibilities, and the balancing of costs on our communities.
- 3.2. **Affordability and equity:** Council is concerned by the absence of reference to affordability and considerations of equity and communities' ability to pay for different service, matters which we balance through our long term planning and rating models.
- 3.3. **Central policy must be supported by centralised funding:** Council urge that Government ensure that central policy direction be supported by greater central government investment. Central government also needs to assist with assessing and funding investment needed to address historic degradation and inequalities. As a Council who have proactively invested in infrastructure, funded by our communities, we wish to ensure that financial burden is not unduly placed on our communities to support other areas within the WSE takiwā where this investment has not been made.

- 3.4. **Protection against privatisation:** the transfer of three waters assets and direct operational control from Council to a pan-regional WSE is significant matter for Council and our communities, one which is restricted under Council's Significance and Engagement Policy. We support the protections against privatisation that are included in the Bill, including the changes made as a result of the recommendations of the Governance, Representation and Accountability Working Group but seek that further protection through support for the entrenchment of the provisions protecting against privatisation be secured beyond a simple Parliamentary majority, to provide greater confidence to communities who have a sense of ownership of assets.
- 3.5. **Civil Defence and Emergency Management:** Council plays a key role, supported regionally and nationally, in civil defence and emergency management. Managing the response and recovery phases of an emergency, can require actions relating to infrastructure and services intended for transition to WSE. The Council's seeks recognition of the WSEs' subordinate place to councils as civil defence and emergency management leaders be made explicit in the legislation.
- 3.6. **Accountability** Stakeholders and consumers need clearly understood avenues to seek influence and/or accountability for particular matters within the overall WSE/three waters system (Taumata Arowai, the economic regulator, the WSE board/management, the RRG and the local council). Council is also concerned by the lack of accountability measures which local authorities are subject to around local input into decision making, levels of service planning and funding. Councils must be closely involved in developing the WSE constitutions and Councils and communities must also have strong mechanisms to feed into the development of the WSEs' various planning and accountability documents.

4. Summary and conclusions

- 4.1. The Council remains committed to ensuring that our water services support the health, economic wellbeing and environmental outcomes for our communities and that our residents have access to safe drinking water. We favour a risk-based approach, as demonstrated through robust drinking water safety plans and source water risk management plans.
- 4.2. The Council has identified seven key issues, and other matters for consideration. In summary, we offer the following for consideration by the Finance and Expenditure Committee in regard to the Water Services Entity Bill:
- i. Support for changes to water services delivery and the role of the new regulator Taumata Arowai
 - ii. Concern about the scale of the proposal and lack of community engagement in the reform, and in particular the transition of assets which if not legislated would fall to the Council's Significance and Engagement Policy requires public consultation in accordance with the requirements of the Local Government Act 2002.
 - iii. Council acknowledge the role of mana whenua in the future of water management and support Te Mana o Te Wai.
 - iv. Support for a regionalised entity scale, to align with current regional boundaries and participation, supporting an appropriate level of engagement with communities, iwi and stakeholders, built on existing relationships, to address concerns of scale and lack of localised service delivery.
 - v. Acknowledgement that it is paramount that our ability to meet demand, and support further growth within our District, is not compromised by the reform, and Council seeks that the WSE be confirmed as a growth enactor not the planner of growth,

and that Council, will be enabled to continue to support growth and continue its role in place-making and community wellbeing leadership.

- vi. Seeking clarity on alignment of current Council planning, through community consultation, with the various planning and accountability documents that the WSEs will be responsible for preparing.
- vii. Seeking clarification on the extent of stormwater management as including urban stormwater, land drainage and water races.
- viii. Support for a phasing of stormwater transition to the WSE, to enable further understanding of the complexity of stormwater management arrangements.
- ix. Request for information pertaining to the certainty on how the debt and development contributions transfer will occur. Council also requests that detail on funding and pricing be provided to enable informed decision making and that affordability and equity concerns can be addressed.
- x. Support the use of local providers and contractors to support service delivery and community wellbeing and the capacity building of iwi to engage in the reform and proposed structure. Confirmation of local delivery and timely 24/7 response capacity is provided for.
- xi. Request for improved local consultation and democratic input to ensure localised decision making aligns with community wellbeing outcomes, improved accountability requirements on the entities and support for increased protection against privatisation beyond a Parliamentary majority.
- xii. Request for recognition that central policy direction should be supported by central funding.
- xiii. Request that the role of Council in civil defence and emergency management, including response and recovery, be acknowledged in relation to the WSE responsibilities.

The Council wishes to appear in support of this submission, either in person or via audio or videoconference link. The Council will be represented by Mayor Sam Broughton, supported by a staff member.

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Murray Washington (Murray.Washington@selwyn.govt.nz).

Yours sincerely

Samuel Broughton
Mayor of Selwyn District