

2 August 2018

Hon David Parker, Attorney-General

**Consistency with the New Zealand Bill of Rights Act 1990: Gore District Council (Otama Rural Water Supply) Bill**

1. We have considered whether the Gore District Council (Otama Rural Water Supply) Bill ('the Bill'), a Local Bill in the name of Mark Patterson MP, is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. The purpose of the Bill is to set out a process for the Gore District Council ('the Council') to follow, in order to authorise a transfer of the Otama Rural Water Supply Scheme ('the scheme') to Otama Rural Water Limited ('the Company').
3. Ownership of the scheme is unclear but is thought to vest with the Council. The Council, the Company and the users of the scheme consider that the current ownership arrangements are unsatisfactory. However, the Council is currently unable to divest the scheme by virtue of the provisions in s 130 of the Local Government Act 2002. That Act authorises the transfer of a water service only if it delivers water to 200 or fewer persons who are ordinarily resident in that area. This would not apply to the scheme as it services an estimated 223 dwellings.
4. Accordingly, the Bill aims to resolve the ownership issue by specifying a procedure to authorise the transfer of the scheme to the Company. To do so, it uses the South Taranaki District Council (Cold Creek Rural Water Supply) Act 2013 as a precedent, which is a Local Act passed for the same purpose and which we advised was consistent with the Bill of Rights Act.
5. The process set out in the Bill to transfer the scheme to the company broadly adheres to the process set out in the Local Government Act 2002, with some variations to take into account the nature and size of the scheme. The Bill requires the Council to consult with the Medical Officer of Health, make certain documents and views publicly available in a balanced and timely manner and conduct a referendum to ensure there is majority support. The Bill also provides for various plans and assessments that must be prepared by the Company to the satisfaction of the Council.
6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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