

**Submission
No 24**

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

Organisation: Central Tablelands Water

Date Received: 3 November 2023

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The Hon. Stephen Lawrence, MLC
Chair, Joint Select Committee on Protecting
Local Water Utilities from Privatisation
Parliament House
Macquarie Street
SYDNEY NSW 2000
Email: waterutilities@parliament.nsw.gov.au

Dear Mr Lawrence,

Re: Inquiry into protecting local water utilities from privatisation

Thank you for the opportunity for Central Tablelands Water (CTW) to provide a submission for the inquiry into protecting local water utilities from privatisation.

As background information, CTW is a County Council proclaimed in 1944 which currently provides quality drinking water to 15,000 consumers across 8,000km² in the local government areas of Blayney, Cabonne, Weddin, Cowra and Bland. An emergency bi-directional pipeline has also been commissioned linking CTW and Orange City Council water filtration plants to further assist in regional water security and resilience.

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

Commitment to preserve local government ownership of LWUs

This and other submissions make the case for continued local council ownership of water utilities. While this is accepted as part of current government policy, and is a given for the purposes of this Inquiry, it is nevertheless important that the Inquiry reports on and supports this position, for the various reasons which will emerge from submissions and public hearings.

Protection against privatisation

With CTW's proud history of providing quality drinking water to our respected consumers for almost 80 years, CTW strongly supports the protection of local water utilities from privatisation.

As a water county council, this model has consistently proven to provide an efficient and cost-effective essential service for the communities it serves. For example, as a regional



water authority, traversing many local government boundaries, CTW owns and operates a single dam (Lake Rowlands) to supply the drinking water for three local government areas, and can supply water to other neighbouring councils for emergency purposes. As opposed to each local council individually sourcing, treating and supplying water from the dam or their own smaller water sources, the county council model can manage a region's drinking water supply either through reticulation or bulk supply.

Efficiencies and water security resilience can also be obtained by neighbouring local water utilities working collaboratively by installing interconnecting bi-directional pipelines to transfer water for emergency purposes such as during drought. CTW has achieved this on a regional basis in collaboration with Orange City Council and Cowra Shire Council, with further regional town water strategies currently being developed.

This regional collaboration has been built over many years through the membership and participation in the Central NSW Joint Organisation Water Utilities Alliance (CWUA). The CWUA is a voluntary collaboration between eleven councils and CTW including the Local Government Areas of Bathurst, Blayney, Cabonne, Cowra, Forbes, Lachlan, Lithgow, Oberon, Orange, Parkes and Weddin. It represents a population of over 180,000 people covering an area of more than 53,000km² with 72,314 water connections and 14 water treatment plants across the region.

The aim of the Alliance is for local government to be recognised as national leaders in the delivery of secure and quality water supplies and sewerage services to grow Central NSW to 2059 and beyond.

The defining principle that guides the Alliance model is that it is critical for the resilience of regional communities that ownership and control over utilities such as water remain firmly in the public's hands through their local governments.

It is also important in the delivery of an essential service such as drinking water to foster and build relationships within the industry. CTW as a local water utility achieves this through the other three (3) NSW water county councils (i.e. Riverina Water, Goldenfields Water, ROUS), DPE Water, NSW Health, WaterNSW, NSW Water Directorate, Local Government NSW, Australian Water Association, Water Services Association of Australia, Water Industry Operators Association and The Water Conservancy.

Therefore, the key to protecting local water utilities from privatisation is collaboration by assisting each local water utility to address challenges, mitigate risks, and resolve issues, whilst delivering a safe, reliable and affordable drinking water supply to its local communities. This degree of collaboration could not be achieved through a privatisation model.

Forced amalgamations

As reported following the local government “Fit for the Future” process and subsequent council amalgamations in 2016, amalgamations in the regional areas have not proven to be as efficient and effective as touted by the government during the process. It has been seven (7) years since the amalgamations commenced and there is one (1) large rural council proceeding through the demerger process, whilst other large rural (amalgamated) councils are also strongly considering their options to demerge. The amalgamations with the significant challenges of harmonisation of rating systems, corporate information systems, salary systems and work cultures have been an extremely costly and exhaustive exercise.

Lessons learnt from the 2016 NSW council amalgamations clearly demonstrate that there is nothing to be gained by forced amalgamations of local water utilities. Because of regional distances, the individual water supply systems will necessarily remain separate. The focus needs to be on interconnecting grids, owned, governed, operated and maintained collaboratively. The local water utilities are either owned and controlled by a general-purpose council or county council whereby the utilities’ assets, apart from grant funded capital projects, have been locally funded by the communities the utilities serve.

Sell-offs

Sell-offs of local water utilities is difficult to comprehend noting that the majority of utilities have ageing infrastructure which will need replacing in the near to mid future. Replacing water infrastructure is expensive, and therefore any prospective buyer would then have to charge exorbitant water supply fees to recoup their investment and make a profit. Is this fair on the consumer and is it reasonable to sell-off assets which have been funded by consumers over a long period of time?

The potential loss of cash reserves that have built up over time could lead to a reduction in service levels and result in intergenerational inequity (i.e. future generations would have to pay for past infrastructure depletion).

Method of protection

It is a technical legal matter as to how best to protect LWUs from privatisation by future governments. The Inquiry may wish to explore this further with specialist advice from the Crown Solicitor/Parliamentary Counsel. Unlike Sydney Water and Hunter Water, the water assets and undertaking of LWUs are not owned by a separate legal entity, but are consolidated with the assets of the relevant general purpose council (except for the water county councils). They could be best protected if they were vested (via ministerial order enabled under legislation) in separate entities, owned by the vesting councils (or in the case of county councils, in the constituent councils). Provisions similar to s.57 could then be

inserted into the Constitution Act 1902. This would also provide a structural ring fencing of water assets, to complement the financial ring fencing that now exists.

As to the type of entity, there may be several alternatives to be investigated. One would be a separate entity constituted under the Local Government Act, in much the same way as Joint Organisations were recently enabled, and county councils have been established for many years. Another would be a new type of entity created under separate legislation, what we may call a Local Government owned Water Corporation. The *Central Coast Water Corporation Act 2006* may provide a framework for this. Another may be a Corporations Act company, requiring a State Government licence to operate as a LWU, with the licence conditions containing any necessary restrictions.

Whichever form of entity were chosen, one aspect which would need to be formalised and standardised in the enabling legislation/constitutions would be the ongoing governance arrangements (see below).

(b) Reviewing governance and other legislation relating to the potential privatisation of local water utilities

Local Water Utilities are governed by councils empowered by the NSW Local Government Act 1993 and the NSW Water Management Act 2000.

The Minister for Water issues guidelines for managing the provision of water supply and sewerage services by councils under Section 409(6) of the Local Government Act. These guidelines were recently reviewed and approved effective from July 2022 in a Regulatory and assurance framework.

Similar to the larger metropolitan utilities, local water utilities operate in a complex web of governing legislation. Apart from their powers and duties under the above two Acts, LWU's also have additional regulatory responsibilities:

- ***Public Health Act 2010*** with regard to maintaining a Drinking Water Management System for safe drinking water.
- ***Protection of the Environment Operations Act 1997*** with regard to holding Environmental Protection Licences Pollution Incident Response Plans (PIRMP's).
- ***Environmental Planning and Assessment Act 1979*** with regard to determining approvals to construct water and sewerage infrastructure and ensure appropriate servicing plans for land.
- ***Dams Safety Act 2015*** – to ensure that any risks from dams owned by councils are managed to an acceptable level.
- ***Work Health and Safety Act 2011*** – to ensure the safety of water and sewerage workers.
- ***Water Act 2007 (Commonwealth)*** – with regard to national performance reporting requirements for water utilities.



These Acts all have supporting Regulations. This complex regulatory framework is best supported by local water utilities that are owned and operated by local councils with the support of local communities.

(c) Any other related matters.

Everybody in NSW deserves safe, reliable and affordable water and sewerage services. Small communities deserve equitable access to these critical and essential services. Local government is best positioned to deliver these services in regional NSW.

Local communities have large equity in the assets of local water utilities. These communities expect their investment to be preserved, maintained and protected.

CTW is a member of the NSW Water Directorate and holds associate membership with the Central NSW Joint Organisation and Local Government NSW. As a result of these memberships, CTW supports the submissions provided by these organisations for the inquiry.

On behalf of CTW, we would like to thank the Joint Select Committee once again for inviting CTW to provide a submission for the inquiry into protecting local water utilities from privatisation.

Yours faithfully,

A handwritten signature in black ink, appearing to read "G. Rhodes".

Gavin Rhodes
General Manager

A handwritten signature in black ink, appearing to read "David Somerville".

Cr David Somerville
Chairperson