

## Submission by Sustainable Bay of Plenty Charitable Trust on the Water Services Entities Bill

A year or two ago, many people had no idea what 'three waters' referred to and no interest in the pipes that lay under their streets. Now, most Kiwis have a view on water infrastructure. In that sense there is a positive aspect to this Bill, as it relates to a critically important issue for the sustainability of our nation, so it is critical to get the most optimal solution.

We support the majority of NZ councils, Communities 4 Local Democracy, Opotiki District Council, Whakatane District Council, Kawerau District Council, Rotorua Lakes Council, and various Bay of Plenty iwi in opposing this Bill as it stands.

We find it increasingly hard to find people who actually support the current Bill - especially people who have read the draft Bill and the analysis by councils, Castalia, and many others. One thing that is clear from a sustainability perspective: the fundamental issue is economic sustainability, and especially the strong public desire for an accountable and sustainable form of community ownership of water assets.

We agree with the government that there is a definite environmental imperative relating to three waters, as there is with freshwater and marine ecosystems. The government is right to be concerned about better environmental outcomes. However, we contend that is precisely the role of Taumata Arowai, the new water services regulator, which clearly states its purpose: "*We are committed to ensuring all communities have access to safe drinking water every day. We also have an oversight role in protecting the environment from the impacts of wastewater and stormwater.*"

Which raises the question: Does this new regulator have the 'teeth' to ensure safe drinking water and better environmental outcomes. If the answer is 'yes', then there is no need for the government to seize water infrastructure assets from local councils and corporatize them. If the answer is no, then the government needs to give Taumata Arowai more power. Councils (and others) must be required to meet the appropriate environmental standards, and the government should empower Taumata Arowai to take decisive action if they don't.

Because of the above, we contend that the Bill is not designed around environmental outcomes, but to secure the biggest amount of cash to fund water infrastructure. In other words, the three waters reform comes back to the government's growth agenda.

Housing is obviously a top priority, and the one thing that could block new housing subdivisions is councils not investing enough into water infrastructure. The imposed limit to the amount of debt that councils can take on means that councils are constantly trying to increase rates to enable them to take on more debt.

The government and many others have recognised the problem, which is that water pipes aren't very 'sexy'. So councils often prioritise flashy things (such as an exhibition centre, in Tauranga's case) ahead of expensive infrastructure for the government's growth agenda (such as water pipes). Hence we understand the temptation for central government to take matters into their own hands and seize control of the water infrastructure.

That said, this Bill is not the right answer. There is strong opposition from most of the country, there are serious flaws in the plan, and there are other good options.

The key reasons we oppose the proposed Bill include:

1. The reforms are undemocratic and the process has been deeply flawed. Only a few councils support the proposed model, and National and ACT are committed to overturning the Bill, which makes this a completely unsustainable option.
2. Communities will lose control of their water infrastructure. There may be some advantages in amalgamation, but the Bill's plan to reduce 67 water entities down to 4 entities is extreme, and results in loss of local or even regional control. There has been no convincing evidence presented that demonstrates an overall benefit of forced amalgamation at this scale.
3. The proposed governance structure is complex, unwieldy, and unaccountable, and only reinforces the loss of control by local communities. That could be okay if things are going along well, but what about when problems inevitably arise at a local level?
4. The much-touted improved environmental outcomes will actually result from the new water regulations and the role of the new water regulator, Taumata Arowai. The seizure of community assets by the state will not ensure better environmental outcomes, and may well result in worse environmental outcomes in some ways.

5. Water infrastructure is different to something like the electricity grid. The Transpower network is connected nationwide, but water infrastructure is not. The natural scale for water is catchments, and that means a local or regional approach is optimal. Regional Council boundaries were set according to catchments, so we agree with a majority of NZ councils that suggest regional water collaborations (or entities) are a far better approach.

6. Stormwater is a particular problem if there are only four water entities. Stormwater is mostly dealt with by small-scale local infrastructure that is closely integrated with parks, reserves and roading - all of which are managed by territorial authorities.

7. Central government set up the Futures for Local Government (FfLG) process to deal with issues such as the reform of councils, amalgamations, and addressing any gaps in government processes. The government should not force through this process in the three waters reforms - rather, it should integrate the two processes and let the FfLG process determine the optimal outcomes for three waters infrastructure.

8. The proposed model is based on advice from people involved with Scottish Water. However, NZ is different to Scotland, and even if it wasn't, it is incredibly narrow-minded to base restructuring of this vital community infrastructure on such a limited (and flawed) analysis. The rushed and forced process has not allowed time for other options to be properly considered.

9. Central government assures us the reforms will lead to great outcomes, including much cheaper water rates. Like many others, we don't believe that. If you can recall the promises made around the electricity reforms of the 1990s, I'm sure you'll forgive us for being sceptical.

10. A key driver for the government has obviously been to set up entities that borrow large amounts of money 'off the books'. Councils can't borrow enough to fund growth infrastructure, and central government clearly doesn't want to fund the large amount of infrastructure needed to support its growth agenda. Hence a third option was needed. The upside looks good: more money to spend on much-needed upgrading of Wellington's wastewater system and other water infrastructure around the country. But it's a high-risk model, as the public will have next to no control over these highly leveraged entities. If (when) interest rates are high, they'll charge higher water rates than the government's quoted figures, and no-one will stop them.

11. A controversial issue has been the proposed co-governance structure of the four water entities with iwi Māori. There are important democratic issues at stake, but the media has mostly

just pointed out some oppositional views across racial lines. What hasn't been made clear in mainstream media is the widespread rejection of the government's model by many Māori and Pākehā. A good example is right here in the Bay of Plenty, where the three Eastern Bay councils (which have a Māori majority population) all oppose the government reform, and a key reason is the widespread opposition from many Mana Whenua in their region.

12. The Bill will not lead to a wonderful utopia of all Councils and all iwi having a fair say about how the water entities spend our money. It corporatizes community assets and gives huge power to a largely unaccountable board, with only a limited say for some councils and iwi reps. Whereas an alternative model could easily incorporate the views of Mana Whenua.

Our views can be boiled down to the three core areas of sustainability:

- 1) **Environment Sustainability** – We agree that reform is needed, but the Bill is driven more by financial outcomes than by protecting our natural environment. Taumata Arowai and government regulation should ensure good environmental outcomes, whatever the ownership structure of the infrastructure assets.
- 2) **Social Sustainability** – Our Trust believes that any environmental, social, cultural or economic reform that goes against the wishes of a clear majority is unlikely to be sustainable in the long term. This is especially true for something like this Bill, as the Minister didn't tell councils and the public the truth up-front, so there is strong residual bitterness. The Three Waters funding for cash-strapped councils only makes matters worse, as many perceive it as a form of bribery.
- 3) **Economic Sustainability** – The case for reform has hinged a lot on the need for additional funding to support the future investment needed into three waters infrastructure, and the WICS modelling shows huge cost savings from amalgamation. DIA has not adequately addressed the failures of Scottish Water and the differences between Scotland and NZ, which mean the claimed efficiencies and cost savings have been hugely exaggerated. NZ is much bigger than Scotland (we're the size of the whole British Isles) and yet we have similar populations, so NZ has a much lower population density – which is critically important.

DIA has also not countered the arguments put forward by Castalia and a number of councils. That reinforces our view that this process has been rushed and the figures are highly questionable.

You only had to read and watch the propaganda last year to see that the government did not even try to put forward a robust economic case – it just relied on emotive spin that exaggerated the problems we face with drinking water and wastewater infrastructure.

Yes, there have been problems. All the more reason to stick to the facts and choose a truly sustainable option. There appears to be no government information that outlines why the proposed four-region model is the only realistic way to deliver good economic outcomes, other than the fact it can take on huge amounts of debt 'off the books' and the unsubstantiated allegation that their scale is optimal.

## Our Preferred Option

There are better alternatives. Our favoured option is a similar idea to that proposed by a majority of NZ councils:

- Set up a Regional Three Waters Committee in each region (mirroring the Regional Transport Committees)
- Those committees are administered by regional councils and comprise mayors and/or councillors from each council (and regional council), with a parallel structure for council staff (just like Regional Transport Committees)
- They are responsible for delivering a Regional Three Waters Plan (along the lines of the Regional Land Transport Plans)
- Those plans must comply with all government water standards and with a Government Policy Statement (GPS) on Three Waters – this would be like the government's 3-yearly GPS on Transport, with a GPS on 3 Waters stating the government priorities for the upcoming period
- As with transport, central government would co-fund projects all across NZ - it couldn't leave out certain districts to fend for themselves
- If councils want to receive significant government co-funding, they'll need to:
  - a) Create a comprehensive regional plan that complies with all government requirements (e.g. safe drinking water)
  - b) Help to deliver on key government priorities (e.g. enabling housing)
  - c) Make a compelling case for why their region deserves more funding than the baseline ratio.

The key difference to the current Bill is that councils would retain ownership, but central government would co-fund three waters infrastructure (as it used to, and as it still does for transport infrastructure)

This proposal has significant benefits, including retaining local control and accessing cheaper borrowing, as government debt will have lower interest rates than the new water entities.

The other advantage is that this can be scaled appropriately. There could be 12 to 14 regions (top of South Island and Otago-Southland could be combined, as for transport planning), and that would buy time to integrate this process with the Futures for Local Government reforms. That may result in the amalgamation of some councils, or some councils proactively combining their structures around three waters management. But it would retain support from councils and the public.

The regional model would offer many of the benefits of larger-scale entities and better environmental outcomes, without losing democratic control. It would also de-risk the financial model, while still allowing for pan-regional collaborations and future amalgamations, if benefits were shown to result.

Of course, what it doesn't do is fund the growth agenda 'off the government's books'. However, we don't think that the government's plan for highly leveraged, corporate water entities to take on huge amounts of debt is a good thing, as it will eventually lead to increasingly higher water rates and unsustainable outcomes. Our view is that if central government wants growth (as per immigration and other settings), it needs to fund a bigger portion of growth infrastructure and stop pointing the finger at local government and local residents' groups.

## Summary

In summary, from a sustainability perspective:

- 1) We support reform, but not the proposed Bill.
- 2) The underlying issue has not been addressed in this Bill: a sustainable funding model for central government's unsustainable growth agenda.
- 3) Irrespective of the benefits, we do not support central (or local) government hastily imposing its own agenda against the wishes of local communities and the wider public. The only

exception should be when there is no other option that preserves public safety or wellbeing, or prevents environmental damage – and that is certainly not the situation here.

- 4) We do not believe much of the spin put out by the Department of Internal Affairs. We all know that:
  - (a) there have been some issues relating to drinking water and wastewater, but
  - (b) the DIA adverts vastly exaggerated the scale of those problems, and
  - (c) the core issue is lack of funding, not any large-scale problem with councils' planning or competence around delivery. Experts will tell you that many central government, corporate or PPE projects have had far worse outcomes than council water infrastructure projects.
- 5) Local communities have not been given sufficient information to really understand the problems, let alone the pros and cons of the various alternatives. We think the Castalia reports, Communities for Local Democracy, other councils and many commentators have all raised some important questions that need to be answered by central government.
- 6) We support the key planks put forward by Communities for Local Democracy, including:
  - a. Responsibility and accountability
  - b. Keeping local infrastructure in direct ownership of local communities and protecting it against privatisation (e.g. electricity reforms)
  - c. Meaningful Mana Whenua representation
- 7) From a Bay of Plenty regional perspective, we strongly support Whakatane, Opotiki, and Kawerau District Councils and their engagement with their local communities, and their involvement in Communities 4 Local Democracy. We also note the huge contrast between the approaches taken in the Eastern and Western Bay of Plenty, and are hugely disappointed by the lack of opportunities for informed engagement and debate here in Tauranga-Western Bay, including no platforms for open discussion with central government, council governance and staff, and iwi-hapu.
- 8) We note that the Eastern BOP and many other councils in regions with a majority Māori population are amongst those most opposed to the Bill.
- 9) The need for additional funding is clear. Like Castalia and most NZ councils, we believe there are other ways of getting that outcome that better support local democracy.

**We wish to make an oral submission to the select committee hearing and we would like to appear at a Select Committee hearing in Tauranga or elsewhere in the Bay of Plenty.**

## About Sustainable Bay of Plenty Charitable Trust

### Our Vision

To be great ancestors.

### Our Mission

Shaping sustainable outcomes through awareness, accountability and action.

### Our Purpose

To make environmental, social and economic sustainability a key lens through which organisations frame and evaluate their strategic and operational decision-making.

We do this by:

- Raising awareness of sustainability issues
- Connecting sustainability stakeholders, including businesses, councils and communities
- Disseminating evidence-based analysis relating to sustainability issues
- Promoting and delivering sustainability education, discussions and events
- Supporting the development of a low carbon circular economy
- Promoting sustainable urban development and transport systems

We provide evidence, tools and support to encourage, enable and evaluate sustainable decision-making by community groups, businesses, iwi and hapu, local government and central government.

### Our People

Glen Crowther is our Executive Director and together with an active and engaged group of trustees, each person contributes their unique experience and expertise. We have come together because we face an unsustainable and inequitable future.

The need for a strong sustainability organisation in Tauranga and the wider Bay of Plenty is clear. We have a housing crisis, our CO2 emissions have increased more than most other NZ regions, there is increasing social deprivation, we have water shortages, many of our region's waterways are polluted, Tauranga has the lowest mode share for public and active transport of any NZ metro, our urban planning has failed to meet the needs of our growing and aging communities, and engagement between Council and local communities is at an all-time low here in Tauranga.

We welcome partnership and collaboration with any other organisations or groups who share our kaupapa. Together with our supporters, we aim to create a more prosperous and sustainable future for Toi Moana | Bay of Plenty.

***We are independent, non-partisan, and evidence-based. We advocate for a systemic approach based on the principles of equity and strong sustainability / Te Ao Maori.***