

PLEASE QUOTE

Your Ref.

Our Ref. 15/6/5

Enquiries AD:AW

80 Wilson Street, Burnie Tasmania

P.O. Box 973, Burnie TAS 7320

Telephone: (03) 6430 5700

Facsimile: (03) 6431 3896

E-mail: burnie@burnie.net



6 September 2017

The Hon Rosemary Armitage MLC
Chair
Legislative Council Select Committee TasWater Ownership
Parliament House
HOBART TAS 7000

To the Hon ^{Rosemary} Rosemary Armitage MLC

**LEGISLATIVE COUNCIL SELECT COMMITTEE TASWATER OWNERSHIP
- BURNIE SUPPORTS MAINTAINING LOCAL OWNERSHIP**

Thank you for the opportunity to provide a submission on ownership of TasWater.

This is a matter of considerable concern for our Council and we voted in support of the following LGAT Motion at the meeting on 11 May 2017:

"That Members confirm there is no water and sewerage crisis, reject the proposed State Government ownership of TasWater and, through LGAT, urge the State Government to work cooperatively with LGAT, Councils and TasWater on the optimal water and sewerage infrastructure upgrade program to achieve the best outcome for Councils and Consumers."

The Burnie City Council reaffirmed this support at its meeting of 20 June 2017 when it determined to:

"Maintain a position that local government ownership and control is in the best interest of the Burnie community in the long term and acknowledge the achievement of TasWater over the last 3 years."

The Council believe the proposed State Government ownership is unnecessary and not in the best interest of the Burnie ratepayers. There has been a lack of consultation with key stakeholders and lack of robust data and financial modelling made available to substantiate the claims being made by the State Government. Further we note the change in ownership would have significant long-term impacts to the Burnie community as a consequence of the loss of the distribution payment to Council.

Our specific concerns are raised in the attached pages.

Burnie City Council is not specifically seeking to present to the Select Committee through the hearing process, however if any aspects require further explanation we would be very happy to do so.

For any further information please contact the General Manager, Andrew Wardlaw on awardlaw@burnie.net or (03) 6430 5705.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anita Dow', with a stylized flourish at the end.

Ald Anita Dow
MAYOR



Submission from Burnie City Council

Legislative Council Select Committee - TasWater Ownership Inquiry

September 2017

Submission from Burnie City Council

Preamble

The Burnie City Council would like to thank the Legislative Council for providing the opportunity to make a submission on why the proposal of the State Government, to radically reform the delivery of water and sewerage in this State, is not in best interest of Burnie and Tasmanian ratepayers.

While there is no denying that the magnitude of the water and sewerage reform in 2009 generated some early challenges, since the establishment of TasWater in 2012 the organisation has matured and is on a defined pathway. The governance and operations of TasWater is the best it has ever been, there is an agreed vision, clear understanding and pathway to address non-compliance issues in a reasonable time, all supported by a Price and Service Plan to ensure that the corporation remains commercially sustainable.

The independent systems that form the regulatory oversight of water and sewerage delivery in Tasmania, the Office of the Tasmanian Economic Regulator and the Environmental Protection Authority Tasmania have not expressed any concerns that would indicate that there is a water and sewerage crisis in Tasmania.

The Burnie City Council is concerned that the current agenda of the State Government is not in the best interest of the ratepayers of Burnie or in the interests of all Tasmanians.

Terms of Reference

This submission is responding to the following term of reference:

To inquire into a report upon the concept of ownership of TasWater by Government with the following Terms of Reference:

- 1. The benefits, disadvantages and challenges associated with the Tasmanian Government's proposal to take control of TasWater; and*
- 2. Any other matters incidental thereto.*

Burnie City Council's Position

The Burnie City Council maintain that local government ownership and control is in the best interest of the Burnie community in the long term and acknowledge the achievement of TasWater over the last 3 years.

Submission from Burnie City Council

Background

The Burnie City Council actively engaged with the State Government in 2007 following the release of the discussion paper by the State Treasurer in December 2006 titled: *Reform of Tasmania's Water and Sewerage Sector*.

The Council provided a submission to the State Treasurer that welcomed and cautiously supported the Government's initiative in reviewing opportunities for improvement in the State Water and Sewerage Sector.

At the time Burnie submitted, amongst other things, that:

1. *Local government continues to play a key role in the delivery of water services in many jurisdictions in Australia and around the world;*
2. *There has not been a trend away from local government involvement in water services in Australia in over two decades;*
3. *Local government has been able to successfully provide increasingly commercial – including efficient and customer focussed – services; and*
4. *The nature and form of local government service provision has changed and can continue to evolve to meet the increasing expectations on service standards and water quality.*

A decade on and the statements remain just as relevant. Despite the views of the current State Treasurer there is not a crisis in water and sewerage in Tasmania. There is no doubt that since the establishment of Cradle Mountain Water and then TasWater that the sector has quickly matured and evolved to meet the increasing expectations of today's communities and regulators.

In the February 2007 submission Burnie further submitted that:

1. *Efficient and effective provision of water services is dependent on a sound regulatory, institutional and governance base; and*
2. *Efficient and effective provision of water services is not dependant on ownership forms.*

Again this remains just as relevant in 2017 to when the reform was introduced in 2009, which included a new role for the Office of the Tasmanian Economic Regulator; an increase compliance regime imposed by the Environmental Protection Authority; and a professional governance framework lead by an independent board and focussed management team.

The water and sewerage sector has significantly improved from the performance and compliance position that was inherited by the corporations in July 2009. The issue of ownership has no bearing on the delivery of water and sewerage services being efficient and effective.

Submission from Burnie City Council

Financial Implications

In July 2009 the Burnie City Council transferred net assets to Cradle Mountain Water amounting to \$93.4m and this was subsequently, following a fair value adjustment reduced to \$57.9m with equity of 17.8%. When the assets of the three corporations were merged to form TasWater, Burnie's equity reduced to 4.14%.

In 2009 Council held assets in Integrated Services¹ of \$144.2m and received a modest four year average return on investment of 0.5%.

The Burnie City Council did not receive a priority dividend in the early years and it was not until 2015 that it received a full distribution of \$1.242m based on its 4.14% equity in TasWater. This equated to a 1.95% return on Council's investment in TasWater. Although greater than the average of 0.5% on all measures it is relatively modest and nothing like what would be expected if full national competition policy principles were applied. Burnie was supportive of TasWater's reduction in distribution from \$30m to \$20m in 2018, to assist in funding a revised ten year capital program. This will reduce Burnie's distribution to \$0.828m.

With regard to Integrated Services the Burnie City Council complied with the Competition Principles Agreement that the State of Tasmania signed with the Commonwealth of Australia and other States and Territories on 11 April 1995. The stated objective being the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities.

The State Government placed this onus on local government via s84 of the *Local Government Act* and in Burnie's case it was included in its Partnership Agreement with State Government that was signed in September 2002. The Agreement stated:

"The Burnie Council agrees to voluntarily meet its National Competition Policy (NCP) obligations as set out in the NCP Agreements in relation to the relevant activities of the Burnie City Council. The Government through the Department of Treasury and Finance, agrees to assist the Burnie City Council in understanding its NCP obligations and to work cooperatively with the Burnie City Council to resolve Burnie City Council issues that may arise, including through the National Competition Council assessment process."

Over the years the Department of Treasury and Finance issued variance guidance with the December 2013 issue of the *National Competition Policy: Applying the Principles to Local Government in Tasmania* clearly stating on page 6 what is required including:

¹ Integrated Services include water, sewerage and drainage assets.

Submission from Burnie City Council

- *specification of a dividend expectation by the owner council via a Charter or equivalent;*
- *a clear requirement to return a profit and a commercial rate of return on the owner council's investment or interest on internal borrowing.*

The point being made here is two-fold, firstly local government has been expected by the State Government due its own agreement with the Commonwealth Government to apply commercial realities to water and sewerage assets; and secondly within the proposed *Water and Sewerage Tasmania Bill 2017* it has specifically excluded s7(1) of the *Government Business Enterprises Act 1995* that states:

“(1) The principal objectives of a Government Business Enterprise are –

(a) to perform its functions and exercise its powers so as to be a successful business by –

- (i) operating in accordance with sound commercial practice and as efficiently as possible; and*
- (ii) achieving a sustainable commercial rate of return that maximises value for the State in accordance with its corporate plan and having regard to the economic and social objectives of the State; and*

(b) to perform on behalf of the State its community service obligations in an efficient and effective manner; and

(c) to perform any other objectives specified in the Portfolio Act.”

Since the 1990's the Burnie City Council has structured its financial arrangements around receiving a positive return on investment for its Integrated Services assets and this ensured that a user pays principle applied and that there was no cross subsidisation from the general rate.

The Burnie Council has received a return on investment that could be argued given the principles applied by the Department of Treasury and Finance to be too modest. Regardless Burnie has been utilising this modest return from the Integrated Services assets to fund its operation and while there has been a commitment by State Government to protect this income until 2024-25 if it was fully lost it would place a significant burden on the ratepayers of Burnie.

The Integrated Services assets have been in the main funded and maintained by the ratepayers of Burnie and it is fair and reasonable that they should continue to receive into perpetuity the benefits from this direct local ownership.

Submission from Burnie City Council

It is proposed that the distributions will be maintained to local government until 2024-25 from the Consolidated Fund, however what happens after 2024-25? It is considered highly likely that with no legislative imperative on the Corporation to operate, within sound commercial practice, or achieve a sustainable commercial return, that local government should expect there will not be any profits. This would be to the detriment of the ratepayers of Burnie.

The existing Letter of Expectations issued by Owner Representatives of TasWater will be replaced by a Ministerial Charter that is required by the *Government Business Enterprise Act 1995* and unless this mandates a reasonable expectation for a return on investment on the Board, and with no Economic Regulator oversight, a sustainable profit will be at the whim of two Ministers.

There is a suggestion in the *Bill* that local government will only receive half of any profits after 2024-25, however is silent on whether there will be any distribution of the other half. If the intention is that only 50% of profits are to be distributed, that may be fair and reasonable, however if the remaining 50% share or portion thereof, is to be distributed to the State Government a discussion of an equity contribution should be held with local government.

Summary

There is no crisis in water and sewerage and the current model, with local government control, Officer of the Tasmanian Economic Regulator and Environmental Protection Authority Tasmanian oversight, providing the best outcome for the ratepayers of Burnie and Tasmania.