



Submission to the Local Government and Environment Committee
on the Local Government Act 2002 Amendment Bill (No 3)

February 2014

Introduction

A not for profit incorporated society, Water New Zealand promotes and enables the sustainable management and development of the water environment. With 1500 corporate and individual members Water New Zealand's membership is large and diverse, including Territorial Local Authorities, Council Controlled Organisations, water and wastes services providers, the major consultancies involved in providing engineering, planning and research services to the industry, Crown and other research institutes involved in the water and wastes environment, academia, members of the legal fraternity and training providers.

We welcome the Government's decision to embark upon a reform programme intended to improve the operation of local government. The current Bill covers a range of matters, but this submission will be largely confined to those relating to water management and the provision of water infrastructure.

Delivery of services

(NB: In this commentary 'water services' should be taken to cover water supply, sewerage and the treatment of sewage, stormwater drainage, and flood protection and control works.)

We welcome the requirement, in new section 17A, that after each triennial election a local authority will be required to review, *"the cost-effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions."* Included in the options that must be considered is the delivery of these services by a CCO entity.

We have previously commented on the fragmented nature of water services delivery in this country and the desirability of separating that delivery out into stand-alone, publicly owned, water specific entities. In support of this particular amendment requiring formal consideration of, *"options for the governance, funding, and delivery of infrastructure services, and regulatory functions..."* we would reiterate a brief summary of the current situation. The policy, regulation and delivery components of New Zealand's urban water infrastructure system have developed in a fragmented and ad hoc manner rather than being purpose built. This fragmented approach reflects that taken with management of New Zealand's freshwater generally.

The first National Infrastructure Plan (2011) rated water infrastructure as New Zealand's worst performing infrastructure asset and the most in need of attention.

Eight government departments have responsibilities for aspects of water policy. 11 regional councils provide environmental regulation. Six unitary authorities provide both environmental regulation and water services. 61 councils provide water services. Having 86 businesses to provide water governance for 4.4 million customers does not allow for a coordinated or strategic approach.

Rural-urban demographic change trends are likely to exacerbate affordability issues.

There is no external price control regime and no market to establish price.

Bundling water charges in rates gives domestic customers little information on the cost or value of services.

Relationships with customers are administrative rather than contractual - as occurs with other utility services.

Customers are not well informed on water services.

Water services are the classical utility service – natural monopolies with high capital costs.

Other utilities (gas, telephony and electricity) are delivered without local political input, raising the question of the value added by such purview of water services.

By and large economies of scope and scale are not being achieved under current arrangements in New Zealand.

Other countries have reformed their urban water infrastructure systems. Common features include:

- assigning lead responsibility for policy to one central agency;
- fit for purpose regulation including independent oversight;
- security of funding;
- placing delivery at arms-length from, or complete removal from local political input;
- rationalisation of delivery to achieve economies of scale; and
- network pricing.

Examples include Scotland, England and Wales, the Republic of Ireland, Victoria and Tasmania in Australia.

Scotland is worth mentioning as an exemplar of what can be achieved through reform. The independent economic regulator of the one business supplying the whole of the country reports 40 per cent savings in operational costs as a result of the reforms instituted over a decade ago. Substandard infrastructure has been brought up to speed. The 2012 Scottish National Infrastructure Plan reports no pressing capital expenditure requirements for water infrastructure – the only infrastructure sector to achieve this status, and arguably stunning testament to the success of the reform programme.

Security of funding is fundamental for the maintenance of good quality water infrastructure. In many areas of the country critical water infrastructure is suffering because of the wide range of activities local government is currently involved in. This results in expenditure being made on some activities while core water infrastructure is deprived of the funding required to meet requisite standards.

New Zealand introduced guidelines for the quality of drinking water in 1962 and voluntary standards in 1984. These are based on World Health Organisation standards. Nearly 30 years since originally promulgated, progress towards meeting these standards remains slow. Funding upgrading of supplies remains problematic, particularly for smaller communities.

While 76.7% of the reticulated *population* receive water that meets the Drinking Water Standard for New Zealand, tables 1c and 1d of the Annual Report on Drinking Water Quality for New Zealand 2011-12 (<http://www.health.govt.nz/system/files/documents/publications/annual-report-drinking-water-quality-2011-2012-jun13.pdf>) report that only 204 of the 662 distribution zones are supplying water that meets the standard. Thus 51 years after the quality of drinking water was formally addressed, the great majority of supplies are found wanting. That compares unfavourably with rates of compliance reported in other jurisdictions - for example in Scotland and

England where the independent drinking water inspectorates report compliance rates of 99.96% plus.

As a result of the current water supply arrangements New Zealand has outbreaks of water borne acute gastro-enteric disease. For example a recent outbreak in Darfield in August 2012 resulted in 140 cases being reported to the local medical officer of health. A 2010 study¹ estimated that 35,000 people develop acute gastro-enteritis annually from networked supplies, but cautioned that the methodology used was likely to understate the actual rate. Neither did it attempt to quantify the cost of reputational impairment from outbreaks in tourist destinations.

Several communities remain on permanent boil water notices. While there are no aggregated metrics on the performance of New Zealand's approximately 350 wastewater treatment plants, there is good anecdotal information of operational facilities not complying with current conditions on consents; or in some cases, without consents in place. While the main contribution to pollution of waterways is from non-point sources, such plants are contributing to overall loads.

In her 2011 report² on the performance of four regional councils entitled *Managing freshwater quality: Challenges for regional councils*, the Auditor-General noted:

"With regard to enforcing compliance with regional rules and resource consent conditions, I was concerned to note that councilors in all the regional councils had some involvement either in deciding whether the council should prosecute or in investigating a case once the decision to prosecute had been made. There are strong and longstanding conventions against elected officials becoming involved in prosecution decisions. All investigation and enforcement decisions on individual matters should be delegated to council staff for an independent decision."

Infrastructure strategy

A new section, 101B, requires the preparation and adoption of an infrastructure strategy covering 30 consecutive years. Water services assets typically have relatively long working lives, so we support this provision. As noted above, in the absence of a detailed and publicly available strategy for funding renewals or replacements, on too many occasions water assets have become the subject of repeated deferrals while other more publicly visible activities receive support.

While it might be argued in some quarters that the current plan framework is adequate, a detailed and specific strategy for critical water infrastructure assets will support improved management of those assets and focus attention on the funding required. The requirement for annual indicative estimates of projected capital and operating expenditure will only serve to positively support this.

¹ LECG 2010. Cost benefit analysis of raising the quality of New Zealand networked drinking water. <http://www.health.govt.nz/publication/drinking-water-cost-benefit-analysis>

² <http://www.oag.govt.nz/2011/freshwater> , accessed 23 Jan. 14

The requirement to provide for the resilience of infrastructure assets and to make financial provision for potential natural disaster risks is particularly welcomed. Until Christchurch this was an area that did not receive wide attention. Awareness of resilience is now increasing and this provision in the legislation will hopefully ensure that awareness will now move into the sphere of normal operational behaviour.

Given there may be a wider adoption of a CCO model for water services management and delivery, we would recommend a clause be inserted in this section making it clear the infrastructure strategy provisions would also apply to such entities.

Purpose of assessments

The new section 126 covering assessments is supported. We noted above the current situation regarding drinking water and the adherence to standards. We have also noted the anecdotal information regarding a number of wastewater plants. It is clear that a level of national legislative 'stick' is required if a country that considers itself both a leading food exporter and a desired tourist destination is to retain that reputation.

There is a comparatively high level of non-compliance with existing standards (despite their being in existence for several decades), particularly among smaller authorities. Tightening the legislation may result in positive outcomes. Clearly compliance in many cases will be directly related to financial capacity and this may foster a more informed discussion on alternative ways to manage the water assets.

Development contributions

The series of new sections and amendments to sections in reference to development contributions (s197-208) are generally supported. The new sections 197AA and 197AB covering the purpose of the contributions and the new set of principles guiding the preparation of a development contributions policy under section 106 should bring more clarity to the requirement for contributions than is currently the case. Greater definition around the development contribution process and what those contributions are used for is welcome. The introduction of development contributions commissioners should result in a process that will avoid what in some cases has seen acrimonious, expensive, and time consuming legal processes.

The introduction in new section 201A of a 'Schedule of infrastructure for which development contributions will be used' is also welcomed and should bring greater rigour to determining which assets development contributions can be sought for.

Schedule 3 amended

Schedule 2 of this Bill amends Schedule 3 of the current Act covering the Local Government Commission's functions and roles in relation to reorganisation schemes. Included is allowance for wider introduction of the "two-tier" local governance model – i.e. as applied in

Auckland, a unitary authority and local boards. Previously that unitary authority had to cross a 400,000 population threshold to allow for local boards. This will now be dropped allowing such a two-tier model elsewhere in the country. The Bill also allows the Commission to now establish CCO's as part of a reorganisation proposal.

We support the proposed amendments to the existing schedule 3.

Murray Gibb, CEO, and Peter Whitehouse, Manager Advocacy & Learning, would like to appear before the Committee in support of this submission.

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