

**Submission
No 4**

**JOINT SELECT COMMITTEE ON PROTECTING LOCAL WATER UTILITIES
FROM PRIVATISATION**

Organisation: Canberra Region Joint Organisation

Date Received: 31 October 2023

Canberra Region Joint Organisation

Submission to the

NSW Parliamentary Joint Select Committee

on Protecting Local Water Utilities

from Privatisation



Canberra Regional Joint Organisation of Councils

Purpose of this submission

This submission addresses the terms of reference of the NSW Parliament Joint Select Committee on Protecting Local Water Utilities from Privatisation (proceeding No 18, item 12, resolution 1 on 3 August 2023) being:

“The Committee will inquire into and report on how the Government can prevent and stop privatisation of local water utilities with reference to:

- (a) How local water utilities and their assets can be best protected against privatisation, forced amalgamations and sell-offs;*
- (b) Reviewing governance and other legislation relating to the potential privatisation of local water utilities; and*
- (c) Any other related matters.”*

Background

The Canberra Region Joint Organisation area covers 11 LGAs in south-east NSW and the ACT. The region’s population is approximately 750,000 covering a total area of 48,000km². The CRJO provides a forum for councils, State agencies and other stakeholders to work together at a regional level.

The CRJO engages with member Councils in a collegiate way for the benefit of all parties and the communities we serve. The priorities of the CRJO are established by the General Managers Group and reported to the CRJO Board of Mayors for determination.

The CRJO has established working groups specific to infrastructure including our Infrastructure Working Group and Water Utilities Managers Group as well as our Procurement Working Group and Workforce Development Groups. These groups share information on current best practice and work collaboratively on achieving better outcomes across the member Councils.

This specific submission has been compiled by our Water Utilities Working Group prior to review and agreement by the member Councils.

Our member Councils are also members of the NSW Water Directorate and Local Government NSW.

All member Councils within the CRJO are water utilities with the function of looking after water and sewer except for Wagga City Council. Riverina Water is responsible for water supply for Wagga City Council LGA, whilst the sewerage scheme is the responsibility of Council.

Response

The CRJO strongly advocates that water utilities remain with Local Government and/or the existing Country Councils and NOT be privatised.

The CRJO supports the submissions made by the NSW Water Directorate and LGNSW aimed at preventing the privatization of water utilities in NSW.

The CRJO highlights the following additional matters.

Why local water utilities and their assets should be best protected against privatisation, forced amalgamations and sell-offs.

Local Water Utilities (LWU) are an integral part of the operational and financial sustainability of regional Councils. These are essential services critical to all regional communities across NSW and it is our view that local Councils are best positioned to deliver the services needed by their own local communities.

NSW LWUs have proven to be effective entities capable of delivering water services safely, securely, and efficiently. Moreover, they have demonstrated their ability to identify challenges and implement necessary reforms, ensuring an integrated and locally appropriate approach to water supply and sewerage management. This approach optimises outcomes for the entire community.

The Department of Planning and Environment (DPE) Water, oversees and monitors water utility and is the primary policymaker for all water utilities and regulator for the 92 regional LWUs. The performance of LWUs in regional NSW compares favourably with utilities in other Australian jurisdictions in terms of water pricing, water quality, sewage effluent quality and residential bills performing equal or better than comparable regional areas.

Importantly, the strategic direction and pricing of water and sewer services is set by local Councils after extensive engagement through the integrated water cycle management strategy, strategic business planning and integrated planning and reporting (IPR) processes. These robust processes are already well legislated within the Local Government Act 1993 (as amended) and the Water Management Act 2000. Water pricing is also signed off by the NSW Government through the Department of Planning and Environment with the well established processes to independently assess Council's methodologies.

The outcome is that decisions relating to the desired level of service and affordability of water and sewerage services to the community is made locally working closely with the local community and businesses.

Councils are already well versed in the required planning and delivery of water and sewer services and continue to provide good value outcomes for the community.

The integration of water and sewer services into the remainder of Council's operations brings many additional efficiencies and reduces the adverse impacts on the community. This includes the seamless planning and delivery of work across infrastructure services. This also extends the life of many local Government assets, ultimately lowering the cost to current and future communities.

A simple example of this type of integration includes the renewal and/or upgrade of ageing water and sewer assets immediately prior to the renewal and/or upgrade of local road infrastructure. The outcome of this seamless integration is a reduction in the total cost of overall service provision, a lower impact on residents and improved worker safety during construction works.

For many regional Councils, the integration of the water and sewer services also provides vital increase in the scale of the overall operation of Councils, allowing vastly improved support services across all areas of Council. This includes service areas of Council's business such as Governance, Workshop, Finance, Information Technology, Human Resources, Payroll and Procurement.

This includes providing a greater capacity for Councils to attract specialist trainers to their regional location at an affordable rate to provide integrated training across all infrastructure areas.

It also provides a greater capacity to employ local people from local regional communities as cadets, trainees and apprentice with an ability to rotate these young people across infrastructure types to provide them with far broader training and experience to give them the very best start in their career and life. Our more experienced workers also take great pride in developing the younger people within our teams to safely deliver high quality services to their community, delivering intergenerational benefits into the future.

Additionally, many Councils have already invested in the provision of well-established supporting facilities to house water and sewer technical and operational staff. Many of these are integrated with the facilities for Council's other operations.

Water and sewer staff working for the local Councils are local people serving their own local community. They do this with a sense of pride and care knowing they are servicing their family, friends and their own community.

Local water and sewer staff also provide additional surge capacity during and immediately following natural disasters and other emergency situations. This has proved invaluable given the increasing number and intensity of natural disasters over the last decade.

These staff are also key players in the provision of 'eyes on the ground' identifying and reporting other challenges across Council infrastructure networks as part of the overall care for the regional communities they serve and live within.

The CRJO also provides a vehicle for the collaboration across member Council infrastructure and water and sewer teams and managers. Here sharing of best practice enables the pursuit of continuous improvement in service delivery at an affordable cost. This is superior to private service provider model as best practice is routinely and openly shared amongst providers under the current Council owned delivery model.

A recent example of this collaboration was the development of the CRJO critical infrastructure resilience plan template. This template incorporates water and sewer infrastructure. It also addresses the many challenges of trying to achieve improved resilience outcomes by integrating decisions on improving the resilience of mains power supply by Essential Energy and telecommunications resilience across multiple providers. These external services are integral to the Councils water and sewer operational resilience and take significant time and resource to coordinate. However the CRJO has been able to bring all of the parties together including in a single infrastructure provider workshop held in Canberra on 31 August, 2023.

A) How local water utilities and their assets can be best protected against privatisation, forced amalgamations and sell-offs?

It is well known that within NSW there are numerous models in place for the delivery of water and sewerage services. This is in many ways a reflection of the complex regulatory regime as well as the diversity of factors that influence the provision of services such as customer service expectations, drivers for servicing (such as supporting urban growth), geography/topography, water sources, climate variability and scale to name a few.

There are examples in NSW of private water/sewer schemes, single council run schemes, county council run schemes and prescribed entity run schemes. Each of the above serves its place under certain circumstances.

Within each of the operating models there are often nuisances around how services are delivered through different resourcing arrangements, for example through combinations of insourcing and outsourcing.

Bega valley shire council as the most south eastern local water utility in the state provides an interesting case study.

Some Council outsourced full management, operations and maintenance of its sewerage treatment plants which included a combination of building several new plants, augmenting some existing plants and operating/maintaining some existing plants.

What council found over time was that due to the contractor not having the same vested interest in the long term in the community as council that a culture of corner cutting and under investment occurred which meant at the end of the contract period council was handed back assets that had been 'sweat'.

In terms of water and sewer services they are enduring in that they will always be required and there is very little discretion available as to service standards given the necessarily highly regulated context they are delivered in. For clarity, public and environmental health impacts and outcomes are high stakes with respect to water and sewer services.

Under the current legislative framework lwu's are considered operator of last resort should private schemes fail. This onus on local government already creates a predicament when a service expectation is set however there is potential for an operator to cease service provision at the point of critical asset failure without any provision for asset renewal.

As a scenario the lwu may be expected to continue to operate the service and then create intergenerational inequality by charging current and future customers costs that should have been attributable to former customers of the privately run service.

Local government has clear mandates under the local government act in terms of its financial management and civic responsibilities to its constituents.

Outside of metropolitan NSW, the tyranny of distance and scale (or lack thereof) very quickly starts to impact economies of scale.

For many rural and regional councils, the integration of the function within council provides the necessary economies of scale to efficiently provide other services to the community. This includes provision of technical capability (eg civil engineering), plant and trades, as well as 'back of house' ancillary support such as finance, IT, human resources to name a few.

The quality of water and sewer services in NSW have moved forward in leaps in the past decade in particular and earlier. This is in no small part attributable to the commitment of local government as LWUs to provide for the best interests of their customers and communities. This has included collaborative relationships with government to develop policy frameworks and financing arrangements that have improved the safety and liveability of our state.

To potentially jeopardise this in any way would no doubt ultimately lead to an erosion in quality and liveability of our communities as well as cost of living.

In terms of the future frameworks to support efficient and effective provision of services there are opportunities for improvement and local government is committed to continue to partner with government to understand opportunities to achieve improvement.

Given the critical importance of water and sewer services as an essential service protection of their management in a local context is important.

As our state continues to experience the impacts of climate change the importance of integrated service planning and investment is essential.

Planning for and investing in water and sewer services is not something that can be done independent of local government or government in general. This is reinforced by the NSW Government's commitment to review the state disaster mitigation plan and facilitate local disaster adaptation plans through the NSW Reconstruction Authority.

B) Reviewing governance and other legislation relating to the potential privatisation of local water utilities.

LWUs, governed by councils and underpinned by the NSW Local Government Act 1993 and the NSW Water Management Act 2000, cannot currently be privatised without the consent of the Council and the Ministers for Local Government and Water.

The CRJO fully supports any legislative measures proposed by the NSW Government to protect LWUs against privatisation and the NSW Parliament should implement the necessary legislative changes to prevent the sell-off or privatisation of Local Water Utilities.

Legislative change through the Constitutional Amendment (Sydney Water and Hunter Water) Bill 2023 ensured the continued public ownership of Sydney and Hunter Water. The bill amended the Constitution Act 1902 by inserting a new part 10 dealing specifically with continuing public ownership of Sydney Water and Hunter Water. Under new section 57 (1), neither the corporations themselves,

nor a main undertaking of the corporation or any subsidiary, can be sold—or otherwise disposed of—without a new Act of Parliament to approve.

The CRJO strongly urges the NSW Government to extend these legislative safeguards to LWUs through similar amendments to the Constitution Act. Such an inclusion will provide the necessary legal framework to protect LWUs from privatisation as amendments made to the Constitution Act will bind current, and more critically, future governments from selling off LWUs and secure their continued public ownership.

The CRJO group member councils strongly support the continued local government ownership of Local Water Utilities and encourage the Joint Select Committee to implement suitable protections to ensure this remains the case now and into the future.

As outlined above, the Governance provisions for the operation of LWUs by Councils is already very strongly laid out in the Local Government Act 1993, Water Management Act 2000 and in the associated integrated planning and reporting provisions.

C) Any other related matters.

The CRJO group member councils support the prevention of privatisation of local water utilities to provide these essential services.

However, this should not prevent Councils from entering into various contracts for the delivery of works, whether that be capital, capital renewal, elements of on-going maintenance or specialist service provision. Fundamental to ensuring the best long term outcomes is that the ownership of the LWU and associated assets remain with the Council or existing County Council, and are prevented from being transferred to the private sector.

Similarly, any changes to legislation should not prevent a Council from entering into a public private partnership (PPP), if a Council determines this is the most viable way to deliver a particular piece of water and sewer infrastructure. The Office of Local Government already has strong oversight of any proposed Council PPPs with appropriate safeguards in-built into the approval processes associated with any PPP proposal.

The CRJO has been advocating for the improved coordination and integration of works to improve the resilience of mains power supply and telecommunications during natural disasters. This is important as the resilience of mains power supply and telecommunications directly impacted the resilience and operational efficiency of water and sewer services which are now highly dependent on telemetry and scada technologies. The CRJO is raising this as an issue in the development of the proposed State Disaster Mitigation Plan currently being prepared by the NSW Reconstruction Authority. As this challenge stretches across infrastructure types and providers, the CRJO raises this matter here for the awareness of the Select Committee and urges and the NSW Government to do more to ensure a coordinated approach to improving resilience to natural disasters across all infrastructure providers.

In the CRJO's view this may need modifying some elements of the existing NSW Government funding programs for water, sewer and electricity resilience and we have therefore made specific recommendations to the NSW Reconstruction Authority in this regard.