



## **INTRODUCTION**

This submission is lodged by the NZ OUTDOORS PARTY, a registered political party under the Electoral Act. The NZ OUTDOORS PARTY has a rapidly growing and active membership, who value freedom and New Zealand, including its people, tikanga and environment.

The NZ OUTDOORS PARTY promotes:

- democracy where people play an active role in decision making, knowing their views are valued and will be listened to.
- freedom from excessive government and international interference in the lives of New Zealanders;
- more self-sufficiency for New Zealand and New Zealanders,
- better care of our water, land, soil, wildlife and of our people.
- natural and organic regenerative approaches to agriculture to promote community wellbeing and thriving rural communities and local businesses.
- “localism” to encourage and empower local people to support their local communities and have an active role in decision which affect the health and wellbeing of their community;
- food and body sovereignty;
- transparent representation and informed decision making which will promote a long-term vision for protecting and promoting the interests of all New Zealanders, our children and grandchildren.

**The NZ OUTDOORS PARTY wishes to be heard in person.**

**Our Directive regarding THE THREE WATERS ENTITIES SERVICES BILL**

**Preface: Keep local assets in local hands**

Local community assets should be under local community control.

Following the water contamination crisis in Havelock North in 2016, the Labour government embarked on a full-scale water reform. Through the introduction of Water Services Bill in 2020, compliance legislation made it impossible for councils to meet the new water standards.

Rate payers own all water infrastructure paid for over generations. The government says Council will own these assets under the new regime however that is small comfort if Councils lose control of these assets. It's like having a car, if you don't get to drive it, is it really yours?

On 15 November 2021, the Health (Fluoridation of Drinking Water) Amendment Bill passed into legislation enabling the Director-General to direct a local authority to add fluoride to drinking water supply.

We believe local communities should determine what goes into their drinking water not an unelected official.

Local governments can give effect to the Treaty of Waitangi, they are already compelled to do that under current legislation.

78 local authorities are in a better position than four mega entities to engage with mana whenua groups with respect to the provision of water services.

78 local authorities are in a better position to provide for the expression of Te Mana o Te Wai enabling mechanisms which may include Iwi Management Plans, Cultural Impact Statements, and Mana Whenua Statements.

All these mechanisms can be incorporated into current legislations ensuring local assets stay in local hands.

And the fact remains, almost every single council is opposed to this legislation.

**The Outdoors & Freedom Party are opposed to the Water Services Entities Bill for a variety of reasons. As follows:**

1. The objectives stated can all be achieved without new legislation.

#### **11 Objectives of water services entities**

The objectives of each water services entity are to—

- (a) deliver water services and related infrastructure in an efficient and financially sustainable manner;
- (b) protect and promote public health and the environment;
- (c) support and enable housing and urban development;
- (d) operate in accordance with best commercial and business practices;
- (e) act in the best interests of present and future consumers and communities;
- (f) deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.

Compare: 2020 No 52 s 8

2. Operating principles of water services entity: all of which can be achieved, or is already being achieved, without new legislation.

### 13 Operating principles

The operating principles of a water services entity for the purposes of **section 73** are—

- (a) developing and sharing capability and technical expertise with other water services entities and throughout the water services sector; and
- (b) being innovative in the design and delivery of water services and water services infrastructure; and
- (c) being open and transparent, including in relation to—
  - (i) the calculation and setting of prices; and
  - (ii) determining levels of service delivery to communities and consumers; and
  - (iii) reporting on the performance of the water services entity; and
- (d) partnering and engaging early and meaningfully with Māori, including to inform how the water services entity can—
  - (i) give effect to Te Mana o te Wai; and
  - (ii) understand, support, and enable the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga; and
- (e) giving effect to Treaty settlement obligations to the extent that the obligations apply to the duties and functions of the entity; and
- (f) partnering and engaging early and meaningfully with territorial authorities and their communities; and
- (g) co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector.

3. Problem – Reaction – Solution: Central Govt set local gov't up to fail with removing funding for infrastructure with its neo-liberal policies starting in 1986. Rates have increased markedly over this time, and local body debt quadrupled from \$2 billion to \$8 billion in a single decade (to 2015) and expected to continue to grow to \$19 billion by 2022. Councils are using this as a reason to not spend money on vital infrastructure and putting off works. Local gov't has been manipulated into this position, and then blamed for its failure.
4. Infrastructure should stay under local control. It is easier to understand and manage infrastructure the closer you are to that infrastructure. Separating the delivery of three water services from the communities that they are provided for will disenfranchise those communities. Local Gov't needs to maintain its own water infrastructure so locals can decide how they wish to treat their water, and not have decisions forced upon them by unelected boards.
5. Ratepayers have paid for these water assets over generations and the water assets therefore belong to our communities that have paid for them. Taking them off councils will open up to further claims of theft of assets and resources.
6. The bill is set up so local community voices won't be heard. Regional representative groups have limited seats, for example there are 22 councils and a maximum of seven seats in the Central water entity.
7. There is the potential for regional advisory panels, but there is no certainty they will exist. If they are established, they are effectively toothless with no decision making or influence on the development of strategic and performance expectations. There are token requirements for engagement, but the message is clear: Water Entities are

to operate water services as a utility and local government cannot interfere even though it is their local people who will be the ones who will be affected by any short comings.

8. There is no power to remove appointed directors or managers, what would normally be the responsibility of elected members become the responsibility of unelected members managing our most important resource.
9. Concerns around debt – who holds it, who pays the interest and over how many years. The problem is that when these new entities take on debt, the cost of compounding interest increases the amount paid by real people. The excuse given is that the following generations pay for the use of the resource. By taking these assets out of local body ownership, it makes it an asset that can be borrowed against in foreign currency. But why? When there is a perfectly good solution that has been used previously in this country.

Water Services Entities are able to take on loans, including in foreign currency, to pay for infrastructure. Councils are unable to borrow in international currency, but these water services entities are. This does not improve our infrastructure - all does is increase profit to offshore lending institutions. Why not just GIVE councils money to improve its infrastructure? Or is central govt looking to improve profits for the banking system? Because that's what it looks like.

**Recommendation:** All funding for 3 waters infrastructure should be sourced for no/low interest from RBNZ instead of sourcing debt from the private and international banking sector.

### Subpart 7—Borrowing

*Clause 168* permits a water services entity to borrow or enter into incidental arrangements, within or outside New Zealand, in currency other than New Zealand currency.

- Enable the water services entities to own and operate three waters infrastructure on behalf of the communities they serve, enabling them to access cost-effective finance from capital markets to invest in maintaining and upgrading that infrastructure.

Councils are unable to borrow in international currency, however this restriction does not apply to either the Auckland Council or the Local Government Funding Agency.

10. Already shocking waste of funds before it even gets off the ground, does not bode well for future spending: “The Government has spent \$3.5 million on an advertising campaign, \$761 million on the reforms in 2020, announced \$296 million in Budget 2021 for the costs involved with the establishment and transition of the new water

entities, \$80 million to get councils to opt in to the consultation, a whopping \$2.5 billion to bribe them to go along with the proposals in the latter stage of the consultation, \$90 million to bribe Whangarei District Council to drop its opposition to the proposals and an unspecified amount to LGNZ to promote the reforms to councils.” (ref: Social Credit Party)

**Recommendation:** Govt creates NZRB funding for the areas that need to upgrade infrastructure or pay down the debt for areas took on debt to upgrade their infrastructure to fulfil central govt requirements instead of spending millions/billions to create new legislation.

11. Already a terrible lack of transparency, as well as a dishonest, manipulative advertising campaign, which makes everyone anxious about what the Govt is up to. Several organisations are saying that the numbers discussed for increases in costs are over stated. Using exaggerated figures is dishonest fear mongering and makes it appear the Bill may be based on deception. (See quote below RNZ)

Arden said without the reforms, households could expect to pay two to five times what they pay now for water services. “This is unfair to communities. It is also unsustainable and has knock-on effects to other areas,” she said.

Mahuta said it was important that central and local government worked together to remedy the significant problems and risks facing water infrastructure and services.

12. Mahuta said it is ‘important central and local govt work together’ however central govt is paying lip service to local govt concerns as local govt has been up in arms about what they see as theft of resources paid for by the people over decades. (See quote above RNZ)
13. Most importantly of all, this bill paves the way for privatisation of our water infrastructure. Despite saying maintaining public ownership is its goal, this Bill then turns around and makes provision for privatisation!

## “Divestment Proposal”

### Part 1 Divestment proposal

#### 2 Water services entity must refer proposal to regional representative group

- (1) A divestment proposal may be made—
  - (a) on the water services entity’s own initiative; or
  - (b) by any other person.
- (2) A proposal made under **subclause (1)(b)** must be made in writing to the water services entity.
- (3) A water services entity must forward any proposal made under **subclause (1)(a) or (b)** to the regional representative group.

#### 3 Regional representative group may, after consultation, resolve by 75% majority to refer proposal to territorial authority owners

- (1) A regional representative group forwarded a divestment proposal under **clause 2** may resolve to refer the divestment proposal to the territorial authority owners.
- (2) Before voting on whether to refer the proposal to a poll, the regional representative group must consult—
  - (a) all of the territorial authority owners of the water services entity; and
  - (b) mana whenua of rohe or takiwā within the area of the water services entity; and
  - (c) the Minister.
- (3) The resolution fails unless supported by a vote of not less than 75% of the regional representatives present and voting.
- (4) A regional representative group that resolves to refer a divestment proposal to territorial authority owners under this clause must notify those owners of the resolution.

Privatisation is the worst possible outcome for our water infrastructure, it will drive costs higher as has happened in the UK with little or no care for investing in the future etc, it becomes purely an investment with making money as the only important outcomes. Many towns and countries that have had privatisation of water infrastructure are now going through “Water ‘remunicipalisation’”. It would end up being more costly to buy back our resources from (mostly) foreign ownership.

**Recommendation:** absolutely bottom line, no using our water infrastructure assets as collateral for loans, and no possibility for ever selling them.

14. There is more legislation to come to complete this Water Entities Services Bill. We don’t know what that is, and presumably neither does government. If this legislation is opposed by so many, including almost all the councils, who knows what the next round will be like?

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The Bill will be followed by further legislation to provide for the specific powers, functions, and responsibilities of the entities, economic regulation and consumer protection, and details relating to the transfer of assets, liabilities, and employees from local authorities to new water services entities.

15. We have concerns about Part 1/66 (below) - concerns that it means that these entities don't have to follow the process set out in the Bill. This is bad legislation. The law must be clear enough for everyone to understand. There is no excuse for the authorities not to understand and comply with the laws they implement.

## **66 Validity of board members' acts**

The acts of a person as a member, chairperson, or deputy chairperson of the board are valid even if—

- (a) a defect existed in the appointment of the person; or
- (b) the person is or was disqualified from being a board member; or
- (c) the occasion for the person acting, or for their appointment, had not arisen or had ended.

Compare: 2004 No 115 s 34

And more concerning and confusing wording in 109. Again the law must be clear enough for everyone to understand. Does this mean that board members CAN be in breach of conflict of interest rules and get away with it?

## **109 Entity may avoid certain acts done in breach of conflict of interest rules**

- (1) A water services entity may avoid a natural person act done by the entity in respect of which a board member was in breach of **section 105**.
- (2) However, the act of a board member—
  - (a) may be avoided only within 3 months of the affected act being notified—
    - (i) to the chairperson of the regional representative group, under **section 101(a)**; or
    - (ii) under **section 106(1)(b)**, and in accordance with the procedure specified, for the purposes of **section 106(1)(b)**, in the constitution; and
  - (b) cannot be avoided if the entity receives fair value in respect of the act.
- (3) An act in which a board member is interested can be avoided on the ground of the board member's interest only in accordance with this section.

Compare: 2004 No 115 s 69

**Recommendation: That this legislation is repealed in its entirety and local councils properly funded via Reserve Bank funding, either through gift or no/low interest loans.**

Kiwis have always prided themselves as living in a democracy – a country where they could have a real influence over the decisions that affected them. That is rapidly being eroded with influence over decisions being removed as government adopts further centralisation of decision making.

Outdoors & Freedom Party appeals to all MPs to demonstrate their dedication to the principles of democracy and oppose this legislation.

We wish to speak to the Committee.