

Subject: Water Services Entities Bill (our reference: OIA 2022/05)
Date: Friday, 7 October 2022 at 4:05:03 PM New Zealand Daylight Time
From: Wendy McGuinness <wmcg@mcguinnessinstitute.org>
To: [REDACTED]
CC: Patrick Shonakan <ps@mcguinnessinstitute.org>

Tēnā koe,

Water Services Entities Bill (our reference: OIA 2022/05)

Background

The new entities, created under the water reforms, are likely to represent 12% of public assets (see Figure 1 below). Given this, the reforms deserve special care and consideration. To this end, we would like to achieve clarity over whether these new entities fit within the public sector or the private sector. In particular we would like to understand the PSC reasoning – what we refer to as the *public sector* versus *private sector* test. We would like to understand what makes an entity a public sector entity in contrast to a private sector entity? There is considerable uncertainty as to where this new type of entity might fit.

We have attached a *SlideShare* on the water reforms. The first 35 Slides were presented to the select committee. Slides 36 to 47 are additional slides that have been developed from discussions after we met with the select committee.

Questions

Our current thinking is that these new entities fit outside of the public sector. Our reasoning is included in the *SlideShare*. The three questions below relate specially to Slides 37 – 41 being *Plan B?*. The questions assume the current Bill, in its current form, is passed.

Plan B looks to understand what options are available if the new experimental model does not work. To be blunt, we want to understand whether successive governments can easily change the model – creating optionality for successive governments.

Definitions

Question 1: Does PSC provide any guidance on what makes an entity a *public sector entity* versus a *private sector entity*?

If yes, can you provide the relevant guidance. If no, can you provide the PSC view of what makes an entity a public sector or private sector entity? See also Slide 41.

Question 2: Does PSC provide any guidance on what makes an entity a *public service entity*?

If yes, can you provide the relevant guidance. If no, can you provide the PSC view of what makes an entity a public service entity?

New water service entities

Question 3: In the view of PSC, would these new water service entities become public sector entities?

If yes (i.e. PSC answer they would become public sector entities), can you clarify where in your map the proposed new water entities might sit (e.g. are they part of the public service)?

Note 1: In the attached *SlideShare* we have included your updated illustration of the map of the public

sector. We wonder if these proposed new entities are creating a new category; adding a further key below - something like: *Public sector entities separate from central and local government* (see Slide 41). Figure 2 (below) shows your previous version of this illustration. We have adapted Figure 2 by adding an outer circle to cater for where we believe this new form of entity might sit. In our view it either sits in a new outer circle or in the private sector.

Note 2: For the record we preferred the earlier diagram as it illustrates not only the control at the centre – but how more checks and balances are required the further at arms-length the entity becomes from the core.

Note 3: We are aware that the Bill proposes that ‘public entities’, under Schedule 1 of the Public Audit Act 2001, should be expanded to include these new types of entities, but we do not think this is sufficient. We are note that the amendment to the Public Records Act 2005 plans to treat these entities as a local authority (but his may have been a mistake). See Slide 39.

Note 4: Section 15 of the Water Services Entities Bill, states what this new entity ‘is not’, but not a lot of clarity over what ‘it is’ (refer to Slide 40).

If not (i.e. PSC answer they are not a public sector entity), does the PSC have a name for the types of entities that fit in the public sector but are not part of the public service? Please explain.

Please do not hesitate if you have any questions or points of clarification.

Best wishes,

Wendy McGuinness
Chief Executive

McGuinness Institute Te Hononga Waka

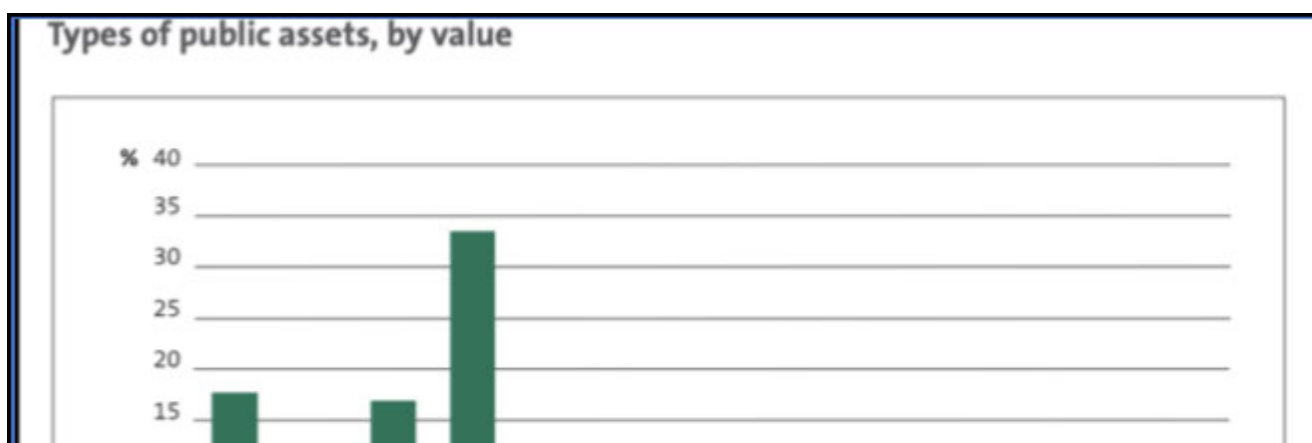
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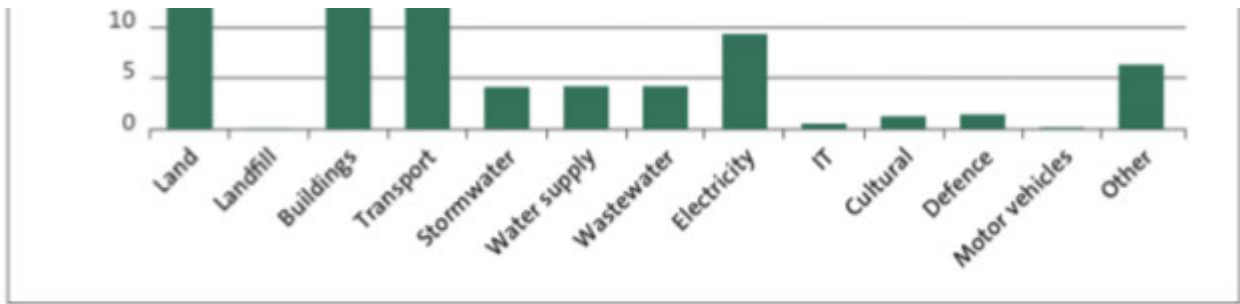
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Figure 1: Types of Public Assets by Value (over 12 % of Stormwater, Water supply and Wastewater)

Source: *Managing public assets* (OAG, 2013), see <https://oag.parliament.nz/2013/managing-public-assets/docs/managing-public-assets.pdf>





Note: Landfill assets and motor vehicles are both less than 1% of the total assets.

Figure 2: PSC circle illustration of the Public Sector Map (previous and adapted)

Source: Previously found here: <https://www.publicservice.govt.nz/resources/what-is-the-public-sector>

Adapted from a Public Service Commission diagram. Previously found on www.publicservice.govt.nz/resources/what-is-the-public-sector. Retrieved 1 September 2022.

