

21 July 2022

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Supplementary submission on the *Water Services Entities Bill* : PRIVATE EVIDENCE

1. The Christchurch City Council (the Council) thanks the Select Committee for the opportunity to provide further context to our submission on the Water Services Entities Bill (the Bill), submitted via the Parliament website on 21 July 2022.
2. This supplementary submission consists of private evidence relating specifically to the definition of “infrastructure assets” in the Bill, which we consider needs to be urgently amended to provide clarity on the meaning of the clause.

Background of City Care Ltd (CCL)

3. CCL is a council controlled trading organisation (CCTO) which provides infrastructure services to over two million New Zealanders from 16 locations throughout the country, and has an annual turnover in excess of \$300 million. CCL is wholly owned by Christchurch City Holdings Limited (CCHL), the Council’s holding company.
4. CCL has two operating arms under the CCL umbrella – Citycare Property and Citycare Water. Citycare Water provides:
 - three waters design, construction and maintenance solutions,
 - asset management and optimisation services,
 - network management and resilience solutions ensuring safe and sustainable three waters networks.
5. Citycare Water competes for work in the open market by tendering for contracts with central government, local councils, and private sector customers. Other contractors who also compete for these same contracts include the likes of Downer, Fulton Hogan, Veolia, and Corde (formerly Sicon). The majority of Citycare Water’s contracts are for the maintenance of council-owned Three Waters infrastructure assets, which Citycare Water delivers in parallel with each council’s own in-house Three Waters asset management staff and water and wastewater treatment plant operators. Citycare Water is not the owner of three waters infrastructure assets.
6. CCL is also the majority owner of a subsidiary, Apex Water Ltd, which is a specialist organisation focused on offering water and wastewater treatment solutions for large and boutique

industries, as well as communities. The remaining shareholder interests in Apex Water are privately owned.

The Water Services Entities Bill

7. Schedule 1 clause 1 of the Bill proposes the following definitions:

water services reform means—

- (a) the establishment of water services entities to deliver water services in accordance with this Act; and
- (b) the transfer of interests in, and the ownership of, infrastructure assets from local government organisations to the water services entities.

infrastructure assets includes—

- (a) existing or proposed assets to be used to provide services by or on behalf of the water services entity in relation to water services; and
- (b) any other assets that the water services entity wishes to include in the strategy

local government organisation has the same meaning as in section 124 of the Local Government Act 2002¹.

Problem definition

8. The unbound definition of “infrastructure assets” in the Bill could unintentionally capture all CCTOs which provide water related services to local authorities across the country, as well as council controlled organisations (CCOs).

9. While it is commonly understood and accepted that CCOs like Watercare Services in Auckland and Wellington Water are intended to be captured by the transfer provisions of the Bill, our understanding is that organisations such as CCL are not. CCL has a contract for services with the water service provider – it is not the water service provider.

10. Without the Bill being amended to explicitly exclude CCTOs and thereby correct this unintended consequence, organisations such as CCL could come within the definition of an infrastructure asset of the Council and therefore could be subsumed into the Southern Water Services Entity.

11. The following is provided to highlight the key differences between CCOs and CCTOs.

Council Controlled Organisations - Watercare	Council Controlled Trading Organisations - Citycare
SOI	SOI
Operational separation from council as owner with independent governance.	Operational separation from council as owner with independent governance.
Owns, operates, maintains and renews the water services assets.	Along with private sector companies and other CCTOs, CCL holds contracts with the Council and other councils, companies and industries

¹ Section 124 of the LGA 02 defines **local government organisation** as meaning a local authority, council-controlled organisation, or subsidiary of a council-controlled organisation, that provides water services

A hybrid procurement strategy which includes outsourcing of maintenance services contracts to suppliers including CCL.	for the delivery of a range of services that include the design, build, maintenance and operation of their water services assets. It does not own any physical water assets – these are owned by councils. It seems that the CCL company as an ‘asset’ could also be caught under the current wording of the clause, regardless of whether the Council had a water services contract with CCL, as long as other councils did.
Develops own work programme subject to SOI, including meeting contractual commitments as a client entity.	Work programme subject to SOI and meeting contractual obligations as a service provider.
No dividends can be returned to council, surplus reinvested in maintenance and renewals.	Percentage of profits returned to its shareholder (CCHL) as dividends. Balance retained in the company to support growth, innovation and enhanced service delivery.
Transfer to Water Services Entities well-signalled and anticipated with no financial repercussions beyond what has been stated.	Transfer of all or part of CCTOs not signalled at any stage, and would have significant financial, reputational, regulatory & staffing implications for CCHL, the Council and CCL, as well as other CCTOs across New Zealand.

Submission

12. If the Bill is to progress as-is, there could be serious consequences for CCTOs across the country, including CCL. These operate in a commercial environment, and the conversation must be treated accordingly – clarity is needed before this is discussed in public.
13. We submit that CCTOs, such as CCL, should be explicitly excluded from the framework. To not do so would have commercial implications for the entity, CCHL as shareholder and the Council as the ultimate shareholder.
14. As it stands, CCL is a leading national provider of facilities and infrastructure maintenance, asset management/optimisation and construction services. These services are provided to a number of central government, local council, and private customers across New Zealand – it does not do maintenance work solely for the Council. With CCTOs continuing to operate as they do now, they will be able to continue to provide services on contracts novated to the water services entities, and to continue to return dividends to their shareholders – as would be the case with any private contractor providing the same services.
15. This is a critical issue for the Council, and we strongly urge the Select Committee to give this matter due consideration.
16. Below is a proposed amendment to the definition of ‘infrastructure assets’ in clause 1 (1) of Schedule 1 that would exclude CCTOs but include CCOs, thereby capturing organisations such as Watercare Services and Wellington Water as expressly intended by the Government.

infrastructure assets

(a) includes—

- (i)** existing or proposed assets to be used to provide services by, or on behalf of, the water services entity in relation to water services; and
- (ii)** any other assets that the water services entity wishes to include in the strategy; but

(b) does not include a council controlled trading organisation that has a contract for services with a local government organisation

For any further questions on this supplementary submission, please contact David Griffiths, Head of Strategic Policy and Resilience (david.griffiths@ccc.govt.nz).

I look forward to the opportunity to speak to this supplementary submission, alongside our substantive submission.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Lianne Dalziel', with a long horizontal flourish underneath.

Lianne Dalziel

Mayor of Christchurch