

**Submission by****Hamilton City Council****WATER SERVICES BILL****26 February 2021****1.0 SUMMARY OF HCC'S KEY POINTS AND RECOMMENDATIONS**

- 1.1 HCC's previous submission on the new Crown agency Taumata Arowai supported the agency and resource management reforms that would provide clear, consistent leadership and guidance, build capability, support suppliers, manage risks and improve environmental performance.
- 1.2 We support the overall intent, direction and proposals in the Water Services Bill insofar as it provides a regulatory framework aligning with fundamental principles of drinking water safety.
- 1.3 Under three waters reform, there will be different models of service delivery for water services. The Bill does not provide enough clarity on these models as they relate to owners, operators and suppliers and their points of supply and the division of responsibilities. The duty to manage, monitor, notify and remediate risk has not been considered in the context of the best entity to comply with duties.
- 1.4 We recommend a review of the models of service delivery, suppliers and their points of supply, source water management, and a re-evaluation on how these relate to powers and duties.
- 1.5 HCC also recommends better direction and integration of wastewater and stormwater services in the Bill. Giving effect to Te Mana o te Wai could also be better integrated throughout the Bill.
- 1.6 Emergency powers of Taumata Arowai as they relate to civil defence is not supported as there appears to be an over-ride of powers. A Territorial Authority's own powers to enforce measures to protect supplies must also be strengthened in the Bill.
- 1.7 There are outstanding matters from HCC's submission on the establishment of Taumata Arowai. This includes a review of definitions and examples that will provide clarity on duties and obligations of each party to a drinking water supply system. An implementation document would also assist compliance.
- 1.8 HCC remains concerned about the resourcing required within Territorial Authorities and operators of water services, and the draw on those resources required to fulfil roles within Taumata Arowai. Assistance from Central Government is required to increase capacity in the water's services space.
- 1.9 HCC also remains concerned about the ability to recover costs when providing services to those unable to meet compliance standards.

## 2.0 INTRODUCTION

- 2.1 Hamilton City Council (HCC) provides a water, wastewater and stormwater services to New Zealand's fourth largest city, with a population of over 176,500 (Stats NZ).
- 2.2 HCC supplies water from the Waikato River and has multiple stormwater outlets as well as wastewater discharge to the river. HCC also supplies water services to some areas of our two adjacent Territorial Authorities. Waikato District Council stores, conveys and distributes water from Hamilton's supply to its customers from various take points on the city's perimeter. Some supply is also provided directly to individual properties of Waipa District Council.
- 2.3 HCC supports the overall intent and direction of the Water Services Bill. This includes:
  - The requirement for drinking water suppliers to act in accordance with regulations when water is unsafe, or water standards are not met.
  - A requirement to register supplies and to have a multi-barrier Drinking Water Safety Plan in place.
  - The use of a preventative risk management approach for source and treated water.
  - Ensuring the open flow of information between Local Authorities, drinking water suppliers and Taumata Arowai.
- 2.4 HCC also supports the requirement for Territorial Authorities to ensure consumers continue to have access to drinking water services. HCC recently practiced duty of care to those with water shortages in 2020 when Auckland supplies became critical.
- 2.5 HCC supports the development of tools including templates, models, acceptable solutions and verification methods. HCC is particularly encouraged by the proposal to use a formula to determine individual drinking water needs.
- 2.6 HCC supports the requirement for operators to be authorised and the intent to develop regulations. We recommend an authorisation framework with criteria and mechanisms for approval that validates suitable training, experience and competency be developed to contribute to the safety of the drinking water system across New Zealand. HCC looks forward to working with Taumata Arowai on these regulations.
- 2.7 A Taumata Arowai Compliance, Monitoring and Enforcement Strategy and a graduated approach to regulation is considered important for water suppliers throughout New Zealand. HCC also considers it would be appropriate to consult with the industry on a draft strategy.
- 2.8 HCC supports reporting transparency of stormwater and wastewater environmental performance.
- 2.9 HCC does not support the powers of Taumata Arowai in the event of a Civil Defence Emergency.
- 2.10 This submission is structured under the following key headings:
  - Section 1.0 - Summary of HCC's Key Points and Recommendations
  - Section 2.0 - Introduction
  - Section 3.0 - Previous HCC Submissions Made in the Three Waters Space
    - *Three Waters Review*
    - *Taumata Arowai Water Services Regulator Bill*
  - Section 4.0 - General Comments
    - *Future models of service delivery*

- *Enforcement and Powers*
- *Regulations and Guidance*
- *Scope of the Bill*
- *Resource Impacts on Industry*
- *Te Mana o Te Wai*

#### Section 5.0 - Specific Comments

- *Liability*
- *Competency and Authorisations*
- *Responsibilities and Duties*
- *Roles*
- *Complaints*
- *Emergency Powers of Taumata Arowai*
- *Information Requirements*

#### Section 6.0 - Further Information and Hearings

#### Appendix 1 - Previous Submissions made by HCC in the Three Waters Space

#### Appendix 2 - Specific Clauses in the Bill - Commentary and Submission Points

- 2.11 Section 4.0 outlines submission points that apply to Water Services regulation in general and that HCC would like the Health Committee to take into account as the Bill is assessed.
- 2.12 Section 5.0 outlines submission points made on specific clauses and definitions that HCC seeks further clarity, review or amendments.
- 2.13 Appendix 1 outlines recent submissions made by HCC in the three waters space.
- 2.14 Appendix 2 lists specific clauses with their commentary and submission points.

### **3.0 PREVIOUS HCC SUBMISSIONS MADE IN THE THREE WATERS SPACE**

- 3.1 HCC takes a considerable interest in the three waters space, as evidenced by **Appendix 1**, which outlines a number of key submissions made since 2009, including those made to the government's recent reform process. HCC seeks to share its views to help shape the industry and has been actively engaged in three waters reform proposals. A summary of the most recent water reform submissions is outlined below.

#### **Three Waters Review**

- 3.2 On 23 October 2018, HCC submitted on the Government's Three Waters Review that was coordinated by the Department of Internal Affairs - refer [here](#) and **Appendix 3**.
- 3.3 In this submission, HCC supported a review of water services and sought Government financial assistance for investigation and establishment of aggregated service delivery and financing of any funding gaps in resilience, asset management and service delivery deficiencies.
- 3.4 HCC supported an independent regulator for drinking water, provided that it was funded and resourced appropriately. HCC reiterated the challenges in the industry, including a skills shortage challenge. Several incentives to maintaining quality and environmental compliance were also suggested.

## Taumata Arowai - The Water Services Regulator Bill

- 3.5 HCC also made a comprehensive submission to Taumata Arowai - The Water Services Regulator Bill on 28 February 2020 - refer [here](#)
- 3.6 HCC's submission supported the new Crown Agency on the basis it would provide clear and consistent leadership, guidance, build capability, support suppliers, manage risks and improve environmental performance.
- 3.7 HCC sought:
- A review of definitions to ensure obligations were clearly understood and further examples shown to provide clarity.
  - Scope of stormwater and wastewater reporting to be broadened to freshwater management or catchment management.
  - Central Government investment in industry training and competency across the water industry.
  - The appointment of both operational and local government expertise on the Board.

## 4.0 GENERAL COMMENTS

### Future Models of Service Delivery

- 4.1 The Water Services Bill is proposed at a time where there is a great deal of uncertainty around the governments intended future structure for water services provision. The government has signalled, and is actively pursuing reform, however the outcome is not yet known. Given the current discussions on water reform and the likelihood of future water entities, HCC considers this issue is important to ensure there are reasonable and appropriate provisions in the final Act. We seek clarity over whether the division of responsibilities between drinking water suppliers, territorial authorities or Taumata Arowai align and enable the governments intended outcomes of 3 waters reform. HCC recommends the Bill is reviewed in this context.
- 4.2 Territorial Authorities have limited financial instruments available to fund the provision of 3 waters services. The Bill proposes it be the responsibility of Territorial Authorities to take over the provision of small drinking water supplies which are non-compliant, however provides no assurance or mechanism to appropriately fund the capital cost of improving supply and the ongoing operational cost of inherited supplies. This may result in communities which have historically invested appropriately in water services, having to then pay more to fund the underinvestment of other communities. HCC recommends the Bill is reviewed in this context. **Appendix 2** - Submission Points clauses Part 5 Local Government Amendment Clause 127.

### Enforcement and Powers

- 4.3 The Bill does not go far enough to provide stronger powers for Territorial Authorities to effectively use bylaws to manage activities affecting the safety and supply of drinking water. This includes management of backflow risk, enforcement of water restrictions, and takes from hydrants other than for firefighting purposes. In this regard, HCC recommends that the Bill is amended to provide the ability to infringe under bylaws to maximise compliance with the Act. Refer **Appendix 2** - Submission Points clauses 25,26,27,28, 35.
- 4.4 HCC also seeks clarity on the powers water suppliers have if they are not Territorial Authorities. For example, a water supplier may not be able to enforce a bylaw, and the potential for Taumata Arowai to utilise their powers to assist. Refer **Appendix 2** - Submission Points - Duties and Extent of Enforcement Powers - General Comment.

## Regulations and Guidance

- 4.5 There are 10 purposes that regulations may be made, and approximately 20 references to regulations. HCC considers that in some cases, it may be better to require 'reasonably practicable steps'.
- 4.6 There is no certainty that regulations will be created and what will actually be in the regulations. The absence of regulations makes it difficult to fully understand implementation implications and practicality, cost implications and therefore ability to comply. HCC seeks further understanding on what and when regulations will be written and made available for review. Refer **Appendix 2** - Submission Points clause 190.
- 4.7 HCC recommends Taumata Arowai provides a guidance document on implementation of the Act to ensure enough clarity is provided for compliance with the Bill and what regulatory relationship of Guidelines will be to the final Act. Refer **Appendix 2** - Submission Points - clauses 10, 42 and 43.

## Scope of the Bill

- 4.8 The Bill is heavily focussed on drinking water and does not appear to address wastewater or stormwater comprehensively or in a cohesive way. HCC recommends the Bill is strengthened to encapsulate three waters. Refer **Appendix 2** - Submission Points - clauses purpose, 67, 68.

## Resource Impact on Industry

- 4.9 HCC supports the intent of the legislation to build and maintain capacity in the water services sector. However, it is not clear how this capacity will be built and monitored.
- 4.10 Strong recognition of impact of Water Service Reform on resources is needed. This includes staffing of Taumata Arowai. The Bill increases authorisation and reporting requirements that will impact on the already limited resources of Authorities, Suppliers, Owners and the water industry as a whole e.g. Water and Sanitary Assessments.
- 4.11 In this regard, HCC supports the intention of Taumata Arowai to provide an Enforcement Strategy and recommends this should be made available for feedback prior to finalisation.

## Te Mana o te Wai

- 4.12 HCC strongly supports the requirement to give effect to Te Mana o Te Wai and a commitment by Taumata Arowai Maaori Advisory Board to develop and maintain a framework that provides advice and guidance on interpretation.
- 4.13 The Vision and Strategy (Te Ture Whaimana o te Awa o Waikato) is the direction setting document for the Waikato Region and encompasses Te Mana o te Wai (or Te Mauri o te Wai). This section is poorly related to the rest of the Bill. The concept of Te Mana o Te Wai could be better reflected and integrated in the Bill so it provides more clarity on how it can be given effect. Refer **Appendix 2** - Submission Points - clause 14.
- 4.14 HCC notes that in the context of Te Mana O Te Wai and climate change, the Bill is silent on non-potable reuse of water. The ability for service providers to have provision for this would give effect to the first obligation to Te Mana o Te Wai that prioritises the health and well-being of the river. In this regard regulations would support enabling re-use, and therefore sustainability and Te Mana o Te Wai. Refer **Appendix 2** - Submission Points - clause 14.

## 5.0 SPECIFIC COMMENTS

### Liability

- 5.1 The inclusion in the Bill of 'limited' liability of employees is supported, although HCC notes that this Bill seems to have a significant number of offence provisions. While there needs to

be accountability for individuals, this needs to be weighed against discouraging individuals joining the industry. HCC has some concern that despite limited liability, there could still be potential for suppliers and employees to falsify records or to not report an issue if perceiving prosecution might result. Refer **Appendix 2** - Submission Points - Subpart 9 and 10, Clause 126, Defence of Prosecution).

### Competency and Authorisation

- 5.2 HCC supports that water suppliers should be able to demonstrate to consumers that water supplier staff and contractors are competent. A new system that requires operators of water and wastewater to be authorised (to validate suitable training, experience and competency) would contribute to the safety of the drinking water system across New Zealand.
- 5.3 Development of supporting regulations for the authorisation of operators needs to be progressed as a priority to increase the level of industry competency and lessen risk to public and environmental safety. HCC believes it is critical that the development of any new authorisation system (and supporting regulations) is done in partnership with the water industry to ensure it is functional and supports the delivery of high-quality and compliant water services. Refer **Appendix 2** - Submission Points - clause 67, and General Comment (Subpart 10).
- 5.4 Stormwater is gaining national prominence as an issue to be managed for the contribution it makes to the state of waterways and public safety - particularly in regard to climate change. HCC questions why stormwater has not been included in the scope of authorisation and recommends its inclusion. Refer **Appendix 2** - Submission Points - clauses 67, 68 and Purpose.
- 5.5 HCC recommends that Authorisation of Laboratory Accreditation should be part of sub part 10 - Authorisations. Refer **Appendix 2** - Submission Points - clause 73.

### Responsibilities and Duties

- 5.6 Roles and responsibilities of suppliers, operators, owners, local and regional authorities require clear direction and appropriate definitions to maximise compliance. There are a number of definitions in the Bill that do not provide the clarity needed and are not aligned with Taumata Arowai Act 2020, or the Health Act 1956. The Health Act provides clear definitions of 'drinking water', 'safe', 'point of supply' and 'drinking water supplier' which are appropriate for multi networks and different models of delivering water services. HCC recommends reconsideration of the Health Act definitions to ensure clarity for duties and compliance. Refer **Appendix 2** - Submission points - clauses 6,7,8.
- 5.7 A number of words are not defined that would significantly assist in clarity e.g. The definition of 'Company' is not defined in the Bill. This has important implications for determining who is an Officer. HCC recommends amended clearer distinctive definitions, further definitions and using the Companies Act 1993 definition. Refer **Appendix 2** - Submission points - Interpretations and Undefined Terms.
- 5.8 HCC understands the intent behind duties not being transferable. However, there are some scenarios where it is appropriate e.g. design and construction of networks. Primary and secondary suppliers of water are also not differentiated in this Bill. The responsibility of a secondary supplier of drinking water or a water carrier may need to be different to a primary supplier of water and affects numerous duties related to notification, responses, assessments, monitoring and reporting. It may also affect existing agreements between primary and secondary suppliers. HCC recommends that the Bill provides differentiation, definitions and significantly more clarity and assesses how appropriate Clause 15 (Duties not Transferable) is in this regard. Refer **Appendix 2** - Submission Points - Definitions, 15, 17 21, 25, 29, 35.

- 5.9 The Bill states that more than one person can have the same duty (Section 17). To provide greater clarity, it would be useful to reference Section 17 in Section 21 e.g. (1) A drinking water supplier must ensure the drinking water supplied by the supplier is safe. Section 17 applies where there is more than one supplier.
- 5.10 Some exemptions for Suppliers are provided for (Clause 56), however, examples on the grounds for which exemptions will be applied needs clarity. This section also refers to an exemption potentially being applied to a 'class of supplier', which is not a defined term.
- 5.11 There is a potential unintended consequence for a Supplier to be responsible for devices beyond point of supply on private property e.g. an end-point treatment device (such as a water filter) that a consumer chooses to include versus a device that a water supplier is compelled under this Bill to provide to ensure drinking water of an appropriate standard is provided to a consumer. HCC recommends the Bill make it clear this is not the intent. Refer **Appendix 2** - Submission Points - clause 5, 13.
- 5.12 In its submission on the Taumata Arowai Regulators Bill, HCC sought further examples of domestic self-supply to understand the definition and therefore what responsibilities came with it. These further examples have not been provided. HCC recommends an 'implementation' guidance document with further clarity as an adequate substitute if amendments to the Bill are not made.
- 5.13 There are duties to comply with standards, notify non-compliances and advise affected consumers of actions to be taken in response to non-compliance. There may be scenarios where there are small technical non-compliances that only imposes a very small risk but if notified will erode consumer confidence. HCC recommends an amendment to the Bill that provides for these types of risk to be exempt from notification. Refer **Appendix 2** - Submission Points - Clause 22.

## Roles

- 5.14 The Bill appears to assign roles to an authority that has limited power to enact a response. For example, in the event of unsafe water, it is the responsibility of a Supplier to carry out investigations, reporting and remedial works even if it is an issue with source water. A significant discharge could occur either in or upstream of a supply catchment. In this context, it is not clear whether clause 21(2) (e) and the other duties of Suppliers is reasonable or could be achieved. Suppliers have very limited ability to manage risk before their treatment processes and are only in control of treatment processes based on the technology in place. Suppliers or treatment operators should understand their capacity to treat contaminants and provide that information to the regulator of the source water (regional councils) and Taumata Arowai so they may assess the response required in the catchment. HCC recommends roles and duties are reviewed in this context. Refer **Appendix 2** - Submission Points clauses 21, 35, 45.
- 5.15 Under proposed changes to the Local Government Act (Water and Sanitary Services Assessment, clause 125), Suppliers have the responsibility of notifying Taumata Arowai of unsafe drinking water practices of other suppliers. This appears to put the onus of monitoring other supplies on councils. While every effort should be made to ensure public safety, HCC considers this is the primary role of Taumata Arowai. Refer **Appendix 2** - Submission Points - Part 4 Miscellaneous.
- 5.16 HCC also seeks clarity on why Taumata Arowai is the organisation that will prescribe charges to be applied for accreditation when charges can be determined by the body appointed by clause 73.

## Complaints

- 5.17 HCC supports provision of information to consumers on the basis this provides transparency. However, the clause does not reference that the information request should be associated with a complaint. HCC recommends clause 38(1)9(a) references the word 'complaint' to provide clarity of this subsection. HCC looks forward to reviewing proposed prescribed information requirements to be included in proposed supporting regulations when available. This will assist HCC to understand what and how this information should be provided to ensure efficient measures can be applied.
- 5.18 HCC considers that in managing complaints, further clarity for Suppliers can be provided through the following: Purpose of the review and what it is intended to achieve; how Taumata Arowai will approach the complaint being reviewed with the supplier; and what review scope will be applied e.g. quality or quantity or pressure or aesthetic values or methods (the scope should be directly related to regulations and matters related to public safety). Refer **Appendix 2 - Submission Points - clause 38, 39.**
- 5.19 HCC has a strong history of compliance with standards but considers the complaints process may still be resource intensive for both the supplier and the regulator.

## Emergency Powers of Taumata Arowai

- 5.20 The Bill provides extensive powers to Taumata Arowai during an emergency, which rival those of the Civil Defence and Emergency Management (CDEM) Controller during a state of declaration of emergency. There is potential for both a CDEM and water emergency to be declared simultaneously, or one following the other. This could create some confusion amongst partners.
- 5.21 Although Taumata Arowai employees exercising emergency powers are subject to the direction of the CDEM Controller when a CDEM emergency is declared, this is not the same for declared emergencies under the Hazardous Substances and New Organisms Act and for declared emergencies under the Biosecurity Act. In both of these instances, Taumata Arowai employees will no longer be subject to the respective HSNO or Biosecurity controller if Taumata Arowai directs otherwise. This seems a significant override power and does not provide clarity on when such actions would be initiated.
- 5.22 About 90-95 percent of all emergencies that CDEM deal with are non-declared emergencies. These are cases where emergency powers provided via a formal declaration are not required to successfully respond and deal with the event. If emergency powers are not required, then it would appear that Taumata Arowai may decide to declare an emergency - then technically at least Taumata Arowai employees and compliance officers would not be subject to direction of the CDEM Controller. These powers need to be better understood so critical water supplies can be well managed in an emergency event.
- 5.23 There is also no clarification of how powers relate to a drinking water emergency 'being' the civil defence emergency or as a 'result' of a civil defence emergency and how that relates to a Coordinated Incident Management System (CIMS) framework.
- 5.24 It is important to note that Territorial Authorities carry out practical, technical and logistics expertise to work with CDEM in such events, and yet there is no provision in the Bill to consult with the Water Supplier or the Regional Medical Officer of Health to obtain information on the response to the risk.
- 5.25 HCC also submits that the emergency clauses do not limit the scope of matters relating to water quality and supply and don't provide for cost recovery of operations, even although costs may be beyond the territorial boundary.

- 5.26 HCC **does not support** special powers that clause 61 enacts and recommends a detailed review of these emergency powers is carried out to ensure that the powers are appropriate, there is efficiency in an emergency situation, and it is clear who and how suppliers must respond. Refer **Appendix 2** - Submission Points, clause 61.

### Information Requirements

- 5.27 The Bill states records must be made available continuously (Clause 37). This can be interpreted to mean 'live' data, which will be difficult to achieve. HCC strongly supports the use of continuous monitoring of key water quality and operational parameters and that this information be readily available for Taumata Arowai to review for compliance purposes.
- 5.28 It is an offence not to update a Drinking supply register, however, there is no reference to changes that are deemed significant enough to warrant an immediate change e.g. population. Other important information that should be registered are supply agreements (for the supply) to describe the terms and conditions of a water supply. Refer **Appendix 2** - Submission Points Clauses 13, 21, 25, 53, 55.
- 5.29 HCC also notes the significant time period differences for annual re-registration and 5 yearly reviews of exemptions. HCC does not consider them well aligned and recommends review.
- 5.30 HCC notes that for stormwater and wastewater networks, the Bill requires that Taumata Arowai establish and maintain a register. This information will need to be supplied by the network owner. Clarity is needed regarding what constitutes a network, the type, size, scale and ownership, and relevant considerations such as shared driveways, on-lot treatment devices, stormwater basins, flood plains and drains. HCC recommends that the Bill or regulation provides this clarity. Refer **Appendix 2** - Submission Points Clause 139.

## 6.0 FURTHER INFORMATION AND HEARINGS

- 6.1 Should Parliament's Health Committee require clarification of Hamilton City Council's submission, or additional information, please contact Maire Porter (City Waters Manager) on 07 958 5976 or 021 726 977, email [maire.porter@hcc.govt.nz](mailto:maire.porter@hcc.govt.nz) in the first instance.
- 6.2 Hamilton City Council **does want to be heard** in support of this submission at the Health Committee's hearings for the Water Services Bill.

Yours faithfully



**Richard Briggs**  
**CHIEF EXECUTIVE**

## APPENDIX 1

### PREVIOUS SUBMISSIONS MADE BY HAMILTON CITY COUNCIL IN THE THREE WATERS SPACE

DRAFT DOCUMENT/BILL	ORGANISATION	SUBMISSION		DATE SUB. SENT	DOWNLOAD SUBMISSION
		HCC	STAFF		
Appeal Against Decisions of the Waikato Regional Council on Proposed Plan Change 1 to the Waikato Regional Plan	Waikato Regional Council	✓		07/07/20	<a href="#">Download Now</a> (PDF, 322KB)
Taumata Arowai - The Water Services Regulator Bill	Parliament's Health Committee	✓		28/02/20	<a href="#">Download Now</a> (PDF, 545KB)
Cambridge Wastewater Treatment Plant Discharge Consent Application - Waipa District Council (APP141113)	Waikato Regional Council	✓		19/12/19	<a href="#">Download Now</a> (PDF, 176KB)
Action for Healthy Waterways: A Discussion Document on National Direction for Our Essential Freshwater	Ministry for the Environment	✓		31/10/19	<a href="#">Download Now</a> (PDF, 309KB)
HCC Statement of Evidence for 19/10/20 Hearing: Cambridge Wastewater Treatment Plant Discharge Consent Application - Waipa District Council (APP141113)	Waikato Regional Council	✓		19/10/20	<a href="#">Download Now</a> (PDF, 246KB)
Discussion Document on a Proposed National Policy Statement on Urban Development	Ministry for the Environment	✓		17/10/19	<a href="#">Download Now</a> (PDF, 549KB)
Waipa District Council's Proposed Stormwater Bylaw 2019	Waipa District Council		✓	21/06/19	<a href="#">Download Now</a> (PDF, 354KB)
Three Waters Review	Minister for Local Government	✓		23/10/18	<a href="#">Download Now</a> (PDF, 386KB)
LGNZ Three Waters Survey	LGNZ	✓		20/09/18	<a href="#">Download Now</a> (PDF, 286KB)
Further Submissions to the Healthy Rivers Plan Change: Proposed Plan Change 1 and Variation 1	Waikato Regional Council	✓		17/09/18	<a href="#">Download Now</a> (PDF, 408 KB)
Application for Resource Consents (APP137797) by Fonterra Limited for the Continued Operation of the Te Rapa Milk Processing Site, Waikato Region	Waikato Regional Council	✓		03/07/18	<a href="#">Download Now</a> (PDF, 537KB)
Clean Water: 90% of Rivers and Lakes Swimmable by 2040	Ministry for the Environment	✓		05/05/17	<a href="#">Download Now</a> (PDF, 980KB)
Proposed Waikato Regional Plan Change 1 - Waikato and Waipa River Catchments	Waikato Regional Council	✓		02/03/17	<a href="#">Download Now</a> (PDF, 955KB)
The Health (Fluoridation of Drinking Water) Amendment Bill	Parliament's Health Committee	✓		09/02/17	<a href="#">Download Now</a> (PDF, 682KB)

DRAFT DOCUMENT/BILL	ORGANISATION	SUBMISSION		DATE SUB. SENT	DOWNLOAD SUBMISSION
		HCC	STAFF		
Proposed Waikato Regional Plan Change 1 – Waikato and Waipa River Catchments (Waikato Healthy Rivers Wai Ora Project)	Waikato Regional Council	✓		23/08/16	<a href="#">Download Now</a> (PDF, 472KB)
‘Next Steps for Freshwater’ Consultation Document (February 2016)	Ministry for the Environment	✓		29/04/16	<a href="#">Download Now</a> (PDF, 1245KB)
Final Position Paper ‘Improving New Zealand’s Water and Wastewater and Stormwater Sector’	Local Government New Zealand	✓		30/10/15	<a href="#">Download Now</a> (PDF, 217KB)
Water Legislation Reform Discussion Paper	Water New Zealand		✓	22/04/15	<a href="#">Download Now</a> (PDF, 326)
Draft Implementation Guide for the National Policy Statement for Freshwater Management 2014	Ministry for the Environment		✓	03/12/15	<a href="#">Download Now</a> (PDF, 257KB)
Further Amendments to the National Policy Statement for Freshwater Management 2014	Ministry for the Environment		✓	11/09/14	<a href="#">Download Now</a> (PDF, 406KB)
Proposed Amendments to the National Policy Statement for Freshwater Management 2011: A Discussion Document	Ministry for the Environment		✓	04/02/14	<a href="#">Download Now</a> (PDF, 653KB)
Waipa District Council’s Proposed Water Supply Bylaw 2013	Waipa District Council	✓		12/07/13	<a href="#">Download Now</a> (PDF, 429KB)
Waikato-Tainui Environmental Plan (Latest Draft)	Waikato-Tainui	✓		24/06/13	<a href="#">Download Now</a> (PDF, 1,014KB)
Freshwater Reform 2013 and Beyond	Ministry for the Environment	✓		08/04/13	<a href="#">Download Now</a> (PDF, 950KB)
Environmental Management Plan for Waikato-Tainui (Working Draft Discussion Document)	Waikato-Tainui		✓	04/03/13	<a href="#">Download Now</a> (PDF, 473KB)
Waikato-Tainui Ruapatu Claims (Waikato River) Settlement Bill	Maori Affairs Select Committee	✓		19/02/10	<a href="#">Download now</a> (PDF, 199KB)
Waikato District Council - Southern Districts Water Supply	Waikato	✓		30/07/08	<a href="#">Download now</a> (PDF, 39KB)
National Environmental Standard on Ecological Flows and Water Levels	Ministry for the Environment	✓		29/08/08	<a href="#">Download now</a> (PDF, 35KB)
National Policy Statement (NPS) for Freshwater Management	National Policy Statement (NPS) for Freshwater Management	✓		23/01/09	<a href="#">Download now</a> (PDF, 2.20MB)
Waikato-Tainui Raupatu Claims (Waikato River) Settlement Bill	Maori Affairs Select Committee	✓		13/02/09	<a href="#">Download now</a> (PDF, 199KB)
Resource Consent Application from Fonterra re Wastewater Discharge	Waikato Regional Council	✓		18/03/09	<a href="#">Download now</a> (PDF, 46KB)

APPENDIX2 - SPECIFIC CLAUSES IN THE WATER SERVICES BILL - COMMENTARY AND SUBMISSION POINTS

Clause	Clause Content	Submission Discussion
<b>PART 1 PRELIMINARY PROVISIONS</b>		
<b>Subpart 1 - Purpose and Overview</b>		
Purpose	Previous correspondence on provisions of the new agency Taumata Arowai has indicated that three waters will be regulated. There are 5 parts to the Bill's purpose. Four parts are relevant to drinking water but only one part has any relationship to wastewater and stormwater services.	Part 1 and the Purpose is heavily focussed on drinking water and does not address wastewater and stormwater services to the degree that was conveyed in water reform proposals. Council seeks further consideration by Taumata Arowai on how further clarity and direction for wastewater and stormwater services can be addressed. This could be through integrating wastewater and stormwater services in the provisions of source water risk management and including stormwater in authorisations.
Purpose	Purpose and overview of legislation - provision to build and maintain capacity	Purpose and overview of legislation includes the provision of mechanisms to build and maintain capacity among drinking water suppliers (3(d)). Council supports this purpose as the industry needs to build capacity, however, it is not clear how any of the provisions in the bill build capacity and how that is monitored. Council supports the intent but requires further clarity.
<b>Subpart 2 - Interpretation</b>		
5	End-point treatment device - privately owned could be interpreted as supplier responsibility	5- definition of 'endpoint treatment' is: treatment of drinking water at the final point of the supply at which the consumer can consume, use, or collect drinking water. Final point of supply is not defined. End-point treatment device could be interpreted to mean a privately owned device beyond a Territorial's point of supply (e.g.) water filter. This should not be the responsibility of a Territorial Authority. Clarity could also be improved by providing an example of end-point treatment. 'Final' point of supply should be defined. A reference to clause 13 when referring to end point treatment would also be useful.
6	Meaning of drinking water - differs from that in the Taumata Arowai Act 2020 which specifies that it is from a 'point of supply'.	The definition of drinking water in this Bill, the Taumata Arowai Act and the Health Act all differ. The Taumata Arowai Act says 'means water that is available to consumers from a point of supply' —The Bill does not reference 'point of supply' in its definition. This could mean loss of clarity to the reader. In addition to this 'Point of supply' is also defined differently and loses its clarity for Council to enable duties and obligations to be met. See discussion on Point of Supply. The definition could unintentionally include water that goes beyond domestic needs (e.g.) irrigation and agricultural water for preparing food, drink, or other products for human consumption. For section 6 or 36, clarity could be provided that notification relates to critical supply.
7	Meaning of 'Safe' in relation to drinking water	Council does not consider that the definition of safe is specific enough. For example, it could be interpreted to include aspects relating to quantity, medication overdose, and choking. Further to this, it does not include reference to regulations such as Drinking Water Standards or Water Safety Plans. It is also not clear to Council who would determine if water was 'safe'. Council seeks more clarity in this definition including examples. The meaning could also be made clearer to make it immediately clear that it relates to water quality e.g. Amend 7(1) to read 'In this Act, unless the context otherwise requires, safe, in relation to drinking water, means drinking water quality that is unlikely to cause a serious risk of death, injury, or illness,—. Amend 7(1)(b)(ii) to include an example.
8	Meaning of Drinking water supplier	There is risk of non-compliance where 'roles and responsibilities' of a Drinking water supplier can not be clearly understood especially where this relates to different suppliers, owners, consumers and where the point of supply is. The Health Act 1956 Part 2A definition of drinking water supplier made direct reference to networked supplier, water carrier, and bulk supplier. The absence of these terms from the Bill definition makes it difficult to determine obligations to ensure compliance. In addition to this, the Bill says that a <b>Drinking water supplier</b> includes a <u>person</u> who supplies drinking water through a drinking water supply, <b>and owner and operator</b> of a drinking water supply. There may be scenarios where a supplier may only be the 'operator'. In this respect Council seeks consideration of the use of the word 'and' versus 'or'. This is also discussed in submission points on (13) Point of Supply.
9	Meaning of drinking water supply - difficult to apply	The definition of Drinking water supply does not differentiate between sources of supplies of water (primary network supply of water, bulk supply or secondary supply of water or water carrier supply of water). These types of terminology would ensure better clarity on responsibilities and stronger compliance. In addition to this, the clause (i) 'the point of supply' could be better positioned if it was part of (a) to ensure there is clarity about a Territorial's Authority not being responsible for private treatment devices such as water filters and private backflow devices that are on private property. Noted previously, private installations on the owner side of point of supply should not be captured by unintended regulation consequence. This is further discussed in submission points on (13) Point of Supply and (5) end point treatment.
10	Meaning of domestic self-supply and domestic dwelling - premises	In Council's submission on the Taumata Arowai Bill, Council sought (and still seeks clarity) further examples of domestic self-supply including how multi dwellings, multi-purpose dwellings, commercial premises and retirement villages relate to domestic self-supply. It is not clear (from the examples that were provided in the Taumata Arowai Act) if the critical factor for domestic self-supply is the number of persons that may be served by a supply or if it relates to commercial aspects. In order to ensure that Council has clarity on roles and responsibilities, further examples, or an implementation document, will ensure that Territorial Authorities and Drinking Water Suppliers can comply with regulations.
11 and 12	Meaning of Operator, Operations and Owner	The definition of Owner means 'the person who has effective control of the drinking water supply'. In the instance of Council Controlled Organisation or a Territorial Authority who have arrangements to give and receive bulk supply drinking water, there will be multiple owners and models. Council recommends determining if further definitions should be applied to cover this scenario and if Operations and Effective control should be defined.

13	Meaning of Point of supply - different to Health Act 1956 , overrides Councils specific bylaws, technical specifications and agreements.	Point of Supply is defined differently in this Bill to other Acts (e.g. Health Act), and does not provide as much clarity. In particular this relates to a lack of any reference to a bylaw and endorsed Infrastructure specifications (that may define and clarify points of supply), and agreements (that may define points of supply between 2 connected network systems). The term 'Supply' is not defined and could be either defined or replaced with 'network supply'. Consistency between definitions will provide clarity for Local Authorities and the regulator.
13	Meaning of Point of supply - end-point treatment devices	the meaning of point supply includes: if the supply includes an end-point treatment device, the end-point treatment device. End-point treatment device could be interpreted to mean a privately owned device beyond a Territorials point of supply e.g. water filter. This should not be the responsibility of a Territorial Authority. see issue with endpoint treatment definition.
	Interchanging references to local authority and regional council	Either remove reference to regional councils and just refer to local authority as per the LG Act definition (which includes territorial authority and regional council) or retain references to regional council and include definition for regional council which is contained in the same section of the LGA as the definition for local authority. This will be particularly relevant when larger water entities separate to local authorities are formed.
<b>Undefined terms</b>	The following terms, if defined, will improve clarity and compliance.	
	Company	
	Marae	10, 56,110
	classes of water supply	48, 54, 56,62, 67, 68, 74, 97, 100, 139, 190, 191
	Authorisation	36, 53, 67
	Ordinary drinking water	25
	Notifiable risk or hazard	35 and 166
	Registrations of drinking water supplies - 'individual drinking water supply' undefined	23
	Restriction	25, 26
<b>Subpart 3 - Key Principles relating to functions, powers and duties</b>		
14	Giving effect to Te Mana o Te Wai	This section is poorly related to the rest of the Bill. The nature of the Bill is that it is read through a scientific and technical lens. By embedding Te Mana o te Wai's high level concept into relevant parts of the Bill or by discussing, in the explanatory note, how at a high level, drinking water suppliers could give effect to Te Mana o Te Wai (using the six prescribed principles) suppliers will better understand the scope of their obligations. In accordance with Ministry of Health advice, giving effect to Te Mana o te Wai requires prioritising the health and wellbeing of water first, then meeting the health needs of people (in this context supplying safe drinking water), and then ensuring that people and communities are able to provide for the four well beings (using the six guiding principles). Council submitted on the Taumata Arowai Bill that interpretation of giving effect to Te Mana O Te Wai must be by the iwi of the rohe. HCC's direction setting document is Te Ture Whaimana o te Awa o Waikato (The Vision & Strategy). Council stands by that submission and considers that some examples of interpretation to give effect could be provided (eg) value and standard setting, allocation, Regional and District policy and rule making, monitoring with or by iwi. and considers that a high level understanding of the Te Mana O te Wai concept could be better reflected and integrated in the Bill now (eg) simple examples might be Te Mana o te Wai as it relates to the management of receiving environment water quality (source water protection and first priority) and Te Mana o te Wai as it relates to water demand management (protection of a water body and supply for health needs of people - first and second priorities). Council also notes that giving effect to Te Mana O te Wai only applies to function power or duty. Does this also apply to 'domestic self supply' and housing developments such as papakainga that sit with in a "marae" setting. An additional consideration is needed for giving effect to Te Mana O Te Wai and the requirement for Councils to manage water demand in a changing climate, high growth city and overallocated rivers and streams. Provisions for reuse of non-potable water (including in some cases treated wastewater) for toilets, gardens and irrigation of land. Regulations for this are required.
15 and 17	(15) Duties not transferable and (17) More than 1 person may have the same duty- different suppliers from the same network	Clause 15 states that a duty imposed on a person by or under the Bill may not be transferred to another person. Clause 17 says More than 1 person may have the same duty imposed by or under this Act at the same time and (b) must discharge that person's duty to the extent to which the person has the ability to influence and control the matter, or would have had that ability but for an agreement or arrangement purporting to limit or remove that ability. Council seeks further clarity on how responsibilities may be assigned when a primary supplier of water supplies to a secondary supplier under a bulk supply arrangement, and in the event of water carriers supplying water if the existing words about an agreement is helpful for providing that clarity. the word 'purport' has a meaning 'falsehood' and does not provide the clarity needed for more than one supplier. In addition to this The bill says Clause (1) A drinking water supplier must ensure that the drinking water supplied by the supplier is safe. HCC supplies water under bulk supply arrangements to another Territorial Authority and to water carriers. Section 17 states that more than one person can have the same duty. To provide clarity it would be useful to reference section 17 in section 21. (eg) (1) A drinking water supplier must ensure that the drinking water supplied by the supplier is safe. Section 17 applies where there are more than 1 supplier.
<b>PART 2 - PROVISIONS RELATING TO SUPPLY OF DRINKING WATER</b>		
<b>Subpart 1 - Duties of Drinking Water suppliers</b>		
<b>General comment</b>	Duties and extent of enforcement powers	There needs to be further clarity on the duties and roles of those who have a role to play in provision of drinking water and the extent of their powers. For example, only a Council can execute bylaw enforcement.

21, 25	Duties of a supplier - lack of differentiation between points of supplies when more than two suppliers, and lack of differentiation between supplier types (primary and secondary and water carriers).	Clause 21 requires a supplier to ensure that drinking water, supplied by the supplier, is safe (and if not then notification must take place). Council supports the intent of the Bill that requires drinking water to be safe and risk managed. However, the relationship and roles between suppliers and owners and consumers needs more clarity to ensure that these responsibilities are understood and can be complied with. For example, Council supplies water under bulk supply arrangements to another Territorial Authority at 8 points on the adjacent territorial boundary and also to water carriers. This means that there is more than one supplier and more than one point of supply. Under a bulk supply arrangement to a Territorial Authority, the point of supply will be to the connection of that Territorial Authority, therefore, provided that the drinking is safe to that point of supply, some of the Bills duties will sit with the secondary supplier. Clarity is needed on responsibilities (eg) if the responsibility sits with the primary supplier to notify secondary customers or if that sits with the secondary supplier. Council acknowledges the Bills reference to having more than one duty or the same duty (17). It is reasonable to expect the primary and secondary supplier to work together on notification if the issue has arisen from primary supply. However, it is imperative that the Bill does not cause confusion over duties and respective responsibilities. It may be useful if points of supply could be differentiated and if information requirements included Bulk Supply Agreements. This also applies to provision of quantity of water. Councils submission point relates to Definitions, 21, 25, and Part 5 Amendments to Local Government Act 2002, clauses 125, 126, 127 and offences 162-167.
21 (and 35)	Duties related to source water - beyond a Territorial Authority power to control.	For our Freshwater Management Unit (as per the National Policy Statement) and our water source, a significant discharge could occur in and outside the supply catchment. There are some clauses that require Territorial Authorities to go beyond their abilities to remediate (eg) manage source water risks in the catchment. Territorial Authorities and or treatment operators should understand the capacity of their plants and treatment processes to treat source water contaminants and provide that treatment capacity information to the Authorities responsible for regulating discharges (Regional Council). It is unreasonable for the supplier to address the issue beyond adopting best practicable treatment processes. It is unclear, in this scenario, if Taumata Arowai should work with a Regional Authority or if the Territorial Authority should notify and work with Regional Council, and if a Regional Council should notify both Taumata Arowai and the Water Supply abstractor of an event that may affect the safety of drinking water supply. Council considers that regulation of Regional Authorities appears to be light in this regard.
22	Duty to comply with Drinking Water Standards - Technical non-compliances	Suppliers are required to advise affected consumers that drinking water 'does not comply with standards' and how it should be treated (eg, boiling). There may be scenarios where there are technical non-compliances and associated small risk to water safety (eg) missing plant data or calibration/sample undertaken a day late. This could erode confidence in supply. Non risk non-compliances could be exempt from provisions of the Bill.
25	Duty to provide sufficient quantity of drinking water, restrict water, interrupt water and ordinary drinking water needs - (1)(2)(3)(5)(7)	25(1) requires a drinking water supplier to ensure that a sufficient quantity of drinking water is provided to each point of supply to which that supplier supplies drinking water. Council supports this intent (subject to measures needed to make that happen by the appropriate supplier or owner such as water demand management). Council also supports the intended clarity on what a reasonable supply of drinking water is for a consumer and would like an opportunity to comment on formula derivation when released. Council supports the ability for suppliers to restrict supplies when necessary. It may be useful to define 'restriction' to provide clarity and to reference s26 which provides for a Supplier to exercise their powers under any enactment (eg) bylaw making powers or a restriction may be carried out if a consumer fails to comply with an Authority's policy to manage continuous water supply; (eg) non-compliance with a bylaws provisions for conserving water in high peak demand times. The Bill requires a quantity of drinking water that is sufficient to support the ordinary drinking water needs of consumers at the point of supply. The need for clarification of Point of supply (13) has been discussed. For further clarity it would also be useful to define 'ordinary' drinking water needs.
26	Drinking water at imminent risk - Duties of water suppliers (in relation to quantity of drinking water) can enact a bylaw	Section 26 says that a supplier can request local authorities to use their powers under any enactment (for example, by making a bylaw to restrict the use of water for other than essential purposes) to assist provision of sufficient quantity of drinking water. Council supports the requirement to utilise tools to manage an imminent risk to supply of water including bylaw mechanisms, however, bylaws are weak tools for providing adequate enforcement measures to restrict supply for 'essential purposes' especially when it requires a district court process. Bylaws made under the LGA 2002 are designed to protect the public from nuisance; protect, promote and maintain public health and safety; minimise the potential for offensive behaviour in public places, and protect council infrastructure. Existing legislation has failed to give local authorities the appropriate tools to enforce their bylaws. If a local authority wishes to enforce a bylaw the only mechanism available is to seek a prosecution through the District Court. Issuing an infringement notice with an associated fine would be much more efficient and less costly than taking a case to the District Court. Council seeks the ability through this Act to infringe persons who are in breach of the bylaw including drinking water quality and quantity aspects.
27	Duty to protect against risk of backflow - Backflow risk enforcement	27 (1) states that if a drinking water supply includes reticulation, the drinking water supplier must ensure that the supply arrangements protect against the risk of backflow. Bylaws and the ability to enforce them will be important and could be supported by this Bill. It is also not clear to Council if the water was supplied by a separate organisation, how bylaws can be applied to regulate and enforce backflow risk protection. Further to this, there has been previous discussion about legislating against water takes from a network hydrant other than for the purpose of fire fighting. This does not appear to be in the Bill. Council also notes that annual testing has been removed (as required under the Health Act). Council is unclear if this will be provided for under 'Acceptable solutions'. In general Council seeks bylaw enforcement support and further clarity on what the nature and content of other associated documents will be such as regulations and Acceptable solutions. See also clause 26 commentary.
28	Duty to ensure end point treatment - end point treatment and point of supply definition	28 (1) states that if a drinking water supply includes end-point treatment, the drinking water supplier is responsible for the installation, maintenance, and ongoing testing of an end-point treatment device. Council supports the intent to ensure end point treatment, however some clarity is needed to ensure it is understood that endpoint treatment does not include private treatment beyond the point of supply. It is important to note that even if the Supplier owned the equipment on the side of the property owner, there is no legal right to enter property to monitor the device. Bylaws and the ability to enforce will be important and could be supported by this Bill. see submission points on 5 and 13 and 26.
29	Duty of officers, employees and agents to exercise due diligence - Duty of water carriers	The Bill requires a drinking water supplier to exercise due diligence to ensure that the drinking water supplier complies with that duty, however, it is not clear to Council what diligence and responsibilities are required of water carriers. Council seeks confirmation and clarity that it is not responsible for the safety of carrier water where that water supplied was safe at the time it was discharged to the carrier.
<b>Subpart 2 - Drinking Water Safety Plans</b>		
30	Owner must have a Water Safety Plan - Owner vs Supplier having Water Safety Plan	Council recommends that requiring a Water Supplier (to encompass owner and operator and not just an Owner) to have a Water Safety Plan is required (provided that an Owners accountability to 6 Principles of safe drinking water and this part of the legislation is not reduced). It is not clear what the requirements are of water carriers. Council also seeks confirmation and clarity that it is not responsible for the safety of carrier water where that water supplied was safe at the time it was discharged to the carrier.

30, 31	Owner must have Drinking Water Safety Plan and Water safety plan content	Council supports the lodgement of a (prescribed) Plan and acknowledgement of differing scales and complexity of supplies. The intent of the regulator to review plans and monitor compliance is also supported although it is noted there is no review period specified. Council supports a multi-barrier approach, however, an issue arises when 'an owner' of a supply must include a multi-barrier approach that includes preventing hazards from entering the raw water and must comply with source water risk management plans. It is beyond a water supply owners control to prevent hazards from entering the water. Council seeks clarity on the intent of this section and also seeks clarity on any approval process. Council supports the intent of the Bill's increased focus on source water risk however, there is a need to review the Bill to see how it can leverage other legislation including the RMA and NES to protect source water and clarify Regional Council's responsibilities in this regard (eg) it may be appropriate for a Regional Council to develop Source water risk plans and then the requirements of the RMA and NES can be given more effect.
32	Taumata Arowai to review drinking water safety plans and monitor compliance -	There is no clarity on approval processes and some responsibilities beyond control of a drinking water supplier.
<b>Subpart 3 - Notifications and Record keeping</b>		
35	Duty to notify Taumata Arowai of notifiable risk or hazard - role for catchment regulation for source water protection. Requirement to notify reduction in supply.	A drinking water supplier must, immediately after becoming aware that a notifiable risk or hazard exists take immediate protective action, notify Taumata Arowai, investigate the source or cause, take remedial action, advise affected customers about the notifiable risk or hazard. In addition to this the supplier must identify and implement measures required to ensure that the notifiable risk or hazard does not reoccur. Similar to commentary in clause 30 on Water Safety Plans, and clauses 42 and 44 on Source water, it is not clear to Council how the roles and responsibilities of Regional Council have been considered noting that Suppliers have limited ability to manage all risk beyond treatment, monitoring, and conveyance. Some Territorial Authorities have bylaws and policy on water allocation and restrictions to provide for critical drinking water health needs if needed. If Council supplies water for critical needs but not for commercial and industrial needs, under this Bill there would be notification requirements (ie) Notification regarding cessation or reduction of supply (36) . Council seeks clarity on roles, responsibilities and duties and further clarity on duties in relation to water shortage notifications.
36	Notification duties of drinking water supplier - Notification regarding operation of other suppliers	The Bill requires a drinking water supplier to notify Taumata Arowai of instances of potential or actual unsafe drinking water activities of 'other drinking water suppliers'. While Council supports the intent of Taumata Arowai to capture activities that cause risk, it will be difficult for parties such as Territorial Authorities to assess this and may discourage collaboration between suppliers. Information would also have to be freely available for review and goes beyond the role of Territorial Authorities especially when they are not the sole supplier. Councils considers it is Taumata Arowai's role to monitor and investigate and execute this duty. Consistency between definitions will provide clarity for Local Authorities and the regulator. For section 6 or 36, an amendment to provide clarity that notification relates to critical supply.
37	Records - Drinking water suppliers to keep records	The Bill states that records to be made available continuously. This can be interpreted to mean 'live' data.
38	Supplier to provide information to consumers and complaints process - Information to consumers	Council supports transparency. Council considers that 38 (1)9a) should reference the word 'complaint'. Council looks forward to reviewing proposed prescribed information requirements when available. This will help Council to understand what and how information should be provided to ensure efficient measures can be applied.
39	Review by Taumata Arowai - complaints	Taumata Arowai must review a complaint if requested. Council considers that the clarity is needed on what a review is intended to achieve, how Taumata Arowai will approach the complaint being reviewed with the supplier, what review scope will be applied (eg) quality or quantity or pressure or aesthetic values or fluoride or methods. The scope should be directly related to regulations and matters related to public safety. HCC can comply with standards, but the complaints process may be resource intensive for both the supplier and the regulator (especially if related to fluoride) . Council seeks clarity on how this may be addressed.
<b>Subpart 5 - Source Water</b>		
41	Purpose of Subpart and 48 - Reference to suppliers and Local Authorities and compliance rules.	This subpart attempt to provide a framework for source water response and management. Council considers that use of the term 'Local Authority' is reviewed and where compliance is more aligned with powers and responsibilities of Regional Councils, then the correct Authority should be specified. This is relevant for the identification, assessment, management and monitoring of risk and hazards in source water and requirement to comply with compliance rules.
42 and 43	(42) Suppliers to prepare a Plan and Local Authorities to undertake actions to address risk (43) and Suppliers to monitor source water quality	clause 42 requires that a drinking water supplier prepare and implement a source water risk management plan and that it is part of the Water Safety Plan, and Local Authorities (both Territorial and Regional authorities must contribute to it). Council supports the monitoring of raw water at the abstraction point to evaluate treatment performance and risk but will have a requirement for the Regional council to provide important information on catchment risk and carry out monitoring on the catchment. Regional Council could be specifically stated rather than Local Authority. clause 43 states that A drinking water supplier must monitor quality of the supplier's source water at the abstraction point in accordance with a programme set out in the supplier's drinking water safety plan. The main regulator of the source water is the Regional Council who issues consent under their Regional Plan for discharges to water and these consents must meet the standards of the NES for Protection of drinking water sources. HCC recommends further clarity in the Bill, or in an implementation document on reasonable responsibilities of both parties. The clauses also does not address supplier to supplier scenario (ie) 2 parties will have a water safety plan but only one will be a water supplier who abstracts water. There could be reference to 'abstractor' to address part of this.
44	Information sharing with Local Authorities - Informing drinking water suppliers of risks and hazards to supply and infrastructure.	Council supports information sharing that will assist in managing risk to public health. HCC notes that Local authorities must inform drinking water suppliers, as soon as practicable, of any known risks or hazards that could affect a source of a drinking water supply or related infrastructure and considers that 'notifies' might be appropriate than 'informs'.

45	Regional councils to publish information - source water and assess effectiveness of regulatory and non-regulatory interventions to manage risks or hazards (3 yearly) and make information available to the public.	The Bill requires Regional councils to publish and provide 'Taumata Arowai' with information on source water quality and quantity in their region annually, including any changes to source water quality and quantity. Council considers that water suppliers could also be provided the same information, and emerging risks to water supplies monitored by Regional Councils in accordance with obligations set out under the National Environment Standard for Protection of Source Water. Alternatively Taumata Arowai could have a duty to provide information to suppliers.
<b>Subpart 7 - Drinking Water Supply Register</b>		
53 and 55	Application to register drinking water supply (53) and Duty to renew registration (annually) and notify changes (55)	Council supports the registration of drinking water supplies required in clause 53 and notes it is an offence to fail to notify changes to a register immediately. It is not clear if some changes (such as population updates) are significant enough for immediate changes (keeping some data accurate is challenging) and if there will be charges for updating a register. Council also considers that some information to assist in Taumata Arowai in understanding points of supply and agreed responsibilities may be useful (this includes supply agreements, contractual arrangements and supply policies). Council seeks clarification on why there is a significance difference between re-registration (annually) and 5 yearly reviews for exemptions from rules (56)(8).
56	Exemption - of supplier	Council supports exemptions from responsibilities where appropriate. It would provide clarity if the grounds under which an exemption can be granted were provided and if a partial exemption was possible. It would also be helpful if there was provision for a an associated party responsible for part of the affected network supply to be informed.
<b>Subpart 9 - Emergency Powers</b>		
61	Special Powers of Taumata Arowai - Powers to direct	Council supports the intent of the Bill to manage serious risk to public health. Council seeks clarity on whether it was intended that Taumata Arowai have the ability to direct a territorial authority to supply drinking water to affected persons (whether in the district or not) when this is likely a Civil emergency matter under the Civil Defence Emergency powers, and whether or not the Territorial Authority is the water supplier. Council also notes that reference to 'public health' is wide and not a risk related to water quantity and quality. Clarity is sought on who would cover the costs of direction such as operational costs of water supply, emergency works, and event cancellations.
61	Special Powers of Taumata Arowai - Powers to direct	Emergency Provision of s 58 – 62 suggests extensive powers to Taumata Arowai during an emergency which rival those of the CDEM Controller during a state of declaration of emergency. In particular s 60 creates the situation where both a CDEM emergency and a water emergency could be declared simultaneously or one following the other. This seems to me to potentially create some confusion amongst partners. Although it makes it clear that Taumata Arowai employees exercising emergency powers are subject to the direction of the CDEM Controller when a CDEM emergency is declared, this is not the same for declared emergencies under the Hazardous Substances and New Organisms Act and for declared emergencies under the Biosecurity Act. In both of these instances Taumata Arowai employees will no longer be subject to the respective HSNZO or Biosecurity controller if Taumata Arowai directs otherwise. This seems a significant override power and appears light on what might be required before such actions are initiated.
61	Special Powers of Taumata Arowai - Powers to direct	Another area where there needs to be some clarity is around responding to non-declared emergencies. About 90 -95% of all emergencies that CDEM deal with are non-declared emergencies. In most cases we would only seek a formal declaration of emergency in order to access the emergency powers that goes with such a declaration. If we did not require the emergency powers (pretty much regardless of the nature of the event) then it would appear that Taumata Arowai may decide to declare an emergency and then technically at least Taumata Arowai employees and compliance officers would not be subject to direction of the CDEM Controller. Clarity is required to implications can be understood.
61	Alternative water supply	Direct water suppliers to make arrangements to ensure an alternative dw supply ..(e.g. water carrier) A Supplier won't have power to demand a water tanker assist. Rather than directing the supplier, consideration should be given to if they use their powers to ensure a registered DW water help in an emergency (if not declared a Civil Defence emergency situation)
<b>Subpart 10 - Authorisations</b>		
67, 68	Requirement for operators to be authorised, and requirement for prescribed skills, qualifications etc.	Authorisation of practitioners occurs in a number of different industries where public safety is involved. A system that requires operators of water and wastewater systems to need to be authorised in some way to validate suitable training, experience and competency would contribute to the safety of the drinking water system across New Zealand. This will require working closely with the water industry to develop and will need to range from those making decisions and operating at the coal face to those operating at a management level. Council questions why stormwater has not been included in the scope of the section. There are few recognised base qualifications at this time that could be readily utilised as part of an authorisation process, however it would be good to ensure that in the future that stormwater competency is considered in a similar way to water and wastewater competency. This includes areas such as provision of stormwater infrastructure, inspections, remedial works, monitoring. To manage contaminants, the environment and peoples safety, it is just as important for stormwater networks and connections to be understood and managed properly.
General comment	Authorisation	Council notes that this subpart is reliant on the development of regulations for authorisations to become mandatory. One of the findings of the Havelock North Inquiry was that a licencing system should be a key part of the drinking water system in New Zealand and the lack of a licencing system was seen as a glaring omission in the current drinking water regime. However the Health Act provided for the regulations to be made prescribing required competencies and other requirements in relation to the management of operation and maintenance of drinking water supply systems or components of those systems (s69ZZY of part 2 of the Health Drinking water amendment Act). Council supports the inclusion of this subpart in the proposed Bill however seeks assurance that regulations will be progressed as a priority. In addition to this, making authorisations mandatory will enable the development of robust and efficient authorisation systems and bodies as well as increase the cost effectiveness of training courses.
<b>Subpart 11 - Laboratory accreditation and testing</b>		
73	Taumata Arowai may appoint accreditation body - Laboratory accreditation and testing is a specific authorisation	Laboratory accreditation and testing is a specific authorisation and should be included or combined into subpart 10 - Authorisations. Taumata Arowai can determine who the entity is that has the authority to authorise operators, samplers, and laboratory's.

75	Charges - Responsibility for setting charges	Council seeks clarity on why Taumata Arowai is the body that will prescribe charges to be applied for accreditation when charges can be determined by the body appointed by clause 73.
<b>PART 3 - ENFORCEMENT AND OTHER MATTERS</b>		
<b>Subpart 1 - provisions relating to appointment of compliance officers</b>		
97	Taumata Arowai may appoint compliance officers	Council notes that any employee of a Taumata Arowai, an employee of state services, or suitably qualified and trained person can be appointed. Council seeks clarity on provisions of authorisations of compliance officers where they are technically competent.
106	Power to take and test samples	The clause also mentions conducting inquiries or inspections so the clause heading should be expanded
139	Network Registers	the clause does not give nay clarity about network size and scale. As information will be obtained from Territorial authorities and network owners, it will be important to understand the scope and level of detail needed.
115 and 116	Building Act and Power to ask for assistance - officer - lack of clarity on which officer.	115 - Building Act 2004 (1) If a compliance officer, in the course of performing functions or exercising powers under this Act, believes that any building or sitework that relates to the supply of drinking water does not comply with the Building Act 2004 or the building code, the officer must notify the appropriate territorial authority in writing and include details of the officer's opinion. And 116 - Power to ask for assistance - (1) A compliance officer who considers it necessary to do so may ask a person for assistance in performing the officer's functions or duties, or exercising the officer's powers (other than exercising a power of entry), under this Act. (2) If the person agrees to assist, they— (a) must act under the supervision of, and as instructed by, the officer; and (b) may accompany the officer into any place that the officer enters. For clarity, the word 'compliance' should be inserted so that there is not confusion about which officer is being referred to (ie) compliance officer or a drinking supply officer.
<b>Subpart 9 - criminal proceedings</b>		
156 and 159	Liability off officers, employees and agents of drinking water supplier	Council supports the Bill on limited liability of employees provided for in Defence of prosecution. Council notes this clause (159) the duty of officers, employees and agents to exercise due diligence (clause 29) and others clauses on liability and prosecution. Council has some concern that perceived high personal liability may drive behaviour such as falsification of records. It will be important to encourage transparency among water suppliers, owners, operators and contractors.
<b>Subpart 10 - Offences</b>		
20 offences seems very high compared to other service providers.		
<b>PART 4 - MISCELLANEOUS PROVISIONS</b>		
190	Regulations	The Bill references 'regulations' throughout subparts. The absence of regulations makes it difficult to understand practicality and cost implications and plan for compliance. HCC seeks further understanding on what and when regulations will be written and made available for review. Council also seeks clarity on what the regulatory relationship of Guidelines will be to the Act. In some cases it may be better to require 'reasonable practicable steps'.
<b>Part 5 Local Government Act 2002 Amendment</b>		
<b>Water and sanitary services Assessment</b>		
125 and 126	Requirement to assess drinking water services and requirements following assessment. What will be assessed, timeframes, who should be assessed and responses including requirement to notify Taumata Arowai about other suppliers risk	s125 states that a territorial authority must inform itself about the access that each community in its district has to drinking water services by undertaking an assessment of drinking water services in accordance with this section. Council supports the clarity provided on what should constitute an assessment. Council also supports working with other suppliers on matters of significant problems. Council has some concerns about potential implications of duty of care, the extent of the responsibility versus the role of Taumata Arowai especially related to assessment of private supplies and cost recovery. The onus appears to be solely on a Local Authority to remedy and no redress for cost recovery. There is also limited clarity on what constitutes a private supply and a community (eg) retirement villages, in order to fully comprehend the requirements of these clauses on a Territorial Authority and how significant they are. Council also notes that there is inference that a Territorial Authority will assess another territorial authority or water supplier whether private or not. Council is of the opinion that this is the role of Taumata Arowai.
127	Requirement to take over supplies if failing	HCC seeks how cost recovery will occur if one supplier has to take over another supplier or service a community that it has not provided for planning.
<b>Resource Management Act Amendment</b>		
104G	Consideration of activities affecting drinking water supply source water: consent authorities to have regard to risk or potential risk	Council seeks clarity on how this should be implemented at a Local Authority level and if this would warrant a decline of consent.

**APPENDIX 3 - INITIAL FEEDBACK BY HAMILTON CITY COUNCIL TO THE DEPARTMENT OF  
INTERNAL AFFAIRS THREE WATERS REVIEW****Initial Feedback by****Hamilton City Council****THREE WATERS REVIEW****23 October 2018****Attn: The Hon Nanaia Mahuta****Copy to:**

- **The Rt Hon Winston Peters**
- **The Hon James Shaw**
- **Hon David Bennett**
- **Hon Tim Macindoe**
- **Jamie Strange**
- **Tim Van De Molen**
- **Barbara Kuriger**
- **Hon Louise Upston**
- **Alan Prangnall (DIA)**
- **Richard Ward (DIA)**

**1.0 INTRODUCTION**

- 1.1 Hamilton City Council (HCC) would like to provide its Initial Feedback and Position to the Minister of Local Government, the Hon Nanaia Mahuta, on the Government's Three Waters Review that is currently being coordinated by the Department of Internal Affairs (DIA).
- 1.2 HCC supports the Government's review of how to improve the management of drinking water, stormwater and wastewater (the three waters) to better support New Zealand's prosperity, health, safety and environment.
- 1.3 While we understand from the DIA that there will be opportunities to engage with the Government in 2019 on the Three Waters Review, HCC would like to outline its Initial Feedback at the outset of the current stage of the review process.
- 1.4 Representatives from HCC would also be happy to meet with yourself, other key Ministers and representatives from the DIA to outline our Initial Feedback.
- 1.5 HCC achieves and delivers Aa grade drinking water for Hamilton that meets compliance with the Drinking Water Standards for New Zealand, duties under the Health Act 1956, and is suitable for food grade manufacturing. Water is delivered at a very reasonable cost i.e. the 2016/17 Water New Zealand National Performance Review shows that Hamilton has the third lowest water charge for residential users across all 39 councils that participated in the benchmarking review. Hamilton's water usage is also relatively low i.e. the city's residential use was just over 200 litres per person per day, compared to the median average daily residential water use of 260 litres per person per day across the 39 councils in 2016/17. Of these councils, Hamilton's residential water use was the 10<sup>th</sup> lowest.

## 2.0 INITIAL POSITION

- 2.1 HCC has significant experience in considering and investigating options for collaboration and aggregation of water services with Waikato District Council and Waipa District Council. These investigations identified that there are benefits of collaboration and aggregation of such services. Benefits are outlined in the Waters Study Waikato website: [www.waterstudywaikato.org.nz/](http://www.waterstudywaikato.org.nz/)
- 2.2 Based on the considerable amount of investigative work undertaken throughout this process, HCC voted on 17 December 2017 to support the formation of a shared waters management company of the three councils i.e. a Council Controlled Organisation (CCO). The progression of this 'journey' of the three councils between 2012 and 2018 is outlined in **Appendix 1**.
- 2.3 Unfortunately, the reason that this particular model did not progress was due to agreement not occurring at key decision-making stages for both Waikato District Council and Waipa District Council to join the proposal. Elected Members in Waikato and Waipa District councils rejected the model.
- 2.4 It should be noted that the decision made by Waipa District Council on 19 December 2017, which resulted in the CCO three waters proposal not proceeding, **was lost by only one vote**.
- 2.5 At that particular time, Waikato District Council was already in the process of exiting the three waters model and had voted not to participate in the proposal prior to Waipa District Council formally rejecting joining the proposal.
- 2.6 Waikato District Council is now in the process of transitioning into a partnership with Auckland City Council-owned Watercare Services Ltd to manage the district's water. Under this arrangement, Watercare will be contracted to supply the district's water services - potentially through a council-appointed waters governance board.
- 2.7 Clearly then, there was a significant amount of staff/Elected Member time and resource invested into the three waters project by the three councils between 2012 and 2017, all without achieving the desired result. HCC's share of the consultancy costs was around \$600,000.
- 2.8 HCC is therefore of the view that Government intervention is necessary to achieve aggregation of water service delivery and that the decision for the aggregation of water services must be led by the Government, as local government is not always able to make the decision to aggregate on its own.
- 2.9 In addition, some councils appear to be reticent about losing control of their water function as it is regarded as a significant part of their ongoing operation and, to a certain extent, is seen as justifying their 'existence'.
- 2.10 The Government is also in a much more independent position to articulate the benefits and drivers for aggregation of water providers, particularly regarding economies of scale and efficiencies of managing larger scale entities. This is a critical aspect that needs greater consideration and debate throughout the three waters review process.
- 2.11 HCC is open to considering various models for the management of three waters in the Greater Hamilton/Waikato area. These include the models recently outlined by the Minister of Local Government.
- 2.12 One model suggested by the Minister is the creation of five 'super-regions'.
- 2.13 The other model suggested by the Minister is the establishment of a water body for each of the country's 16 regions, which could potentially result in New Zealand's 67 territorial authorities jointly governing and managing them within a region.
- 2.14 Another alternative model to the above could see an independent body managing water over these 16 regions.
- 2.15 HCC is of the view that all models considered by the Government will need rigorous analysis of relevant factors to base such an aggregation model on e.g. factors could include population, catchment and terrain type, economies of scale etc.
- 2.16 We also note that the Wellington water service delivery model has evolved/developed over time into a successful and proven working model that has still retained an aspect of local democracy i.e. local

input, accountability and decision-making, as well as demonstrating open and transparent business processes. The Wellington Water service delivery model was the basis of the Shared Water Management Company CCO structure proposed by HCC and Waipa District Council (as outlined above). HCC is therefore strongly supportive of this model being investigated further in regard to establishing an efficient and effective working model for the Greater Hamilton/Waikato area.

- 2.17 HCC acknowledges the proposal from the councils in the Waikato (including the Waikato Regional Council) to investigate the Water Asset Technical Accord (WATA). While this is potentially a good initiative, that may lead to some innovative outcomes, HCC is of the view, off the back of our work on the Shared Waters Management Company, that this proposal doesn't go far enough to achieving the full benefits of collaboration.
- 2.18 In essence, HCC is seeking more benefits than WATA will potentially be able to provide, particularly as we already have scale in asset management. Scale in service delivery via the shared services model is far more comprehensive and provides significant financial and non-financial benefits. The other key issue for the Greater Hamilton/Waikato area is growth and provision of joined up waters infrastructure for a rapidly growing area.
- 2.19 Given the above and as noted previously, HCC will keep an open mind on the various models being considered by the Government in regard to the potential management and structure of a three waters model for the Greater Hamilton/Waikato area.
- 2.20 We suggest that the Government should also look to provide financial support towards any investigative work that councils may need to undertake when looking at more cost-effective and efficient three waters models. As noted, in Hamilton's case, the cost of engaging consultants for HCC to undertake such initial scoping work was around \$600,000 (refer also Section 4.1 below).
- 2.21 Partnership between the Government, local government and Iwi to recognise Te Mana o te Wai and Kaitiakitanga is important when considering models of aggregation for three waters.
- 2.22 Please note that HCC provided a detailed response in September 2018 to LGNZ's Three Waters Survey for consideration by their National Council on 4 October 2018. We have included a number of the key points raised in our response to LGNZ (outlined below in Sections 3.0-5.0) as we believe they are relevant and will be helpful to the Government as it progresses its Three Waters Review.

### **3.0 INDEPENDENT REGULATOR FOR DRINKING WATER**

- 3.1 HCC supports a new independent regulator for drinking water. Water supply is a critical part of public health and community well-being. An independent regulator will provide consistency, dedicated/focused technical competency and expertise to drive the required level of compliance to ensure water is safe to drink.
- 3.2 Any new independent regulator will need to be funded and resourced appropriately.
- 3.3 The availability of competent and experienced staff to resource any new independent regulator needs to be considered. There is a considerable risk that experienced staff will be recruited from the limited pool of experienced and competent staff currently employed by local government.

### **4.0 INCENTIVES FOR AGGREGATION OF WATER SERVICES**

- 4.1 Provision of funding for the investigation, establishment and set-up costs for aggregation of water service delivery by the Government is considered essential. Since 2012, HCC has invested around \$600,000 investigating aggregation and collaboration options with Waikato District Council and Waipa District Council. However, as noted above, ultimately the three councils were unable to agree on any collaboration or aggregation model.
- 4.2 To provide an incentive for aggregation, Government assistance for addressing any funding gaps in resilience, asset management and service delivery deficiencies (which nationally are estimated to be significant for water and wastewater), including meeting environmental and waters standards, should

only be available to councils who are part of an aggregated service delivery model i.e. a CCO.

- 4.3 HCC is of the view that if councils are required to meet the introduction of new standards but aren't in a position to afford this by themselves, then assistance from the Government be made available - but only if the councils in question aggregate so as to gain the associated benefits from scale and meaningful cooperation i.e. it would be unacceptable for taxpayers to subsidise small, inefficient three water schemes. Government funding should only be available for efficient operations.

## **5.0 CHALLENGES OF WATER QUALITY AND ENVIRONMENTAL COMPLIANCE**

- 5.1 In an environment of high growth and increasing/changing regulation, funding of and maintaining compliance with quality and environmental standards for drinking water, wastewater and stormwater is challenging.
- 5.2 HCC is also of the view that the three waters review process needs to give greater emphasis and recognition of the challenges and pressures faced by councils that are associated with stormwater management and compliance.
- 5.3 In particular, there is a real difficulty for smaller entities to attract skilled expertise to run the three water systems. HCC is of the view that Government assistance is required to address this issue.
- 5.4 In addition, more focus needs to be placed on attracting people into the water industry and increasing competence and experience. Development of an appropriate industry qualifications framework for the three waters workforce, including regulatory personnel, is limited due to the high cost associated with the range of qualifications needed and a large proportion of the cost being spread over a relatively small industry.
- 5.5 HCC believes there are incentives that could assist in maintaining compliance with quality and environmental standards for drinking water, wastewater and stormwater. These incentives are outlined below:
- Long-term certainty is needed in regard to quality and environmental compliance standards for drinking water, wastewater and stormwater.
  - National consistency is required in the application of quality and environmental compliance standards for drinking water, wastewater and stormwater (standardisation of consenting requirements for urban wastewater and stormwater systems) and in the development of national good management practices for all councils to implement to achieve environmental compliance.
  - Government-led Product Stewardship is required to reduce contaminants of national concern.
  - Government Housing Infrastructure Fund support of water sensitive principles is required.
  - National priorities for actions, activities or priority catchments need to be set. Three waters networks need recognition as significant infrastructure across the board in various planning tools such as the National Policy Statement for Freshwater Management.
  - Advice on science and knowledge, data, monitoring and modelling requirements is essential.
  - Public education campaigns supporting environmental compliance should occur.
  - Access by councils to new funding and financing tools is a critical component of a workable three waters model. The New Zealand Productivity Commission's impending inquiry on 'Local Government Funding and Financing' arrangements will be a key workstream to investigate this issue.

## 6.0 FURTHER INFORMATION

- 6.1 Should you require clarification of the above, or additional information, please contact Eeva-Liisa Wright (General Manager Infrastructure Operations ) on 07 958 5874, email [eeva-liisa.wright@hcc.govt.nz](mailto:eeva-liisa.wright@hcc.govt.nz) in the first instance.

Yours faithfully



**Richard Briggs**  
**CHIEF EXECUTIVE**

### **APPENDIX 1 – THE ‘JOURNEY’ OF THE THREE WATERS WATER STUDY – HAMILTON CITY COUNCIL, WAIKATO DISTRICT COUNCIL AND WAIPA DISTRICT COUNCIL**

1. Since 2012 multiple independent reports have advised that councils working together in the sub-region for the provision of water and wastewater activities would deliver significant financial and non-financial benefits for ratepayers and communities. In addition, many of New Zealand’s relevant professional bodies (Industry New Zealand, IPENZ, Waters NZ, Ingenium, National Infrastructure Unit) also support the benefits of scale in the reticulation and delivery of water services.
2. On 26 June 2014 Hamilton City Council (HCC) resolved to “... undertake a detailed business case examination of a Council Controlled Organisation for water and wastewater activities as a joint project between Hamilton City Council, Waikato District Council and Waipa District Council.” and “The detailed business case includes an enhanced shared services model as part of the review”.
3. On 30 October 2014, HCC confirmed the appointment of the Cranleigh consortium following a competitive procurement process and established a Waters Governance Group with two members from each council with oversight over the business case development. Councillors Mallet and Pascoe represented Hamilton.
4. The Cranleigh Business Case was a comprehensive piece of work which looked at the case for change, examined three options in detail identifying the benefits of these options and recommending the preferred option.
5. HCC resolved on 30 July 2015, “That Council receive the Business Case for Water Services – Delivery Options (“Cranleigh Report”)” and “Council supports in principle the formation of a Waters CCO for the Hamilton City, Waikato and Waipa District Councils...”
6. On 29 October 2015, a new Waters Governance Group (WGG) was established to address issues to be resolved prior to public consultation on forming an Asset Owning CCO. This resulted in the *draft Record of Agreement* for an Asset Owning CCO, developed via a series of independently facilitated workshops. The previous Mayor (Julie Hardaker), along with Councillors Gallagher and Mallett, represented HCC.
7. HCC resolved on 14 July 2016, “That Council adopt the attached Record of Agreement and supporting documentation relating to the potential formation of a water and wastewater CCO for Hamilton City and Waipa and Waikato Districts Councils.”
8. In supporting the *draft Record of Agreement*, the councils did not decide to form a CCO. The formation of an asset owning CCO could not progress until:
  - All three councils formally proposed forming a CCO following the 2016 Local Government Elections; and
  - Formal public consultation had been carried out.

9. Post the elections on 5 December 2016, Waikato District Council resolved “*THAT Council formally support the formation of an Asset Owning Three Council Water CCO*”.
10. On 6 December 2016, Waipa District Council’s Strategy Policy and Planning Committee considered a report from Morrison Low describing a transitional ‘mixed model’ (starting with a non-asset owning CCO moving towards an asset owning CCO over time). They resolved to amend the *draft Record of Agreement* to include this transitional option.
11. On 13 December 2016, HCC requested further information before establishing a preferred waters sub-regional collaboration option and delegated this responsibility to the HCC members of the Waters Governance Group (HCC WGG) to progress.
12. The members of HCC WGG are: Mayor Andrew King, Councillor Garry Mallet and Councillor Dave Macpherson.
13. In a public workshop on 13 April 2017, HCC WGG briefed HCC on the conclusions of their research. The briefing included a presentation and Q&A session with Colin Crampton, the Chief Executive of Wellington Waters. His presentation outlined the strong relationships with its council shareholders which are built on a high trust model between the company and the councils. He reinforced the benefits of open and transparent business processes for their model.
14. On 12 December 2017, HCC decided it would proceed with forming a Shared Waters Management Company.
15. However, on 19 December 2017 Waipa District Council rejected the proposal, meaning a Shared Waters Management Company will not proceed.
16. On 27 March 2018, Waipa District Council formally resolved not to proceed to establish a Shared Waters Management Company with Hamilton City Council at this stage, but to continue with the current governance, funding and service delivery arrangements for water service, having carried out a review of the service pursuant to section 17A (Local Government Act 2002).
17. HCC, at the 10 April 2018 Growth and Infrastructure Committee meeting:
  - Notes that Waipa District Council has declined the opportunity to establish a Shared Waters Management Company and that no further work will be undertaken on this 3-waters collaborative initiative; and
  - Notes that staff will continue to investigate collaborative opportunities as part of asset management planning for the delivery of 3-waters services, with a particular focus on strategic infrastructure solutions, collaboration on Resource Management Act and policy matters and resilience across the greater Hamilton growth area (covering both Hamilton and the growth communities surrounding the city).