



**Submission to the Auckland Governance Legislation Committee**

**on the**

**Local Government (Auckland Council) Bill**

June 2009

## **Introduction**

A not for profit incorporated society, Water New Zealand promotes and enables the sustainable management and development of the water environment. With 1500 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.

Water New Zealand supports in general the reorganisation of Auckland governance and service provision but would like to offer comment on the introduction of a new single water entity. The Part 4 Amendment to the Local Government (Tamaki Makaurau Reorganisation) Act 2009 contained in this Bill proposes the Transition Agency have approval and oversight over Watercare Services becoming the sole provider of water supply and wastewater services.

We recommend the Committee give careful consideration of how a sole provider is appropriately managed and regulated and offer the following commentary on a possible model.

### **An Auckland Water Entity model**

The Royal Commission on Auckland Governance recommended one entity manages the region's potable water and waste water. This has been supported by the Government.

Water New Zealand has a close interest in the shape and functionality of that entity, since it may serve as a template for further amalgamation of utilities across the rest of the country. Getting it right first time is important. Getting it wrong would diminish appetite for further institutional reform, something we support.

We offer comment in four areas. These are:

- Shape;
- Regulation;
- Stormwater management; and
- Ownership.

## Shape:

A set of desirable organisational attributes and outcomes for the new water management framework would include:

- public ownership with a robust commercially focused governance structure;
- clear accountability to that ownership;
- transparent pricing methodologies; and
- a strong customer focus.

An examination of international examples suggests both population and area would make it difficult to argue against a one entity model for Auckland. Two of the examples often discussed because of the similarity socially, economically and demographically to New Zealand are Melbourne and Scotland. In both cases their populations more closely match the total New Zealand figure and are far in excess of the Auckland region's 1.4 million.

In the Melbourne case a regional bulk wholesaler services three urban retailers and three smaller rural entities. The total population involved is around 3.9 million.

Scottish Water provides another comparison. One entity services the whole country with an area of 79,000 square kilometres, over 11,000 kilometres of coastline and around 5 million customers. By contrast, the Greater Auckland region covers 5,000 square kilometres with 1,600 kilometres of coastline.

Even though the proposed entity for Auckland will be relatively small in comparison to these examples it will still be a monopoly provider. Mechanisms will need to be introduced to deliver the required transparency and customer service.

The Royal Commission recommended an Auckland Services Performance Auditor be appointed. This recommendation does not appear in the Government's response. This light handed approach contrasts sharply with the scenarios operating in both Melbourne and Scotland, which in turn could lead to a failure to deliver against desirable outcomes such as transparency and accountability.

Melbourne Water operates under a Statement of Obligations contained in a water plan submitted to and approved by the Victorian *Essential Services Commission*. The plan includes outcomes, actions and expenditures to be undertaken, and the prices the entity proposes to charge over the next three year period. In addition it includes discussion on performance over the preceding three year period.

An independent ombudsman, the Energy and Water Ombudsman of Victoria, also operates within this framework.

Scottish Water is a publicly owned company, which operates and maintains the water and wastewater assets on behalf of the Scottish Parliament. An independent regulatory framework is in operation and is administered by the *Water Industry Commission for Scotland* (WICS). This is a non-departmental public body with statutory responsibilities to promote the interests of water customers.

The WICS primary role is to determine the level of resources that Scottish Water require to deliver Ministerial objectives at the lowest reasonable overall cost, and translate this resourcing requirement into caps on the prices paid by customers.

To ensure that customers pay no more than necessary, the WICS liaises with the environmental and water quality regulators to assess whether Scottish Water business plans are appropriate to deliver the Ministerial Objectives. The WICS also analyses the business plans to establish the scope for efficiency and benchmarking with other water companies to gauge the potential for improvement.

Scotland also has a national complaints authority, *Waterwatch Scotland*, which appears to have similar functions to this country's Electricity and Gas Complaints Commission. Waterwatch Scotland can also make statutory recommendations on water matters to the Government and its Ministers, WICS, and a range of Government agencies.

The Scottish model has delivered significant benefits to customers since it was implemented. The WICS Annual Report for the period 2007/08 instances:

- Savings of £1b stg. since 2001 helping to keep prices stable;
- Levels of service as defined by the WICS, improved by 40%.

Both the Resource Management Act 1991 (RMA) and the Local Government Act 2002 (LGA) contain a raft of obligations, powers, prohibitions and regulations in reference to water. The Government response proposes the demise of the current regional council and the new Auckland Council taking over planning and presumably regulatory functions of both a regional and local nature.

If only the RMA and LGA provisions were to be incorporated into this process it is unlikely the new water entity would achieve the desired outcomes, since the owner cannot at the same time perform the function of being an independent watchdog on itself.

There is a growing discussion at a national level on developing a more effective regime for managing water. It would therefore be opportune to recommend in

reference to the Auckland entity that a model based on the Victorian or Scottish institutions is implemented.

In other words, separate water governance from local government control while maintaining public ownership, accountability, effective pricing and transparency. This would have the added advantage of enabling 'road testing' prior to national application.

#### Independent regulation:

If a Water Commission model based on templates similar in intent to the WICS in Scotland and the ESC in Victoria was pursued in the context of regulation of the Auckland entity it could:

- appoint an independent governance board;
- identify a key set of annually reported levels of service measures, review water entity prices and set forward price limits which reflect the level of resourcing required by the water entity and the scope for efficiency;
- develop a customer representation body; and
- identify a regular performance audit process which will facilitate performance benchmarking of the entity against nationally set objectives and goals for optimal water use in New Zealand.

#### Stormwater management:

Stormwater management is a public good. It has close connections to zoning and land use. We consider that stormwater assets should be transferred to the Auckland Council and managed by the new water entity on an asset owner/asset manager basis as currently undertaken by the likes of MetroWater and Manukau Water. Funding for such activities would be payable by the Auckland Council from rateable income and borrowings.

#### Ownership:

Both the Royal Commission and the Government have supported moving water assets from the current seven owners into Auckland City. This is reflected in the Local Government (Tamaki Makaurau Reorganisation) Act 2009 and this Bill.

Adopting the model we suggest above would both ensure the entity remained in public ownership and be protected from the influence of local political imperatives.

Water New Zealand wishes to appear before the Committee in support of this submission.