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## Media Release

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### TasWater takeover legislation defies belief

The State Government's draft legislation to takeover TasWater is ill-conceived and appears nothing short of an attempt to intimidate the owners and pervert due process.

The Chairman of TasWater Miles Hampton says the draft legislation is designed to ensure that neither TasWater nor its current owners, the 29 Tasmanian councils, can initiate a legal action to challenge the takeover.

Mr Hampton said the draft Bill gives the State Government the power to determine that any expenses incurred by TasWater subsequent to the introduction of the legislation into Parliament can be deemed by the Government to be 'unreasonable' and by doing so, enable the Government to reduce its payment obligations to councils.

"This defies belief. It is not only a denial of natural justice, but also appears a blatant attempt to circumvent the obligation of directors to protect the interest of shareholders," he said.

"Having failed to make public its own legal advice, the Government is now taking unprecedented action, seeking to impose a significant risk on councils should TasWater quite properly initiate a legal challenge.

"TasWater has clear, unambiguous advice, prepared by a Senior Counsel, that the proposed legislation is illegal and unconstitutional. The Government may have a view that the best interests of Tasmania are served by ownership by the State rather than councils, but if the takeover is not legal, it should not happen."

Mr Hampton said the Government is, in effect, attempting to seize the assets without paying proper compensation to the owners, but also saying that if the Government determines any expenses incurred by TasWater prior to its takeover are unreasonable, then it can claw the money back from the councils.

"As far as this legislation is concerned, it appears that the rule of law and procedural fairness have been ignored.

"At the outset, this unprecedented and draconian provision must be removed from the legislation."

The TasWater Chairman said there were also a number of other aspects of the draft legislation causing serious concern.

"There is no requirement for the new company to operate in a commercial and financially sustainable manner. It appears that the Government has no concern about increasing debt levels for future generations to pay.



“The Government will be able to override the professionally developed infrastructure investment plan and choose the projects it considers most important, regardless of the views of independent regulators and the experts responsible for running the business.

“Under this scenario, nothing will prevent future projects from being prioritised to suit political agendas and election cycles.

“The Treasurer and Government will be able to build up debt, require certain projects to be done ahead of other projects, and look after the big end of town.

“The Government will have the power to order the new corporation to do whatever it wants. For example, it could require its new corporation not to lodge a planning appeal, or even force it to sack employees.”

Mr Hampton said what was being proposed was not a normal GBE, but for an all-powerful Treasurer to effectively run as he or she sees fit, with no checks, no balances, no requirement to perform and the Economic Regulator sidelined.

“The current State Government has refused to be transparent in this matter and the legislation seeks to enshrine unfettered control over water and sewerage services.

“It will be a Government Political Enterprise rather unlike any other GBE and this cannot go unchallenged.

“The Government says payments to Councils beyond 2025 will be equal to 50 percent of the TasWater profit, but if there is no profit, and the Treasurer has already hinted there won’t be, there will be no payments. This will have a disastrous impact on local government and ratepayers.

“This ill-judged approach to the takeover, if successful, will see its proposed new water and sewerage corporation quickly become a dysfunctional bureaucracy, with no real direction and no incentive to manage costs while rushing through inadequate and ill-conceived water and sewerage projects.

“This draft legislation is designed to excuse the Government from having to deliver on its rhetoric.

“There is only one possible outcome from this approach. Tasmanians will be left with a significant and unnecessary burden of increased water and sewerage bills for decades to come and expensive and debt-ridden infrastructure that is not fit for purpose,” Mr Hampton said.

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