FROM THE
OFFICE OF THE MAYOR

RANGITIKEI
DISTRICT COUNCIL

4 July 2023 3-OR-3-5

Ian McKelvie
Chair
Governance and Administration Committee
Parliament Buildings
Wellington

Via Parliament submission portal

Dear Ian

Water Services Entities Amendment Bill

Rangitīkei District Council appreciates the opportunity to make a submission on this further Bill for the Government's water services reform programme. While we understand the reason for the very short time to provide this submission, we had expected the Bill to reflect the announcement made by the Prime Minister and Minister of Local Government in April. It was disappointing for Council to see that the Bill contains several proposals which had not been mentioned in the April announcement, although it is now evident that they had been discussed by Cabinet a few days before that announcement.

Council would have preferred to have discussed its views with Te Roopu Ahi Kaa – the Council's standing Iwi advisory committee – but the tight timeframe for submission made that impossible.

Council highlights seven issues for the Committees consideration:

1. Ten water services entities
2. Regional representative group membership
3. Regionally led merger process
4. Community priority statements
5. Shared services arrangements
6. Alternative funding facility
7. Outstanding issues from previous bills

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1. Ten water services entities

Rangitīkei has been placed with six other territorial authorities in 'Entity E' – a much more compact arrangement than being part pf the original Entity B. The boundaries of Entity E are those of the Horizons Regional Council, so the seven territorial authorities have a long experience in working together (along with the regional council). This should prove beneficial in planning for the establishment of Entity E. However, I use the term 'placed' deliberately, as there was no engagement with the Council about its preference: we think that should have happened since the regional council boundaries were established nearly 35 years ago – and because the original water services entity boundaries placed three territorial authorities (Rangitīkei, Ruapehu and Whanganui) in Entity B and the remaining four (Manawatū, Palmerston North, Horowhenua and Tararua) in Entity C.

Council has a preference for Entity E to be operational earlier rather than later, which probably means a date during 2025. We see it is essential that the National Transition Unit's Iwi/Māori Directorate works collaboratively with the territorial authorities to ensure a full engagement with Iwi and hapū within the Entity E boundaries: Te Roopu Ahi Kaa (which I mentioned earlier) has been in existence for nearly 30 years and has been a major factor in Council developing strong relationships with Iwi and hapū in the Rangitīkei. I was alarmed to see so few mana whenua at the recent Palmerston North roadshow for Entity E organised by the National Transition Unit.

The Bill does not provide any mechanism to address additional costs arising from the delayed implementation beyond 1 July 2024: this potentially affects every territorial authority apart from those in Entity A which will be operational from that date. Councils expected that debt relating to water services infrastructure would transfer to the new water services entities, but this could now be delayed for up to two years.

We suggest adding in clause 31(1) Schedule 1AA

> (d) how (following agreement with the Minister) the debt for water services infrastructure carried-forward from 2022/23 is to be funded

2. Regional representative group membership

The Council is pleased to see that the Bill has confirmed the 13 April 2023 announcement that every territorial authority would have direct membership of the group. This provides a much strengthened local voice. We are comfortable with the Council making that decision: an elected member (but not necessarily the mayor).

As previously noted, urgency is needed to secure stronger engagement with Iwi and hapū so that the mana whenua membership is determined. We are concerned that, to date, the Iwi/Māori Directorate of the National Transition Unit has not relevant territorial authorities, even though we are the direct partners in such relationships.

At the Palmerston North Entity E meeting, the National Transition Unit advised it was considering an informal panel with representatives from territorial authorities and mana whenua to determine the establishment entity board. While that seems a practical, default option, giving effect to local voice, we would prefer to see the regional representative group in place in sufficient time.

We suggest that clause 4 of the Bill (amending section 2 of the principal Act) is amended to provide 'a regional representative group must be established once its membership by mana whenua and territorial authorities has been confirmed with the Minister, and that clause 7(2) in Schedule 1 of the principal Act is amended by adding 'Except for any water services entity where a regional representative group has been established [in accordance with the amended clause 4 above].

3. Regionally led merger process

While acknowledging that merger of entities may not proceed until they have been established, Council sees this as a useful legislative provision and allowing consideration of the potential benefits arising from greater scale.

However, we disagree with the altered voting threshold for the regional representative group to give final approval for a merger proposal from the Crown. We understand that such a proposal is viewed by the Minister of Finance and the Treasury as an important risk management strategy but its merits should still be subject to the normal 75% voting threshold, recognising the equal number of members from territorial authorities and mana whenua.

We suggest that clause 13(3)(b) in Schedule 2A is amended by deleting 50% and substituting 75%.

4. Community priority statements

This provision in the Bill was not foreshadowed in the April announcement. However, Council considers it is a useful addition as providing another opportunity for local voice. It would, for example, provide an opportunity for smaller centres to ensure the funding and pricing does not disadvantage them in favour of metros.

However, the Bill provides no mechanism for the person making such a statement to provide evidence of community support. Without this safeguard, there is a risk that the regional representative group could be overwhelmed by the number of such statements and that they are dismissed as individual obsessions.

We suggest that the proposed new section 145B (from clause 16) has a third requirement added:

(c) the support for the statement from a community group, community committee or community organisation within the territorial authority where the person making the statement normally lives or conducts business.

We understand that the community priority statements do not have the same legal status as Te Mana o te Wai statements and consider that referral to the regional representative group is appropriate. While the Bill specifies how the group is to respond, we see no impediment to the group referring any such statement to the entity board.

5. Shared services arrangements

This provision in the Bill was not foreshadowed in the 13 April 2023 announcement, although it had been discussed by Cabinet on 11 April 2023 and areas for shared services identified. Council understands the logic behind shared services – we have such arrangements with neighbouring Manawatū District Council over roading and water infrastructure and animal control. But these have been entered into voluntarily. The provision for a Ministerial direction is a qualification on the independence of water services entities, and clause 13 of the Bill (amending section 117 of the principal Act) acknowledges this

We can see that future consideration of merger proposals could be simplified by the entities having similar processes and would facilitate exchange of staff between entities at times of particular pressure. However, we consider that the decision on shared services should be one for the entities to make for themselves, and that the Government's role is to set standards to inform such decisions. New section 137A(1) sets out the rationale for the Ministerial direction in very general terms but not the circumstances when it would be used. Some assessment of the status quo should be made.

> We suggest adding 137A(1A) The direction must take into account and assess the adequacy of the relevant existing systems or procedures within the named entities (or if not established, the territorial authorities within each of the entity boundaries)

Given the momentum already in place for these shared services – for example, we are aware of work being done to migrate asset data into a national portal – we are uncertain whether there are opportunities for an entity to opt out. The availability of these shared services appears to be embedded into the National Transition Unit's planning for getting the entities operational. This is confirmed by clause 8A(3) which limits the engagement requirements for issuing a Ministerial direction during the establishment period to Taumata Arowai, the Commerce Commission and the establishment boards of the water services entities (if appointed). This is much less than what is set out in new section 137B(1) and could be easily remedied by involving the relevant territorial authorities.

> We suggest that clause 8A(3(a)) is amended by adding 'or (if a board has not been established in a particular entity, with the chief executives of the territorial authorities within that entity boundary)'.

6. Alternative funding facility

The proposal for an alternative funding facility, while also not included in the 13 April 2023 announcement, is a further recognition of the practical effect of loss of scale. Council supports this proposal: it will enable smaller entities (and Entity E is probably an example) to have an alternative mechanism to raise competitively funded debt, if they so choose, rather than approach the market directly.

7. Outstanding issues from previous bills

Council remains concerned about several issues raised abut the Water Services Legislation Bill and the Water Services Economic Efficiency and Consumer Protection Bill.

a) Rural ‘mixed-use’ water supplies

We were pleased to see the Finance and Expenditure Committee’s amendment to the Water Services Legislation Bill requiring the entity to develop a rural supply plan when it had any rural ‘mixed-use’ water supplies within its boundaries. This means the management committees for such schemes will largely continue. We were also pleased that the costs for considering an alternative operator are now to be shared between that operator and the entity. However, there is inconsistency in how small rural mixed use rural water supplies are defined. In the amended section 6 of the principal Act is this:

a) 85% or more of the total volume of water supplied by the supply is for agricultural or horticultural purposes; and
b) 1,000 or fewer homes (not being homes on farmland) rely on the supply for drinking water and other domestic household purposes.

Whereas in clause 42(2) of Schedule 1 (part2) of the principal Act ‘rural mixed-use drinking water’ means assets that provide

a) drinking water; and
b) 1 or both of the following:
   i. agricultural water:
   ii. horticultural water

We think there should be total clarity between (i) schemes which provide drinking water to premises in townships (i.e. not on farmland) *in addition to* premises on farmland and (ii) schemes which provide drinking water *only* to premises on farmland. We think a territorial authority with any of the latter should be able to opt out of transfer, if that is its wish (and supported by scheme members). For Rangitikei, this would mean three of its rural water supply schemes – Erewhon, Omatane and Putorino – could potentially opt out.

We suggest that clause 42(2)(a) in Schedule 1 (part 2) of the Water Services Entities Act is amended by adding after ‘drinking water’ the words ‘to premises not on farmland’

b) Strengthening accountability in price-quality regulations.

In the Water Services Economic Efficiency and Consumer Protection Bill, Council supports the intention behind 'price-quality' regulations as bringing teeth into the regulation of water services entities and makes the information disclosure requirements more meaningful. However, we think that the effectiveness of this provision could be improved.

We think that the use of incentives/penalties/rewards/compensation in the prescribed price-quality path for each water services entity should be mandatory rather than discretionary; in addition, we think that the performance requirements for the prescribed price-quality path for each water services entity should be expanded so that affordability, responsiveness to issues raised on or behalf of Māori and the partnering and engagement with territorial authorities remain clearly visible.

We suggest:

in clause 42(3) replacing "may" with "must" so that there is a mandatory regime of incentives, penalties, rewards and compensation.

In clause 42(3)(b) extending the list of the performance requirements for the prescribed price-quality path for each water services entity to include -

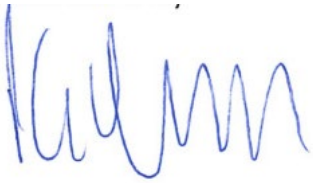
reporting consideration given to affordability

reporting responsiveness to issues raised by or on behalf of Māori

reporting the partnering and engagement undertaken with territorial authorities (cf. clause 7 in the Water Services Legislation Bill amending section 13 of the Water Services Entities Act)

I look forward to talking with you and other members of the Committee on 5 July 2023, 1.30-1.40 pm.

Yours sincerely



Mayor Andy Watson
Rangitīkei District Council

Peter Beggs
Chief Executive