

5 September 2017

Hon Rosemary Armitage MLC
Chair
Legislative Council Select Committee into TasWater Ownership
Parliament House
Hobart TAS 7000

Dear Ms Armitage

Legislative Council Select Committee into TasWater Ownership

The Flinders Council is pleased to make the attached submission to the Legislative Council's Select Committee inquiring into the future ownership of TasWater.

Following the establishment of the regional authorities and subsequently TasWater, the Flinders Council has had a long involvement in the oversight of our water and sewerage services.

In May 2017, a motion was successfully moved at the Local Government Association of Tasmania meeting that expressed councils' collective opposition to the proposed State Government takeover.

Flinders Council is strongly of the view that the proposed takeover is not in the interests of our Council or Community or the effective and efficient operations of TasWater. The proposed takeover would have significant and long-term impacts on our Council and Community as a result of the loss of distribution payments.

More details of our concerns are outlined in the attached submission.

Flinders Council would be happy to present to the Select Committee through the hearing process.

Yours sincerely



Bill Boehm
General Manager



FLINDERS
COUNCIL

Submission to a Legislative Council Select Committee

**Upon the Ownership of TasWater by the
Tasmanian Government**

Signed on behalf of and with the approval of Flinders Council

Bill Boehm, General Manager

31 August 2017

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EXECUTIVE SUMMARY

This paper is submitted by Flinders Council to a Legislative Council Select Committee charged with inquiring into the benefits, disadvantages and challenges associated with the Tasmanian Government's proposal to take control of TasWater and any other matters incidental thereto.

Flinders Council recommends that the Legislative Council reject the Bill to facilitate the Government's proposal to take control of TasWater because:

- the perceived slowness of TasWater to remove Boil Water Alerts as the main reason promulgated by the Government is not supported by facts and, in any event, TasWater is on track to remove all Boil Water Alerts in accordance with its planned timetable;
- the council shareholders of TasWater are not guaranteed to receive future dividends to compensate for their original investment of acquiring the assets of TasWater; and
- there is no indication that the Government intends to pay anything towards the market value of the assets it intends to acquire.

INTRODUCTION

The Tasmanian Water and Sewerage Corporation Pty Ltd commenced operations on 1 July 2013 following the amalgamation of three Tasmanian water and sewerage corporations, being Ben Lomond Water, Cradle Mountain Water and Southern Water and their shared services firm, Onstream. The three water and sewerage corporations commenced operations in 2008 following the transfer of water and sewerage operations from the local government councils of Tasmania.

The Tasmanian Government has stated that it wishes to take over the operations and assets of Tasmanian Water & Sewerage Corporation Pty Ltd (commonly referred to and trading as TasWater).

In order to facilitate the government being responsible for providing water and sewerage services in Tasmania, the government has introduced two draft Bills into Parliament. They are:

- *Water and Sewerage Tasmania Bill (2017)* and
- *Water and Sewerage Tasmania (Consequential and Transitional Provisions) Bill (2017)*.

The Bills anticipate that a new Government Business Enterprise (GBE) called Water and Sewerage Tasmania will be created which will be responsible for providing water and sewerage services in Tasmania which are currently provided by TasWater. Corporations Law will not be applicable; instead the GBE will be subject to *Government Business Enterprise Act 1995* except in cases where there is conflict with the *Water and Sewerage Tasmania Bill*.

It is interesting that the Bill refers to TasWater as a "council-owned company". No mention is made of TasWater. One could interpret this wording as meaning the legislature has already expunged TasWater from common usage.

This submission is written on the basis that the Bills have not been passed through the House of Assembly and that there have been no amendments to the Bills as originally drafted.

GENERAL COMMENTS

There has been much discussion about the Tasmanian Government taking over the responsibility for water and sewerage from the time the Treasurer announced the intention of the government at a conference of the Committee for Economic Development of Australia on 20 February 2017. Until that time there were no individuals in TasWater or associated with councils (the owners of TasWater) who had any inkling that the government intended to pursue this course. That is, in spite of there being regular meetings between the Treasurer and the TasWater board and management.

If the Treasurer and TasWater had met to discuss the concerns expressed publicly by the Treasurer there may well have been the opportunity to resolve matters without the acrimony that has been exhibited in the public arena.

SPECIFIC AREAS OF CONCERN

SLOWNESS TO REMOVE BOIL WATER ALERTS

Repeated comments by the Treasurer that TasWater has been too slow to remove Boil Water Alerts do not stand scrutiny. TasWater has a published objective of removing all Boil Water Alerts by August 2018 and is on target to meet that deadline. The Treasurer has been made aware of the objectives and until February this year has seemed to be satisfied with progress.

There have been new Boil Water Alerts introduced since July 2013 (when TasWater assumed control of water supply) and TasWater is in the process of removing those.

It is definitely a challenge for TasWater to remove Boil Water Alerts, but it has to be remembered that TasWater only took over the operations in July 2013. In that time TasWater has had to, among other things, consolidate three operational companies into one, amalgamate communications protocols and combine employment agreements. It should be acknowledged that TasWater has performed extremely well to address those processes as well as continue operations, which includes removing Boil water Alerts.

EXTRA EFFORT TO REMOVE BOIL WATER ALERTS

To put extra resources into removing Boil Water Alerts does not make economic sense. It would appear that there are not enough tradesmen in Tasmania who could be engaged to undertake the task of removing Boil Water Alerts. Not only will money be sent out of Tasmania, if tradesmen can be sourced from the mainland, but spending more to shorten the time to remove Boil Water Alerts will be inefficient. Extra resources will be needed to closely manage each project and there will be down time while different tasks are completed.

As Flinders Council is in a fishing region, let us use the analogy of the speed of a fishing boat for comparison. A boat might travel at 8 knots with the engine running at 1,200 revolutions per minute (rpm). If the engine is sped up by 50% to 1,800 rpm the boat speed might increase by 25% to 10 knots. All that has happened is that more fuel is used to travel the same distance, the engine is noisier and there is much more stress placed on the engine, gearbox and other infrastructure on the boat. It does not make sense to speed up.

Likewise, it is inefficient to force extra resources into clearing Boil Water Alerts when the outcome achieved will not be much quicker than that already scheduled by TasWater, but will cost considerably more and put extra stress on the operations.

TRADESMEN NEEDED TO REMOVE BOIL WATER ALERTS

Comment has been made that a Water and Sewerage Corporation, under government ownership, would spend more money to reduce the time to remove Boil Water Alerts. It is possible to spend more, but to do that would require tradesmen to be imported from the mainland. There are simply not enough tradesmen in Tasmania to provide the relevant skills. Comment has been made that the completion of the Royal Hobart Hospital renovation will provide a source of skilled tradesmen. That is not a realistic assumption; the trade skills used for a hospital fit-out are different from those necessary to address the removal of Boil Water Alerts.

SCRUTINY BY SHAREHOLDERS

TasWater is owned by the 29 local government councils in Tasmania. TasWater has been extremely diligent in providing its shareholders with the opportunity to review its business. This review has traditionally been done via quarterly meetings of Owners' Representatives. There can be very few corporations the size of TasWater in Australia which provide as much information to shareholders as does TasWater. Indeed, companies listed on the Australian Stock Exchange provide their shareholders with far less information.

Not only does TasWater provide information to its shareholders it also subjects itself to review of its operations and performance by shareholders. No listed company does that. It must be remembered that councils were responsible for providing water and sewerage services until the services were transferred to companies like Ben Lomond Water some 8 years ago. Councils had run these services for over 100 years in some cases and have extensive knowledge in this field.

The transfer of ownership of TasWater to the government will mean the collective corporate culture and experience will be lost to the management of water and sewerage services. Government does not have the requisite knowledge in this area.

DIVIDEND DISTRIBUTIONS

The proposed legislation relating to the transfer of ownership of TasWater's operations from councils to the government addresses the matter of dividends. Particular detail is paid to dividends after 2025. The Bill anticipates that 50% of stated profit will be paid to councils by way of dividend. That sounds reasonable. Many councils have come to rely on the dividend distributions from TasWater. Dividends are recognition that councils have invested their own funds in water and sewerage infrastructure and now that those assets have been transferred to TasWater, the councils regard the dividend as compensation for their investment.

However, under the proposed Act the dividend does not have to be paid in certain circumstances. Some of the circumstances are where the new corporation cannot achieve its objectives under the new Act or under its corporate and infrastructure investment plans. It would not be difficult to anticipate instances where there would be a conflict between, for example, the corporate objectives of the new corporation, Water and Sewerage Tasmania, resulting in no dividend being paid.

The Shareholders' Letter of Expectations, adopted by general meeting on 16 May 2013 and updated 28 July 2015 and presumably reviewed and approved by the TasWater board of directors and Treasury, states at 4.1(c)(ii):-

- *The Corporation shall operate in a manner consistent with the principal objectives under the Water and Sewerage Corporations Act 2012 to be a successful business, and to this end to deliver sustainable returns to its members.*

In order to comply with the Shareholders' Letter of Expectations it would appear that the government approved that shareholders receive dividends.

There are two reasons for receiving dividends. One is to pay councils (provide a yield) for the assets transferred to TasWater from the three preceding operating entities. The other is to compensate councils for the loss of revenue they have incurred since they have ceased providing services for water and sewerage.

The proposed Act provides the ability of the new corporation to reduce or eliminate dividends to councils. That puts councils at a severe disadvantage.

SOURCE OF DIVIDENDS

Under the provisions of the Bill, it is proposed to pay a dividend to shareholder councils until 30 June 2025 from the Consolidated Fund [Section 10].

This provision has been included in the Bill to ensure there is consistency with the dividend policy which TasWater developed and the policy which the new corporation will assume.

The manner in which the government proposes to pay the dividend until 30 June 2025 is perplexing. TasWater has agreed to pay dividends from its own surpluses until 30 June 2025. For the government to decide that councils will be paid a dividend from the Consolidated Fund in order that the new corporation can use surpluses to advance capital works is not logical. The government could quite easily retain TasWater and provide an amount equivalent to the proposed dividend by way of grant or other to TasWater to allow TasWater to expand its capital expenditure.

FUNDING FOR CAPITAL EXPENDITURE

The government believes it will be able to borrow money on better terms than TasWater could under the present structure. This may be possible.

However, TasWater has a strong Balance Sheet. It has a strong underlying net asset position and would be well able to source borrowings in its own right. Indeed, as at 30 June 2017 TasWater has unaudited borrowings of \$479 million against assets of \$2.165 billion. There is headroom for TasWater to increase its borrowings, but any increase should take into account the ability of TasWater to service the borrowings and make repayments on schedule.

TasWater, in its report "10 Year Financial Plan Financial Years 2016-17 to 2025-26", anticipates its borrowings will rise from \$500,629[000] to \$891,023[000] being an increase in gearing from 31.5% to 47.1%.

The Treasurer has stated that ownership of TasWater is the only circumstance under which the state government will put money into TasWater. It does not have to be that way.

The state government can secure its contribution by a number of ways. The state government:

- could take security over the assets of TasWater.
- could take security over future income streams of TasWater
- could require amendments to be included in the constitution of TasWater
- could legislate to secure a security.

There are probably more options – the state government could simply give an unsecured loan – but they could be worked through.

These options would remove the disadvantages of a change of ownership of the water and sewerage business.

PAYMENT FOR ASSETS OF TASWATER

At 30 June 2017 TasWater had (unaudited) shareholders' funds of almost exactly \$1.6 billion. Shareholders' funds record the value of TasWater. This figure is derived after net surpluses or losses and dividends are accounted for. The figure is also derived after taking into account the values of assets owned by TasWater; such assets including dams, and water and sewerage infrastructure. These assets have been assessed by valuers, in the same way in which councils value their own roading infrastructure for example. It follows that the assets of TasWater have been recorded in the balance sheet at a figure which reflects the market value of the net assets of TasWater. It also follows that councils throughout the state have a consolidated figure of \$1.6 billion recorded in their balance sheets as an investment.

If the ownership of TasWater were to be transferred to the state government then councils would be entitled to expect payment based on shareholders' funds. That is, a payment of \$1.6 billion.

The way the draft Water and Sewerage Tasmania Bill 2017 is drafted there is no obligation or intent by the government to compensate the 29 owner councils for their investment in TasWater.

The loss of around \$1.6 billion can only be seen as a disadvantage to the ratepayers of the owner councils. After all, it was those ratepayers who transferred their own assets (via intermediary companies) to TasWater. It is the ratepayers who lose; the winners are the residents of Tasmania. The residents are a different group and should not be confused with ratepayers.

CONCLUSION

Flinders Council has taken a strong interest in the proposition by the Treasurer to acquire the water and sewerage operations for the government of Tasmania. As outlined above, there are good reasons with limited benefits and severe disadvantages that this should not happen.

Not discussed above is the recognition that TasWater has constructed water purification plants at Whitemark and Lady Barron on Flinders Island. Both townships now have potable water. The supply of potable water was not an option under the model when Flinders Council owned and managed the water supply and nor was it an option when Ben Lomond Water took control of the water supply. The cost was too great.

There are many isolated communities with similar circumstances to that of Flinders Island. TasWater has been able to find a way to make the purification happen. Flinders Council has serious doubts that a state owned corporation would do the same.