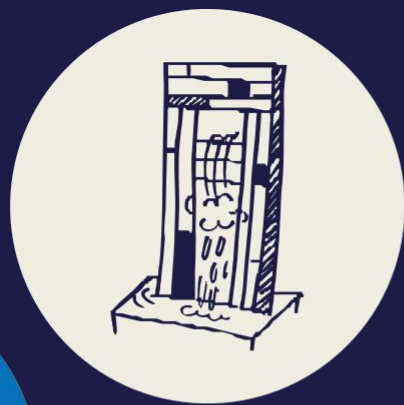


HAMILTON CITY COUNCIL SUBMISSION

Water Services Legislation Bill

The Finance and Expenditure Select Committee



17 February 2023



**Hamilton
City Council**
Te kaunihera o Kirikiriroa

Improving the wellbeing of Hamiltonians

Hamilton City Council is the territorial authority providing for the wellbeing of 180,000 residents in New Zealand's fourth-largest city. Kirikiriroa-Hamilton is unique in its youthful population, highly diverse society and highly qualified workforce. With a strong research and education sector, we are one of New Zealand's fastest-growing cities and home to around 40,000 tertiary students.

Our city has the environment at its heart. Kirikiriroa-Hamilton has more than 1,000 hectares of open space and is built on our connection to the Waikato awa, which runs for 16km through the city. Māori comprise around 20 percent of Hamilton's residents and around 40 percent of those identifying as Māori are from hapū with close ties to the Hamilton area. Hamilton has one of the fastest growing urban Māori populations.

The Waikato-Tainui Te Kauhanganui Incorporated is the principal constitutional and legally mandated local iwi authority, encompassing some 33 hapū and 67 marae across several local authority boundaries.

Waikato-Tainui takes on the wider governance focus for its people, its tribal culture, education, and social responsibility. Hamilton City Council and Waikato-Tainui work together to give effect to Te Ture Whaimana o Te Awa o Waikato – the Strategy and Vision for the Waikato River.

Economically, Hamilton is one of the key drivers of the Waikato's economic success. Its proximity to two main seaports (Auckland and Tauranga), two international airports (Auckland and Hamilton), rail connections and distribution networks, south Auckland industrial base and state highways provide significant opportunities for trade.

Under the Local Government Act 2002, Hamilton City Council must fulfil its purpose to enable democratic local decision-making and action by, and on behalf of, communities; and to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

It is the lawful provider of water services to its community up to 30 June 2024 and thereafter an owner of Water Service Entity B.

It is in this context that Hamilton City Council provides its submission to this select committee on the Water Services Legislation Bill, which effectively amends the Water Service Entities Act 2022.

Council approval and reference

This submission was approved by Hamilton City Council at its meeting held on 16 February 2023.

Hamilton City Council Reference D-4597794- Submission # 722

Part 1: Executive summary

Hamilton remains opposed to the Government's model for water services reform

Overview

Hamilton City Council remains strongly opposed to Government's four-entity model for Three Waters Services Reform.

This Council is not against reform. Hamilton has consistently acknowledged the need for reform in this sector to improve environmental outcomes and improve long term affordability for ratepayers. In its present form, we are concerned this Bill will achieve neither.

This Bill appears rushed and poorly thought through. The haste to piece it together has made it clumsy. Insufficient time has been taken to ensure future legislative requirements under this Bill are aligned with (or even consistent with) existing legislation.

A reform that works for Hamiltonians must provide for a smaller regional CCO model based on existing strategic relationships between Waikato/Bay of Plenty councils. Hamilton's previous submissions have been consistent in this requirement.

The lack of provision for a CCO model, and many other areas of concern, meant our position on the Water Services Entities Bill was that it should be withdrawn. That Bill has now been enacted but our position is unchanged. Substantial sections of the Water Services Legislation Bill are referred to as 'amendments' to the Water Services Entities Act 2022. This provides Government with an opportunity to reconsider the Act and avoid the inevitable negative effects of misaligned and rushed legislation in the future.

The Water Services Legislation Bill should be withdrawn, and the Act revisited to address the fundamental flaws within it. These include a lack of local voice in representation arrangements, removal of the legal rights that come with asset ownership, a lack of clarity on Government support to address financial impacts for Hamilton ratepayers and poor alignment with other Government reforms. There remains insufficient clarity on how existing and future investment in local and regional growth infrastructure and planning will be given effect to under the Water Services Entity.

These factors were not resolved before the Water Service Entities Bill was enacted, and they remain unresolved in the Water Services Legislation Bill.

The Water Services Legislation Bill compounds these flaws by introducing additional concerns for this Council:

- The prospect of 'taxation without representation' under the proposed Water Services Entity structures and the creation of potential subsidiaries by the entities further removes transparency and local voice.
- The creation of rates-exempt status for entities is an unfair imposition on Councils with large assets within their boundaries, introduces an additional requirement on Hamiltonians to subsidise the region outside their rating base and is inconsistent with the national rating approach for other utility providers.
- Regulations under this Bill are at odds with existing consenting processes under the RMA and are also misaligned with the proposed Natural Built and Environments Bill.

- The Waters Services Entities Act 2022 states the objectives of the entities, which reflect key wellbeing outcomes for the community, yet many parts of this Bill fail to recognise these responsibilities and treat waters as a commodity only. Community wellbeing goes far beyond economic imperatives and includes social and environmental outcomes as well as ensuring climate change resilience. This Bill largely is disconnected with the outcomes as represented in the Water Services Entities objectives, which in turn means the Water Services Entity is not obligated to deliver on aspects that are fundamental to the entire rationale of the reform.
- The lack of clarity and a disconnected definition of stormwater in this Bill introduces the risk of severe inefficiencies in the delivery of these critical services for Hamiltonians and creates an impossible delivery of the environmental and climate change objectives for the entities.
- The splitting of jurisdictional responsibility for stormwater will leave a significant part of the stormwater activity with Local government for future LTPs. This approach is inconsistent with the existing provisions in the Water Services Entities Act, is inconsistent with objective of a 'three waters' reform and, unnecessarily complicates accountability for stormwater quality and quantity.
- Charging mechanisms are ill-defined and raise concern that a move from capital value charging for services would have a disproportionate impact on Hamilton's lower-income residents.
- The Bill provides for creation of a new method of funding infrastructure for development, one which is similar to the current development contributions legislation but missing some key existing elements and the opportunity to be more flexible.
- Misalignment with existing process is rife. One simple example is a lack of clarity on how the new Water Services Entity can access property for emergency or urgent repairs. This can have critical consequential health and other impacts for neighbours and the wider community but is ambiguous in this Bill and again illustrates a lack of cohesiveness in the preparation of this proposed legislation.
- The Bill is overly prescriptive – creating a 'one size fits all' approach which removes the ability to innovate or respond to specific local needs and creating a cumbersome process at a time when we need agility to respond to a changing climate and a changing world. This is illustrated in the development of 20 functions of the entities, when the original two in the Waters Services Entities Act 2022 were clear.

Hamilton City Council remains unconvinced by Government assurances that this reform will mean Council is financially better off. That position requires substantially greater investment than is currently offered by Government.

The task for the new entities is already massive; attempting to achieve the outcomes with poor legislation could cripple the new entities before they even start.

Hamilton City Council strongly recommends Government take this opportunity to further amend all relevant legislation related to the reform.

We seek confirmation and clarity that Government will not distance itself from previous assurances that the reform will not leave Council worse off.

These key issues below are areas Hamilton City Council believes should be addressed through this opportunity to amend and reconsider the reform legislation, whether it be planned or already in place.

Local Voice, Representation and Rights of Ownership

Governance and oversight arrangements through this reform are growing progressively distant from ratepayers and are eroding localism. The shape of the governance structures, and provisions within this Bill, represent a fundamental constitutional shift. Non-elected individuals and organisations with no direct accountability to ratepayers are given the powers to tax our community. Provision for subsidiaries of these organisations represents a further step away from one of the core tenets of our local government system – that our people have a say in decisions that affect them.

We urge this opportunity for amendment of reform legislation to address the lack of effective local voice in the governance structure of the new entities. This presents a subsequent risk to strategic planning of water services to support wellbeing for Hamiltonians and the wider Waikato.

We remain opposed to the establishment of Regional Advisory Panels (RAP) on a geographic basis. There is provision in the legislation for committees to be established as required by the RRG. These committees should be created on a sector or issues basis – for example the health of the Waikato River or economic or population growth and housing.

Shares and asset transfer, as proposed, provide no key rights of ownership for Hamilton City Council. As stated in our previous submissions, we note our concerns about ownership rights would have been addressed through the well-established processes of a CCO model.

The Legislation Bill provides for subsidiaries of the Water Services Entity. While not opposed to the concept, Hamilton City Council believes they should be used only in extremely rare circumstances where the community wellbeing outcomes sought could not be otherwise achieved.

Hamilton City Council reiterates its view of September 2021 – we would like to work with government to understand, review and evaluate alternative ownership models.

Placemaking - Tier 1 growth concerns

Governance and representation provisions in the Bill do not provide for the very different strategic imperatives between metro, provincial and rural Councils. A loss of connection between the Water Services Entity, regional partnerships and individual Councils will mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.

The overly-prescriptive requirements in the Legislation Bill just embed this ‘one size fits all’ approach and are inconsistent with existing planning frameworks and the needs of our city.

The entities must be required to consider and respond to existing successful planning frameworks, whether this is through the RRG or in partnership. In our case this means ensuring Future Proof/Te Tau Tiitoki can work with the Water Services Entity to ensure cohesive planning for the Hamilton, Waipā and Waikato sub-region.

The Bill further exacerbates our concerns that the reform is falling short on providing the flexibility to support the entities objectives to enable planning, growth, housing, and urban development. The Bill has clauses for infrastructure charges that lack clarity of definitions and are inconsistent with the well-established (with the benefit of case law) development contributions regime. There is no opportunity for developer agreements and the necessary integration/collaboration with Councils to achieve these well-being objectives.

Transition concerns

On the evidence to date, the proposed establishment date for the new entities appears unrealistic. We are concerned Government and its agencies have not sufficiently progressed the planning and delivery of this reform to successfully meet a 1 July 2024 deadline.

The legislation makes significant changes to the Schedule 1 transition clauses, but we are no clearer on what assets and liabilities will transfer. In the haste of this reform, we have not been definitively advised which parts of the business will transfer or whether there are services which Council will be contracted to deliver. The extensions of 'transition' for a further three years in this Bill appears to be an acknowledgement the entities are expected to fail to deliver on time and are likely to be only partially operational on establishment day.

A poor or fractured transition presents significant risk both to Council and to the wellbeing of our ratepayers. The risk to our community is through poor delivery of three waters services, water quality and critical response to adverse weather events. Council faces financial risks in funding and managing an organisation without a third of our business, as well as maintaining the wellbeing of staff, whether they are transferring to the entity or remaining with Council. Government is yet to provide sufficient evidence of a structured and achievable pathway to transition.

Funding concerns

There remains insufficient information from Government on the immediate and subsequent financial impacts of reform, both for Hamilton City Council and its ratepayers, from July 2024. Despite repeated requests we have yet to be provided assurance that all our costs from this reform will be met by Government.

At the instruction of Government, costs related to Three Waters Reform were excluded from our 2021-2031 Long Term Plan and are therefore unbudgeted. However, this Bill contradicts this requirement with Hamilton City Council still required to deliver stormwater services (e.g. transport related stormwater) and potentially being billed for the full Water Services Entity stormwater cost to the city.

The Legislation Bill introduces further iniquities for Hamilton, through making the entity assets non-rateable. This represents a massive and continuing loss of potential income for the city over the coming years and is an unreasonable imposition on a Council with the largest Three Waters asset base in the entity.

There remains unacceptable uncertainty as to the Tranche 2 funding for transition. Current provision for Worse Off funding for Hamilton is woefully insufficient.

All costs for Hamilton City Council to participate in the reform programme must be met by Government.

We have not been told what funding is available between 1 July 2023 1 July 2024. Funding indications from Government after 1 July 2024 would mean Hamilton could face a shortfall in stranded costs of at least \$20 million (unadjusted for recent extraordinary inflationary costs since the last long-term plan). Without complete legislation, clear direction, and with the uncertainty of the Prime Minister's "reform re-set", Council cannot meaningfully plan to minimize these stranded costs prior to transition.

We have strong concerns that Hamilton consumers, community and ratepayers will pay an unfair proportion of Entity B establishment costs and any other reform costs which are carried by the entities.

Conclusion

For these reasons Hamilton City Council is strongly opposed to the passing of this Bill in its present form and recommends it is withdrawn. Withdrawal of this Bill will enable Government to work with Councils to develop reform structures and options which respond to Hamilton's previous submissions. If it is not withdrawn substantial amendments to the Bill are required.

In the event the Bill is progressed, it would be irresponsible for us to not have a view on the Bill in its current form.

Summary of technical matters and detailed technical submission

This submission is divided into three sections. This overview section (1) is followed by a summary of technical matters (2) which highlight areas of concern in the Legislation Bill. The third section is the Detailed Technical Submission, which provides our commentary on specific clauses in the Bill.

Further information and opportunity to discuss our submission

Should the Parliament's Finance and Expenditure Committee require clarification of the submission from Hamilton City Council, or additional information, please contact Andrew Parsons (Executive Director – Strategic Infrastructure) on 07 838 6896 or 021 791 612, email andrew.parsons@hcc.govt.nz in the first instance.

Hamilton City Council does wish to speak to Parliament's Finance and Expenditure Committee at the hearings in support of its submission on the Water Services Legislation Bill.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'L Vervoort', with a stylized flourish at the end.

Lance Vervoort
CHIEF EXECUTIVE

Hamilton City Council
Garden Place, Private Bag 3010, Hamilton



/HamiltonCityCouncil



@hamiltoncitycouncil



07 838 6699

hamilton.govt.nz

Part 2: Summary of Technical Matters

Hamilton City Council has provided a Detailed Technical Submission (section three of this submission) on a clause-by-clause basis. Below is a summary and commentary regarding those key areas of concern addressed in the Detailed Technical Submission

Council recognises that the continuation of service delivery is fundamental to the wellbeing of our community, regardless of the mechanisms used to provide water services.

The Water Services Legislation Bill loses sight of those wellbeings established in the entity's objectives and operating principles under the Water Services Entities Act 2022.

Hamilton City Council is concerned that in drafting this Bill, Government has lost sight of its original objectives for the three waters reform and the objectives in the Water Services Entities Act.

Council has identified nine technical matters impacted by this Bill which are critical to the either the continued efficient and effective provision of water services, or effective and sustainable delivery of Council's services to its community post transition.

We have considered the legislation from the perspective of the wellbeing of Hamiltonians.

This means the legislation needs to be functionally workable from establishment day. It means this legislation must enable the delivery of safe and effective water services, enable the future Council to operate efficiently without responsibility for Three Waters services, and ensure the efficient and reasonable transfer of people, assets, and liabilities. All this must be achieved with no reduction in water quality or service delivery for our communities.

Our key technical matters are:

1. Entity outcomes
2. Servicing growth
3. Scope of stormwater services
4. Removal of revenue rights
5. Charging for services
6. Subsidiaries
7. Property rights
8. Regulation of Three Waters
9. Alignment with central government objectives

1 Entity outcomes

- 1.1 The Water Services Act 2022 establishes the entities with clear and fit for purpose objectives (section 11) and operating principles (section 13). This Legislation Bill has little regard to supporting the outcomes these sections were intended to guide.
- 1.2 The Legislation Bill must give the entities the opportunity to deliver on their objectives. By delivering on these the entities will fulfil the much-needed wellbeing outcomes this reform has promised. For example, this Bill is not aligned with achieving the government's pipeline of urban housing. It provides insufficient clarity to provide linkages to urban spatial plans and will impact growth delivery partnerships with the development community via private development agreements. Both are essential if the housing pipeline is to be maintained and enhanced.

- 1.3 The entities will operate under the microscope of many oversight organisations including: the Minister for Local Government, an economic efficiency regulator, a consumer protection commission, a waters regulator, Government policy statements, Manatū Hauora | the Ministry of Health, the Office of the Auditor General, regional and local government and others. These regulators must collectively maintain oversight of the entities operations and have the powers or influence to ensure the entities contributes to its objectives.
- 1.4 Innovation is going to be critical to the entities delivering the forecast \$185 billion investment shortfall in the next 30 years plus its public health, environment and climate change adaption and growth and urban development investments.
- 1.5 Overly detailed and prescriptive legislation such as the proposed amendment to the functions in the Water Services Entities Act 2022 (section 12) will lead to a culture of focussing on the prescriptive law. In doing so, opportunities to innovate and deliver on the objectives and its outcomes will be lost.
- 1.6 Our detailed technical submission identifies matters that fail to support the entities objectives, are overly prescriptive and restrict innovation opportunities.

2 Servicing growth

- 2.1 Hamilton and the wider Waikato region is rapidly growing on every front and has established very long-term urban growth plans. Strategic infrastructure planners must consider when and how growth and intensification is planned and managed. There are two key mechanisms for this; (1) recognition of population growth and future settlement patterns; and (2) use of planning tools to provide network capacity and treatment through private on-lot water sensitive devices.
- 2.2 Supporting and enabling the planning processes, growth, housing and urban developments is an objective of the entities. Significant strengthening of provisions relating to supporting this objective is essential.
- 2.3 Planning for significant infrastructure to support future population growth and settlement in the next 30-100 years is an important part of water servicing. Council recommends that the water services entity representative is at the table for regional spatial planning.
- 2.4 Urban growth management in the Waikato sub-region has been led by the Future Proof Partnership since 2008. The Future Proof Partnership and Strategy is a 30-year growth management and implementation plan specific to the Hamilton, Waipā, Waikato and Matamata-Piako sub-region. It lies within the context of the broader Hamilton-Auckland Corridor and Hamilton-Waikato Metropolitan areas. The strategy provides a framework to manage growth in a collaborative way for the benefit of the Future Proof sub-region both from a community and a physical perspective.
- 2.5 The Future Proof strategy was established to address:
 - i. Community concerns about the lack of collaboration and leadership in the management of growth.
 - ii. Waka Kotahi NZ Transport Agency (Waka Kotahi) concerns about the lack of integrated land use and transport planning – specifically in relation to land use around the proposed Waikato Expressway.
 - iii. An awareness of the need to inform the Waikato Regional Policy Statement and Waikato Regional Land Transport Plan.
 - iv. Significant growth rates in the sub-region.

- v. An increasing recognition of the Waikato Region's role in the upper North Island economy, alongside the Auckland and Bay of Plenty regions.
- 2.6 The 2022 strategy included formal submissions, hearings, deliberations and decisions by the Future Proof Implementation Committee, a committee comprising nominated elected representatives from each partner council and relevant government ministers including the Minister of Housing and Urban Development, Minister of Local Government, and the Minister of Transport.
- 2.7 The Hamilton-Waikato Metropolitan Spatial Plan was a subset of the Future Proof strategy and part of the government's Urban Growth Agenda. Its purpose was to set a long term, 100-year plan for how the Hamilton-Waikato metropolitan area would accommodate and manage growth over the next century with the aim of creating one of the most liveable places in New Zealand. The development of the strategy included a wide range of stakeholders from across multiple sectors, public and private, local, and central government. The final plan was endorsed by Cabinet in May/June 2020 and approved by the Future Proof Implementation Committee in September 2020.
- 2.8 It is of fundamental importance that both a Water Services Entity and local authorities are at the table together in the development of urban planning instruments, urban development strategies, infrastructure strategies, and water service assessments.**
- 2.9 To bed this in, there needs to be stronger specific provisions in the Bill to require collaboration to support growth and urban development and planning for future corridors. Council recommends a new clause is added to the operating principles which requires the entity to partner and engage with growth and urban planning collaborations and give effect to future focused spatial plans and strategy. Also, supporting growth matters should be specifically identified in relationship agreements.
- 2.10 Council recommends the definition of urban area should include "Future" Urban Areas that are recognised in relevant spatial planning documents, but not necessarily zoned for urban development in a district plan (or relevant planning instrument).

Development agreements and transition

- 2.11 The Bill does not provide for private developer agreements as set out in the Local Government Act s207a.
- 2.12 The LGA allows for councils to enter into private developer agreements in addition to the use of development contributions or financial contributions. These come in many forms, including the delivery of infrastructure without money changing hands between councils and developers/landowners, or other times involving large payments to or from one or both parties. Often these agreements deal with mixed 3-waters infrastructure and other infrastructure e.g., transport, reserves or community infrastructure and enable innovative infrastructure solutions or funding models.
- 2.13 There will be many mixed developer agreements in place on establishment date that will need to transfer to the Entities, either in whole or in part, and in a robust way. This will include any obligations that councils owe to other parties under these agreements, including the delivery of certain water infrastructure within defined timeframes in some instances and financial payments from councils to others.
- 2.14 How these rights and obligations sitting in private developer agreements are to be transferred is not clear in the Bill, and we expect this will be a complex and time-consuming task - the scale of which may not be foreseen. There needs to be sensitivity in working with private sector partners to maintain confidence in the agreement delivery, so momentum continues in the delivery of new housing.

2.15 It is unconscionable that existing legal or commercial contracts can be terminated simply because of the reform and the provisions in the Bill. Council strongly recommends that section 335 in the Legislation Bill be amended to require engagement with local authorities which had been a signatory to the original contract.

2.16 Hamilton City Council has repeatedly raised concerns about the limited regard given to urban growth and is very concerned that the Bill significantly understates the complexity of considerations required to support planning, growth, housing and urban development. In addition, no regard has been given to spatial plans. A significant and comprehensive update is required to the Bill to address the above matters.

3 Scope of Stormwater Services

3.1 Council does not support segregation of stormwater services, in full, from the responsibilities of the entity. Holistic management of stormwater is the preferred model to ensure better community and water quality outcomes.

3.2 There is lack of clarity on the definition of stormwater. The current definition of stormwater infrastructure in the Bill means that rural stormwater and stormwater in the transport stormwater system (including overland flow paths) are excluded from the scope of management by the Water Services Entity and remain with councils. In effect three waters reform has become a 2.5 waters reform.

3.3 Stormwater management is a complex activity that spans across multiple activities and agencies and therefore requires continued collaboration, particularly in infrastructure planning, to achieve better community and environmental outcomes.

3.4 This 2.5 waters reform does not support the entities' objectives to protect and promote the environment and mitigate climate change and natural hazard and climate change adaptation. For example, stormwater will flow from rural to transport to urban to discharge. The Bill is unclear on who would be responsible for the discharge consent in this context.

3.5 Council notes several areas within the Water Services Legislation Bill which need further thought and refinement when it comes to stormwater. Submission points have been drafted within our Detailed Technical Submission. A summary of these is provided below:

Overland flow paths

3.6 It is unclear how the general "service to the boundary" approach is applicable where land use aspects, such as the restrictions on the use of land in overland flow paths, correlate with this approach. The management of overland flow paths requires control over the use of the land, which is typically a function undertaken through RMA planning functions. If responsibility of overland flow paths transfers to entities, the entities would either need powers to control land use, or mechanisms to ensure collaboration with Territorial Authorities, to enable the continued management of land use activities. Further to this transportation networks are often used as overland flow paths and it is unclear how this will be managed, with the exclusion of transportation networks from the proposed definition of stormwater system within the Bill. The Bill is unclear on responsibilities for maintenance and development of overland flow paths.

Flood risk

3.7 Land use and development, the design and operation of transportation networks and the design and operation of stormwater networks all contribute to the management of flood risks. It is unclear in the Bill which entity is ultimately responsible for flood risk management.

On lot devices

- 3.8 On lot devices are considered an effective tool and in some cases the best practical option for managing stormwater effects, however the Bill does not include on lot devices within the scope of stormwater management that would be undertaken by the water service entity. Hamilton City Council currently relies on land use planning mechanisms under the RMA to manage on lot devices (such as planning rules and regulations, resource consent conditions). A Water Services Entity will have limited ability to influence land use planning undertaken by a consent authority. Furthermore, a Water Services Entity is only able to regulate discharges into its network under stormwater network rules, as opposed to private devices themselves.

Natural and artificial watercourses

- 3.9 Otherwise known as urban watercourses, Hamilton City Council uses these as a mechanism to convey stormwater and therefore treats them as infrastructure (despite being natural features). *Natural* watercourses are also considered as the receiving environment in most scenarios, and under the remit of Regional Councils. We consider a clear delineation between the roles and responsibilities of the Entity and Regional Council needs to be provided, whilst also recognising the need for the Entity to utilise and maintain these urban watercourses (i.e., remove obstructions that may cause erosion and flooding).

Definitions

- 3.10 There are multiple definitions for what constitutes a stormwater network across water related legislation. There needs to be clarity, and where possible, alignment.
- 3.11 Council recommends the Bill is amended to define how various aspects of stormwater will be managed and to ensure the responsible party has the tools and mechanisms available to achieve the outcomes required.

4 Removal of revenue rights

- 4.1 The Bill removes Council's current rights to collect rates from utility operators and removes the entity rights to collect infrastructure charges from the crown. The Bill has two sections that, together, mean the water service entities do not pay rates on the land it owns and do not pay rates on their utility infrastructure.
- 4.2 Hamilton City Council opposes the non-rateable status of the Water Services Entity assets and the network infrastructure. This is inconsistent with the rating principles of the Local Government Act 2002. These clauses will strip millions of dollars from Council's revenue and will push up rates.
- 4.3 s.137 amends the Local Government (Rating) Act 2002 and makes all land owned by the Water Services Entity non-rateable.
- i. Hamilton City Council would be unreasonably refused potential rates revenue from water services land use and assets within Hamilton which service a regional base. This land use not only restricts potential rates income to benefit Hamiltonians, it also prevents Hamilton City Council from developing other revenue, services or employment opportunities on the sites. Allowing individual territorial authorities to rate Water Services Entity assets would be more equitable and transparent for all councils in the Water Services Entity area and for the Water Services Entity's true cost structures.
 - ii. Where the Water Services Entity is operating commercial operations in competition to the private sector the Water Services Entity has an unfair financial advantage.
 - iii. It includes land owned for investment purposes or other land not essential to delivery of waters services.

- iv. As a utility it has an inequitable and significant financial advantage over all other utility companies in New Zealand that all pay rates.
 - v. Councils will be financially worse off every year after this clause is in operation as current rates revenues are lost.
- 4.4 s.342 removes Water Services Entity owned assets from utility rates.
- i. The entity, unlike other utilities, would not pay rates on assets on land that it does not own. Like other utility providers the network infrastructure is largely within transport corridors or on land not owned by the utility company.
 - ii. For Hamilton City Council this is a multiple million dollar lost income stream annually, a massive eroding of revenue over 30 years (the time used in the government's reform to demonstrate financial efficiencies).
 - iii. Councils will still have obligations to value these assets for rating purposes in accordance with the Rating Valuation Act and pay for that valuation.
 - iv. This clause creates considerable inequity for other utility providers, especially electricity and telecommunication networks. The government can expect these industries to seek equality by removing the utilities rating options – further reducing revenues for council by millions more.
 - v. There is no rational reason why these entities should not be contributing to communities in the same way all other utilities do.
- 4.5 s.348 make the crown exempt from water infrastructure charges
- i. The benefits of the Crown's investment should be contributed nationally not at a local level. It is inequitable for the residents of a Water Services Entity to be subsidizing benefits provided beyond their communities of interest.
- 4.6 Throughout this reform councils have been told they will be no worse off. Yet rates revenue used to fund non-waters services is being stripped away
- 5 Charging for services**
- 5.1 The Bill must establish efficient and effective revenue mechanisms that will allow the Water Services Entity to collect charges from day one and to develop the future state of charging for waters services. Hamilton City Council's overall position on charging for water services is:
- i. We support charges from establishment day to 1 July 2027 being aligned to current Council charging mechanisms.
 - ii. We encourage charging principles and funding tools that support the entities objectives and the wellbeing of communities. In particular, Council supports capital value over fixed charging, due to the greater negative impacts fixed charging has on people living in lower-value properties.
 - iii. We recognise the water services need to benefit not just the consumer but also the whole community. Council supports investment that supports the Water Services Entities' wellbeing objectives - not just the most efficient delivery of services to the customer.
 - iv. The new infrastructure charges as proposed may be too prescriptive to capture funding for future investments. Unmitigated, or in the short term at least, this may lead to significant under-recovery by the Entity of its long-term cost of growth infrastructure programme. Our Detailed Technical Submission addresses the gaps on a section-by-section basis - our major concerns are:

- (a) the complexity of the consenting information that will need to be transferred from the territorial authority to the Water Services Entity.
- (b) the primary trigger to charge development contributions is the granting of a consent, s198 Local Government Act 2002. Infrastructure contribution charges too are triggered and may be invoiced when a building or resource consent is granted (s349). Councils grant building or resource consents whereas entities will not. Consenting information must be provided by the councils to the Water Services Entity to enable it to charge infrastructure contribution charges, but that information is not simple or static.
- (c) definitions including new concepts or terms should be defined in the Bill, and those definitions should be consistent with comparable definitions in the Local Government Act 2002.
- (d) as drafted, stormwater partially remains with councils. Councils need to maintain the ability to charge and collect development contributions for stormwater infrastructure the councils invest in.
- (e) processes should be aligned between councils and water services entities. Council processes have been developed over 20 years and largely work well and are robust when challenged. Process that should be aligned include:
 - a five-year review period for infrastructure contribution charges policies versus three years for development contribution policies,
 - lower consultation standard required for infrastructure contribution charges,
 - a somewhat less rigorous method for calculating infrastructure contribution charges as compared to development contributions (Sch.13 Local Government Act 2002),
 - the lack of infrastructure contribution charges objection or reconsideration provisions like those in the s.199 Local Government Act 2002, and
 - more authority to remit (or refuse to remit) an application to reduce a development contribution.
- (f) Lack of clarity on the transfer of development contributions.
 - The stormwater definition is not clear enough to determine which development contributions transfer
 - There is no definition of *“already collected”* or *“unpaid or unaccounted”*
- (g) It is recommended that protections be introduced into the Bill to ensure that entities follow through on what they are charging for, equivalent to those set out in s.200 Local Government Act 2002.

5.2 We oppose the proposal in Schedule 1 cl.63 of the Bill to invoice Council for all of Hamilton’s stormwater charges. This is on the basis of the following:

- i. Day 1 stormwater charging is best done on a capital value basis, possibly with differential charging. It is relatively simple to calculate the property owner's liability. Should the Water Services Entity not be ready to undertake the revenue collection process there is provision in the Bill for the Water Services Entity to enter into a contract with councils to collect the revenue.

- ii. Councils set their rates for 2024/25 prior to 30 June 2024. The Water Services Entity isn't operational until the day after, 1 July 2024. Councils would have to undertake additional and complex processes under the Local Government Act 2002 and the Local Government (Rating) Act 2002 to amend the Long-term Plan and reset the council's rates. The exemption from certain process provisions of Schedule 1 do not apply after 30 June 2024 and the Bill states it is unlawful for council to have a waters activity required to meet its legislative responsibilities in creating a lawful rate.
 - iii. Should councils be required to implement this it will increase Council rates (because of the Water Services Entity) which will create further distrust as to the integrity of this reform).
- 5.3 Hamilton City Council has made many recommendations on clauses for developing the revenue charging matters in Appendix A. The themes arising from these clauses are:
 - i. Overall, they are disconnected from each other, the objectives of the Water Services Entity and alignment with existing local government terminology and process.
 - ii. Special stormwater charging clauses tend not to fit well with other clauses and especially fail to recognise that "water services" includes stormwater in adjacent sections making for confusion as to which applies.
 - iii. Casual use of the term "leases" in the context of charges to others (and not the land-owner). Councils do not hold leaseholder information outside of the registered leases as defined in the Local Government (Rating) Act 2002. Obtaining and managing that data will be a significant charging inefficiency for the entities. This is an example of the importance of tightening up and aligning with Council's Rating Information Database data.
- 5.4 In conclusion the current charging provisions are poorly drafted and add significant and unnecessary complexity to the charging processes. This does not align with Governments vision of effective and efficient management of three waters services and the clarity needed for all parties.
- 6 Subsidiaries**
- 6.1 Hamilton City Council recognises that subsidiaries can serve to increase efficiencies and effectiveness. However, CCO's within local government have often faced criticism for their lack of transparency, lack of public accountability, and distance from the people they represent. In the chase for efficiency in the delivery of waters service, the Water Services Entities Act 2022 already takes the communities interest in waters further from the local voice. From 2024 there will be little local involvement in waters services and no direct control for Hamilton ratepayers. To avoid the risk of even more loss of transparency and community involvement, it is important the Water Services Entity subsidiaries are only created in exceptional circumstances.
- 6.2 Contemplating 'listed subsidiaries', a 'subsidiary of a subsidiary' and 'operating for profit' all seems wholly out of place with the policy settings originally promoted by the Government.
- 6.3 The Bill as drafted appears inconsistent across various clauses as to which functions a Water Services Entity subsidiary can perform, making unclear on the Government's intentions in some areas.
- 6.4 Hamilton City Council's overall position on subsidiaries is:
 - i. Where there is a material and certain efficiency a subsidiary should be considered as an option.

- ii. The Water Services Entity Board should prepare a business case considering the reasonably practicable options and should a subsidiary be preferred this business case should be presented to the RRG.
 - iii. The RRG should seek independent professional advice and engage with the owners on the proposal to establish a subsidiary.
 - iv. The Board shall only proceed with a proposal with the support of the RRG.
- 6.5 **The above matters are not included in the Bill and Hamilton City Council recommends the intent of each of these statements (A to D above) are added to the Act.**
- 6.6 In addition to the above recommendation, we have further recommendations in our detailed analysis of the sections of the Bill. These reflect our view that:
- i. Subsidiaries should not be able to create subsidiaries of subsidiaries
 - ii. Subsidiaries should provide commercial services, outside of the water services group and **only** when they are incidental to the purpose of the services the subsidiary was established and when the services are not subject to anti-competitive advantages (i.e. tax status)
 - iii. Subsidiaries' activities should be included in the oversight and accountability requirements of all waters regulators.
- 6.7 Hamilton City Council has recommended changes to subsidiary sections and relevant clauses of the Bill in our Detailed Technical Submission (Part 3 of this document).

7 Property Rights

- 7.1 Water service providers need mechanisms and appropriate timeframes to lawfully access infrastructure (wherever they are located) to ensure services and assets are maintained, and to respond to emergencies.

Access to private land

- 7.2 The Bill proposes that water service providers have similar rights of access to private land and road reserve as other utility providers. This seems reasonable, however onerous notification timeframes are proposed. In the unfortunate event of critical asset failure, which may not meet the definition of emergency under the Civil Defence and Emergency Management Act 2002, adherence to these onerous timeframes and the lack of mechanisms to enable interruption to other services, such as the need for road closures, will hinder the ability of the Water Services Entity to meet its objectives.
- 7.3 Enabling 'proactive' access to sites for mitigation of emergencies would be helpful measures for efficient operations. Council also recommends inclusion of matters relating to erosion works and removal of assets for access and protection provisions.

Relocation of infrastructure

- 7.4 With legislative direction for councils to provide for intensification, public infrastructure in private land is an issue. The Bill provides for a landowner to request moving Water Services Entity infrastructure from private land but fails to consider resources and the time required to fully analyse the impacts of moving that water infrastructure (explained further in our Detailed Technical Submission).
- 7.5 **Infrastructure relocation requests are a new right, that has never existed in any other legislation, and create significant risks to the Water Services Entities and the communities they serve. Hamilton City Council strongly opposes the creation of infrastructure relocation rights.**

8 Regulation of Three Waters

Technical Trade Waste Matters

- 8.1 Hamilton City Council supports the addition of provisions relating to the management of trade waste discharges. However, the Bill does not provide enough tools to the Water Services Entity in terms of managing these trade waste customers. Hamilton City Council's Trade Waste and Wastewater Bylaw 2016 provides tools such as clauses which enable council:
- i. The ability to review, vary, or transfer trade waste permits
 - ii. The ability to consider emerging contaminants as part of trade waste permits
 - iii. The ability to consider alternative and innovative technology is part of the delivery of trade waste services
- 8.2 Although it is recognised that Trade Waste Plans prepared under the Water Services Legislation Bill may set the ability of the Entity to address some of these matters, Council considers a top-down approach embedded in legislation (similar to that of New Zealand's resource consenting framework) provides a more consistent and efficient approach and ultimately better outcomes. Subpart 3 should be revised to provide for this approach.

Water Allocation

- 8.3 Hamilton City is in an area where the river is now fully allocated. Hamilton is a high growth Tier One city with requirements to provide for residential growth while complying with water take consents. Hamilton city has a municipal water allocation policy which seeks to manage consent limits, levels of service, growth, and water demand. S274 (2) of the Bill enables entities to create rules relating to the quantity of water based on type of customer, and rules for network connections (Part 10). This is strongly supported.
- 8.4 Any future Water Service Entity will need to consider how they manage allocation between competing water demands from residential growth and commercial and industrial needs. Customer agreements to drive water efficiency will be important (for both water and wastewater demand and potentially on-lot stormwater management).
- 8.5 **Hamilton City Council cannot understand why there is no obligation on a Water Service Entity to collaboratively develop a water demand management plan (or wastewater network management plan). These are critical management tools to set direction for rules and agreements, especially in times of climate change pressures.**
- 8.6 In principle, Hamilton City Council disagrees with allocation of treated water to areas where 'treated' water is unnecessary for the operation (ie) agricultural and horticultural activities, as provided for in the water supply related definition. Council also notes that the provisions for infrastructure connections give an underlying message that proposals will be enabled regardless of water allocation pressures. We recommend allocation is treated in an equivalent manner to infrastructure capacity in any connections process. It could then become an objective of a connections process to help manage capacity and allocation in a wider context.
- 8.7 The absence of these obligations and considerations will not serve future water service providers the effective and efficient service they are seeking, nor provide for resilience (of adequate supply), accessibility (to appropriate levels of service) or uphold Te Mana o te Wai and iwi's interests in water. Part 9 should be expanded to provide for these concerns.

Wastewater Network Regulations

- 8.8 The Bill does not provide Water Services Entities enough ability to create rules for management of wastewater networks. The bill has explicit sections for stormwater and trade waste but does not have the same clarity for general wastewater. Instead, provisions are less clearly stated in rules on consumer behaviour, noting however not every scenario where a wastewater rule is required is provided for.
- 8.9 Hamilton City Council seeks additional clauses to be added to the Bill, to provide for the ability of a Water Services Entity to create wastewater rules. These sections will be similar in scale and effect to that of the stormwater rules (Part 9, subpart 2).
- 8.10 As currently drafted, the Water Services Entities Act will:
- i. Manage the discharge of nuisance materials into the wastewater network (through consumer behaviour rules [s275]);
 - ii. Manage the discharge of high strength wastewater into the network (through trade waste permits and trade waste plans [subpart 3]);
 - iii. Manage specific activities near the wastewater network ([s285]).
- 8.11 The specificity of these rules does not provide for other common scenarios that may arise. As a result, risks to the wastewater network may arise. Such examples include:
- i. significant inflow and infiltration occurring on private property. Risk is that a Water Services Entity is unable to direct a person to remediate the inflow and infiltration.
 - ii. the replacement of public infrastructure by a person to an inadequate standard.
 - iii. the stoppage, obstruction or interference of the wastewater network by a person.
- 8.12 The risk is that there may be a gap in terms of responsibility relating to an impact on the network (refer examples above), that cannot be adequately addressed through the current framework set out in the Bill.
- 8.13 Hamilton City Council recommends that s.285 is broadened but is less prescriptive. This will allow the Water Services Entity to develop rules that fully consider the protection of people, the environment and regulatory compliance and the network infrastructure. To support the inclusion of important matters that need to be managed, template documents can be used.

9 Alignment with central government legislation

Resource Management Legislation (including reform)

- 9.1 The Water Services Legislation Bill appears to propose several different mechanisms that may interfere or conflict with the outcomes sort by the resource management framework outlined within the Resource Management Act and proposed within the Resource Management Reform programme. Detailed submission points on each of these mechanisms (specifically related to stormwater network rules, trade waste plans, water service infrastructure connections) are outlined within our Detailed Technical Submission.
- 9.2 We recognise the importance of ensuring that a Water Services Entity can create regulation around matters concerning the three waters network, however Council considers there is a need to align these with the resource management framework, such as the pathway to obtain resource consent or to utilise a designation.

- 9.3 An example of this misalignment is within the Water Service Infrastructure Connection application process. A Consent Authority under the Resource Management Act has a target timeframe of 20 working days to process a resource consent, and for resource consents for land development, Hamilton City Council generally require both evidence of capacity and adequate engineering plans to grant resource consent. This timeframe does not align with what is proposed within the Water Service Infrastructure Connection application process:
- i. A stage one (Capacity) application needs to be processed within 20 working days, and
 - ii. A stage two (Engineering Plan) application needs to be processed within 30 working days.
- 9.4 We also note that there is no ability for a consent authority to stop the clock on a resource consent process to enable the processing of a water service connection application (unless approval from an applicant is obtained to extend timeframes). This lack of alignment also extends to the proposed Natural and Built Environment Bill.
- 9.5 **Hamilton City Council recommends that a review of the Bill and overall package of reform is undertaken to enhance its integration with both the Resource Management Act, proposed Resource Management Reform programme, and associated legislation.**

Part 3 - Detailed Technical Submission by Section of the Bill

Hamilton opposes the four-entities model provided in the Water Services Entities Act. Should the Water Services Entities Act not be revisited and include provision for CCOs, it would be irresponsible for Council not to comment on the detail of the Legislation Bill to improve future outcomes for our community.

The following analysis considers each clause of the Legislation Bill in the event the Bill reaches assent without regard to Hamilton City Council's substantive submission. We have considered the Bill by topic and have grouped sections in this way.

Acronyms used in this submission							
CE	Hamilton City Council Chief Executive	GPS	Government Policy Statement	NTU	National Transition Unit	TLA	Territorial Local Authority
CCO	Council Controlled Organisation	LGA02	Local Government Act 2002	RAP	Regional Advisory panel	WSE	Water Services Entity
DIA	Department of Internal Affairs	LGOIMA	Local Government Official Information and Meeting Act	RRG	Regional Representative Group	WSE Act	Water Services Entities Act 2022

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Part 1 Amendments to the Water Services Entities Act 2022				
	s.1 - s.5		No amendment requested.	
p.22 s.4	s.5	Amended Provisions on Te Tiriti o Waitangi	No amendment requested.	Council has partnerships, joint management agreements and a developing history of working with iwi on water service-related matters. Partnership and engagement is embedded in Councils policies and strategies. Council sees mana whenua engagement in water related matters as important to outcomes for both Council, iwi, citizens, and the environment.
p.23 s.5	s.6	Interpretation		
		Definitions	Council recommends that the definitions in this Bill are consolidated into section 5.	The Bill contains definitions in separate parts of this very complex Bill. Definitions should be standardised and in one place.

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		Definition: Trading subsidiary	Council recommends this definition is not required, as the Sch.5 cl.2 restrictions would not allow for a trading subsidiary and such an entity would have an anti- competitive market opportunities due to its tax-exempt status conferred in Part 2 Subpart (Amendments to the Income Tax Act 2007).	Council would support a trading subsidiary in different circumstances than proposed in the Bill. See our views on subsidiaries in Part 2 – Summary of Technical Matters section of this submission.
		Definition: Water Supply	Council recommends that the Bill: <ul style="list-style-type: none"> • gives direction for water allocation that aligns with Te Mana o Te Wai and drives water efficiency of water intended for municipal use. • excludes agricultural and horticultural purposes except by resource consent. • align the definition with Taumata Arowai's definitions. 	<p>The proposed definition of water supply includes (c) water supplied by a water services entity for agricultural or horticultural purposes. Council is concerned that a WSE would be providing an excessive volume of treated municipal water for purposes that go beyond drinking water. This is an inefficient use of treated water, and could impact on levels of service, or require further investment to maintain levels of service. It also does not align with WSE objectives related to the environment, communities, sustainability and climate change.</p> <p>Current Council policies allocate water to uses that provide for the health and wellbeing of people as a priority. This aligns with Te Mana o Te Wai hierarchy. In doing so resource use is minimised and residents are not burdened with unnecessary cost to upgrade a network to serve</p>

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				agricultural use.
		<p>Definition: Stormwater Network –</p> <p>Transport Authority</p>	<p>Council recommends: definitions of 'Stormwater Network' in the Water Services Entities Act and 'Transport Stormwater System' clearly delineate between the responsibilities of the WSE and the Roding Corridor Manager.</p> <p>Council recommends the following model to be adopted:</p> <ul style="list-style-type: none"> the WSE must be responsible for all stormwater assets, including the discharge of stormwater from the network into the receiving environment the road corridor authority should be responsible for catchpits and catchpits leads (including any assets which only service the road corridor), and to maintain existing overland flowpaths within the public road corridor. 	<p>The way in which stormwater has been defined creates division of responsibility between a WSE (definition Stormwater System - Water Services Entities Act 2022) and a Road Corridor Authority (definition of Transport Stormwater System - WSLB). Although the intent of dividing responsibilities between these two parties is appropriate, Council have significant concerns as to how these responsibilities have been divided.</p> <p>The proposed definition does not clearly differentiate between the responsibilities of the WSE and the Road Corridor Authority. For example, a stormwater main located within the road reserve, servicing both stormwater from private properties and the road corridor could fit under both definitions.</p> <p>Under the structure proposed within the Bill, both a WSE and Roding Corridor Manager will be responsible for the management of stormwater. The proposed structure creates the following issues:</p> <ul style="list-style-type: none"> Poor environmental and health and safety outcomes as both the WSE and the Road Corridor Authority will be managing stormwater assets in their own way, rather

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				<p>than taking a holistic and strategic approach.</p> <ul style="list-style-type: none"> • The Road Corridor Authority is unlikely to be set up in such a way where stormwater management would be a priority. Further to this, it is unlikely that the Road Corridor Authority would have the in-house resourcing to manage stormwater from the end of the transition period. • There is no clear delineation between who is responsible when it comes to compliance with environmental limits as a Road Corridor Authority stormwater network could discharge into a water body where a WSE has an overlapping comprehensive stormwater discharge consent. <p>Council proposes the WSL Bill delineates stormwater assets based on current practice in Hamilton. Council delineate stormwater assets as follows:</p> <ul style="list-style-type: none"> • the road corridor authority is responsible for catchpits and catchpits leads (including any assets which only service the road corridor), and to maintain existing overland flowpaths within the public road corridor. • Council's Three Waters Unit is responsible for the remainder of stormwater assets, including the discharge of stormwater from

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				<p>the network into the receiving environment.</p> <p>The way stormwater is defined will not help implementation.</p>
		<p>Definition: Stormwater Network –</p> <p>Natural and artificial water courses</p>	<p>Council recommends the definition of 'Stormwater Network' in the Water Services Entities Act to be amended to include natural water courses and artificial water courses used for stormwater drainage.</p> <p>Council also recommends amendment of part 9 subpart 2 of the WSL Bill to consider natural water courses and artificial water courses used for the purpose of stormwater drainage.</p>	<p>Similar to the previous technical submission point, Council have noted a division of responsibility between the WSE and the Regional Councils when it comes to natural water courses and artificial water courses used for urban stormwater drainage (urban waterways).</p> <p>It is common for a territorial authority to make use of urban waterways for the purpose of stormwater drainage. As part of this, territorial authorities are also required to maintain the flow and these channels to prevent flooding and erosion effects that may be caused by stormwater discharges. Meanwhile, the Regional Council is responsible for regulating the waterbody itself, but also plays a part in erosion protection resulting from natural causes. A practical application of this is applied in Hamilton over its approximate 273km of urban waterways.</p> <ul style="list-style-type: none"> • Council is responsible for ensuring the urban waterways are free flowing and for managing water quality of stormwater discharges.

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				<ul style="list-style-type: none"> • Waikato Regional Council is responsible for regulating Council's discharges through Council's stormwater comprehensive discharge consent and stormwater management plan and requiring catchment management plans. • Both councils work together to maintain the integrity of the banks of the urban waterways that could have resulted of stormwater discharges or natural causes. <p>Considering this, Council notes the following issues with the framework set out in the WSL Bill:</p> <ul style="list-style-type: none"> • The Bill appears to only consider the WSE's responsibility for stormwater within pipes and overland flow paths. The WSE will not be responsible for urban waterbodies and consequently will not be responsible for maintaining conveyance and mitigating adverse effects associated with its stormwater discharges. • The Regional Council will be fully responsible for remediation of erosion within waterbodies, including erosion caused by urban stormwater activities. <p>Defining the term 'watercourse', and its inclusion within the definition of stormwater network</p>

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				<p>would go a long way to resolving these issues. The term could be integrated with the Stormwater Management Plans and Stormwater Network Rules (Part 9 Subpart 2) to enable the WSE to share some responsibility with the Regional Councils with regards to these water courses.</p> <p>The way stormwater is defined will not help WSE, Territorial Authority and multi-agency implementation.</p>
		Definition: Trade waste	Council recommends amending the definition to trade waste that is (i) produced through an industrial or trade waste process or related purpose.	The current definition of trade waste states that trade waste that is (i) produced for an industrial or trade waste purpose or related purpose. This definition indicates that trade waste is a primary product versus a by-product.
		Definition: Urban area	Council recommends amending the definition to include 'Urban Development' and 'Future Urban Areas' recognised in relevant spatial planning documents.	The current definition does not adequately provide for effective planning and decision making (a key objective for statutory change). The definition ignores spatial planning documents that provide for urban development and future urban areas 'not necessarily zoned' for urban development in the district plan or relevant planning instrument. It is important that the Water Services Entity is considering the future servicing needs of these future urban areas as part of their infrastructure strategies and plans.

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				The definition does not support the WSE objective of supporting planning, growth and development.
		Definition: Transport corridor manager	Council recommends: <ul style="list-style-type: none"> • use of terminology that is consistent with the Utilities Access Act 2010 which uses "Corridor Manager". • adding a definition of 'transport corridor' as defined in the Utilities Access Act 2010. 	The Utilities Access Act plays a significant role in the management of work in roads and on networks and uses the terminology "Corridor Manager". In addition to this the current "transport stormwater system" definition refers to 'transport corridor' but this is not defined. It is important (for users) to have consistent, widely known and easily understood definitions.
		Definition: Specified serious risk	Council recommends: <ul style="list-style-type: none"> • providing a detailed definition of levels of risk. • adding the following to the definition - subpart e) sites of significance. 	<p>The definition of 'specified serious risk' can be open to interpretation. (a) and (b) also have overlaps.</p> <p>The definition could closely interact with offences and liabilities. Keeping the definition broad could make it difficult for the WSE to enforce compliance rules.</p> <p>Although the definition refers to natural or built environment, it has potential to specify risks to sites of significance (such as urupa), thereby considering cultural outcomes.</p> <p>The definition does not assist with efficiency, implementation or upholding interests of iwi and</p>

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				cultural outcomes.
		Definition: Transport Stormwater System	Council recommends: <ul style="list-style-type: none"> the definition of Transport Stormwater System is revised to clarify the system and responsibilities for WSE, Territorial Authorities and Waka Kotahi. Utilise the Utilities Act and Code to assist with definitions. Consider a system approach that specifically includes assets that manage runoff from the road corridor (eg) catchpits and green water services. 	<p>'Transport corridor' is not defined leading to ambiguity where a transport stormwater system starts and stops. This has a consequence of a Territorial Authority not knowing what its responsibilities are. For example, maintenance of overland flow paths is critical for resilience across systems, roads, property and people.</p> <p>A number of issues arise from poorly defined systems (eg) flooding that occurs 'within' and 'from' the transport network into private property. It is possible that the Transport Corridor Manager could end up being responsible for the costs associated with the majority of the existing stormwater networks and therefore the Territorial Authority will still have the problem of raising revenue to pay for the costs associated with this activity – including water treatment.</p> <p>While relationship agreements could clarify roles and responsibilities for overland flow paths, this approach may lead to inconsistency across the country and impaired resilience.</p>
		Additional definitions	Council recommends: <ul style="list-style-type: none"> add the definitions mentioned from Clause 261 to the 	The following definitions are not currently included in the Interpretation section of the bill, but terms are used section 261 part (2).

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			<p>Interpretation section.</p> <ul style="list-style-type: none"> • clarify the roles and responsibilities the Transport Corridor Manager has as a Public Stormwater Network Owner or Operator. • define 'urban area' and enable consideration of the full catchment area in the definition that will enable development of Stormwater Management Plans. 	<p>•private stormwater network owner or operator means a person who— (a) owns or operates a stormwater network in an urban area that connects or discharges to a stormwater network of the water services entity; and (b) is not a public stormwater network owner or operator</p> <p>•public entity means— a local authority, council-controlled organisation, or subsidiary of a council-controlled organisation: (b) a transport corridor manager: (c) a department: (d) the New Zealand Defence Force: (e) a person who operates a stormwater network, or any aspect of a stormwater network, for, or on behalf of, an organisation specified in paragraphs (a) to (d)</p> <p>•public stormwater network owner or operator means a public entity that owns or operates a stormwater network in an urban area that connects or discharges to a stormwater network of the water services entity.</p> <p>Ease of interpretation and navigation of the legislation is needed to assist meeting the legislation objectives.</p>
		Definition: compliance	Council recommends the inclusion	The definition refers to requirements, rules,

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		requirement	<p>of provisions which empower a WSE to direct owners to manage, maintain and upkeep their private stormwater devices.</p> <p>Council consider that this can be achieved through a broadening of the remit of the Stormwater Network Rules to include the ability to set rules relating to private stormwater devices.</p>	<p>conditions, restrictions that have been imposed by various directions, orders, permits, plans, rules and offense provisions and sets of powers under the Act.</p> <p>Hamilton City is 'required' to develop catchment-based plans to meet conditions of its stormwater resource consent. To manage effects, private water devices are becoming more common and are embedded in Councils intensification plan change (Plan Change 12 to the District Plan). This plan requires on site retention, aimed at reducing impacts on the stormwater network and encouraging water reuse.</p> <p>Under the framework proposed within the Bill, stormwater rules will regulate "discharges into stormwater networks".</p> <p>It is unclear how private stormwater devices fits within the compliance framework. There is a risk that a WSE will not be able to direct a private stormwater device owner to provide upkeep and maintenance on their device where it may be causing nuisance effects related such as flooding, poor receiving environment outcomes and higher demand on the network. Councils notes that Operating Principles (s13 of the Act) include</p>

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				<p>water sensitive design (b) and taking a whole-of-catchment approach to the delivery of water services will be take (bb)</p> <p>The compliance requirement can be strengthened by reference to catchment-based plans that direct what private devices are needed to manage stormwater for quality and quantity and or expanding on the stormwater network rules.</p>
p.28 s.6	s.11	WSE established	No amendment requested.	
p.28 s.7	s.13	Functions of the WSE	Council recommends the functions as drafted in the WSE Act remain and the proposed amendment of that in this Bill not proceed.	<p>The WSE Act provides the entities with clear direction from the objectives (s.12) and operating principles (s.14).</p> <p>An excessively prescriptive set of functions, built from the paradigm of small waters services providers can only limit the entity in delivering on the objectives and the outcomes of this reform.</p> <p>Being overly prescriptive is innovation-killing. Innovation is going to be critical to the entities delivering the forecast \$185 billion investment shortfall in the next 30 years plus its public health, environment and climate change adaption and growth and urban development investments.</p> <p>The entities will operate under the microscope of</p>

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				many oversight organisations including: the Minister for Local Government, an economic efficiency regulator, a consumer protection commission, a waters regulator, Government policy statements, Manatū Hauora the Ministry of Health, the Office of the Auditor General, regional and local government and others. These regulators must collectively maintain oversight of the entities operations and have the powers or influence to ensure the entities contributes to its objectives.
p.29 s.7	s.13(r)	...own a subsidiary ...	<p>Council recommends all matters regarding the conditions for establishing a subsidiary to be in one place in the Act. Sch.5 cl.2 being the most appropriate.</p> <p>Council recommends that s.13(r) be simplified to: “to own and operate 1 or more subsidiaries in accordance with Schedule 5.”</p> <p>Council recommends that subsidiaries should not be empowered to “trade with other persons”. Should the committee not agree, this statement should be in</p>	<p>Council considers there is an inconsistency between s.13, s.118 s.119 and Sch.5 cl.2 in respect to the function a subsidiary can undertake.</p> <p>Sch.5 is clear that a subsidiary can only undertake “functions that are incidental and related to or consequential on the functions of a WSE”. These Sch.5 words directly taken from s.13(t). We take this to mean a subsidiary can only perform a function meets the requirements of 13(t), yet 13(r) says the opposite. A function of a WSE is to “own or operate 1 or more subsidiaries ...if the only functions they perform are functions specifies in (a) to (s)”.</p>

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			sch.5 not s.13.	Also s.118 and s.119 (although inconsistent between them - see below) imply a much higher threshold than “incidental and related or consequential”. Furthermore, the WSE is a community owned service entity for delivery of waters services. It is not a trading business. A WSE entity should not “trade with other persons”
p.29 s.8 and 9	s.15 and s.18	Status of WSE	No amendment requested.	
p.29 s.10	s.97	Process for amending or replacing constitution	Council recommends the committee check the references in the Bill which appear to be incorrect for s.97(9) and s.210(d).	
p.29 s.11	s.118	Obligation to maintain water services	Council recommends that the use of the word ‘and’ is reviewed. Council continues to advocate for inclusion of significant infrastructure in the Infrastructure Strategy.	An entity will not be able to transfer significant infrastructure to a subsidiary. Significant infrastructure is defined as being material to its operations and that is included in the entity’s current statement of intent. Use of the word “and” requires that both conditions must be met in order to prevent transfer. It is not clear if this was the intent. ‘Material’ is undefined.

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				Councils' previous submission on the Water Services Entity Bill was that the definition of "significant infrastructure" should be included in the 'Infrastructure Strategy', We stand by that recommendation.
p.30 s.12	s.119	Contracts relating to provision of water services	s.119(1) Council recommends that s.119(1) of the WSE Act provide for opportunities for longer contracts up to 35 years and that processes are put in place in the legislation that provides independent review (say from the economic regulator) for contracts exceeding 15 years.	<p>The Bill has included subsidiaries into the scope of who an entity may enter a contract with.</p> <p>Council does not oppose this amendment but has concern about the length of a contract term. Council previously submitted in support of the 35-year term that was in the WSE Bill and was subsequently reduced to 15 years in the WSE Act.</p> <p>The WSE needs to find significant efficiencies to meet its objectives. Four bespoke entities have been created on the basis that scale will assist in achieving efficiencies, yet the fine print e.g. s.199(1), takes away an option that managed properly can deliver significant financial efficiencies.</p> <p>Council has a track record of achieving this. It has been successful in getting significant benefits from innovative contracting, working with neighbours and the development industry.</p>

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				<p>Having the ability to work with neighbours and the development industry with commercial contracts is essential to achieving the transformational change we all need from waters reform; however short contracts attract higher contract prices to manage the short-term nature and risk of uncertainty.</p> <p>The reduction to 15 years, we assume allays fears of the loss of control. Council has concerns about this too. This could be managed by requiring independent review by the economic regulator of the proposal and a requirement for the RRG to endorse the recommendation of the board and regulator.</p>
			<p>s.119(2) Council recommends the Committee consider the inconsistency between s.118 and 119 in respect to the transfer of assets to a subsidiary.</p> <p>Council recommends the Committee further considers the apparent inconsistencies between s.13(r) (Functions) and Sch.5 cl.2.</p>	<p>It appears s.118 allows that transfer of assets that are not significant infrastructure yet s.119 allows for transfer of any infrastructure and assets relating to the water services.</p> <p>Both the s.119 and s.118 thresholds above seem significantly considerably less restrictive than the Sch.5 restrictions on a subsidiary that can only be established for incidental matters.</p> <p>Submission points discussed further below in Schedule 5 section.</p>

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p.30 s.13	s.133	Purpose and content of Government policy statement	<p>Council recommends the Bill is amended to state how agencies (including WSE, Territorial Authorities and Road Corridor Managers) will be supported in implementation requirements.</p> <p>And to state that the Minister will conduct a cost and benefit analysis of the GPS objectives to ensure objectives are fit for purpose and understand what support will need to be given.</p>	<p>s. 130-134 of subpart 1 provides the Government to state its overall direction and priorities for water services, and the activities necessary or desirable for water services. It lists what the Government policy statement must include. This list does not include how the Government intends to support agencies to implement the GPS, or how partnering with mana whenua can be supported.</p> <p>Given that there is lack of clarity on stormwater provisions, many agencies will be captured in implementation requirements.</p> <p>It does not place any requirements on the Minister to assess the costs and benefits of the objectives in the GPS.</p> <p>This does not meet objectives related to financial sustainability, community interests, and upholding the interests of iwi.</p>
p.30 s.14	s.134	Preparation or review of Government policy statement	No amendment requested.	
p.30 s.15	s.137A	Charges as security	Council recommends that s.137A(4) is amended to allow for the equalisation of values across all	At any point in time rateable values across multiple Council (22 in WSE B) are based on values at different valuation dates. Equalisation is

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			Councils in a WSE where rating units are subject to a charge under s.137	a process undertaken by a valuer (e.g. Quotable Value NZ) that adjusts for the different valuation dates. This is used in regional Councils which collect rates from multiple TLA's. Equalisation ensures that each district contributes an appropriate share of the cost.
p.31 - 32 s.17 - 21	s.153 – s.161	various	No amendment requested.	
p.32 s.22	Part 6	Part 6 Replaced		
		General comment		Council notes a recurring issue in Part 6 is a lack of clarity of key terminology. Terminology should be defined and included in s.6.
p.32	s.200	Power to carry out work in relation to water services infrastructure on or under land	Council recommends the following 6 amendments: <ul style="list-style-type: none"> • add “reasonable” to the clause. “This section applies if an owner of land has not granted reasonable consent...” • add 'removal of redundant infrastructure, • add ability to provide for 'erosion control' • add provision for cost recovery • add provision for a service provider to carry out works 	LGA s.337 gives Council the power to require the raising, lowering or other alteration to pipes, drains, and any other apparatus on or under a road, to make the alteration where not made within a reasonable time, and recover the costs. S.200 lists activities such as constructing, replacing, removing obstructions, clearing flora, operating, inspecting, renewing, maintaining, and replacing. Neither clause includes the following aspects of work in relation to water services infrastructure: removing water services infrastructure that may have become redundant and unused and could pose a future risk, and;

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			<ul style="list-style-type: none"> • add requirement for WSE to get all other necessary permissions and meet compliance requirements under other relevant acts and plans. • Add terms planned and unplanned works (to enable different levels of access) and outline appropriated notification requirements for each, whilst providing for scheduled access to sites for maintenance and repair work. <p>Council recommends the following terms be defined to clarify meaning and further distinguish the following terms to ensure the success of Part 6 (and the Bill as a whole):</p> <ul style="list-style-type: none"> • Owners and occupiers - should be further defined as public, private and residential. • Persons, individuals and body corporate should be clearly defined to reduce the risk of inability to identify the correct stakeholders for the WSE. • Planned, unplanned, urgent, 	<p>erosion control (to either remediate erosion caused by water service infrastructure, or to protect water service infrastructure).</p> <p>Cost recovery is not provided for in the proposed amendments. This will be important for the WSE to meet its objectives.</p> <p>Who <u>does</u> the activity is an important consideration for activity management. s.200 states that WSE 'does' the activity as opposed to 'require' the activity. This will be quite limiting for carrying out works in a timely and efficient way.</p> <p>S.200 provides for the Reserves Act 1977 but does not consider or clarify compliance requirements for the WSE with regional plan rules, district plan rules, or other acts such as Heritage New Zealand Pouhere Taonga Act 2014. This has potential to cause compliance, environmental, financial, cultural and reputational risk.</p> <p>While s.200 c) provides for the WSE to operate, inspect, maintain, alter, renew, or replace water services infrastructure, Part 6 creates several documentative hoops and restrictions for the entities to pass to access sites with water services assets, for example s.200 2) a) requires the WSE</p>

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			<p>and emergency works need to be clearly defined to enable different levels of asset access.</p>	<p>to seek written consent prior to being able to undertake work on private property. It would be time and resource intensive to seek written consent. Scheduled access could alleviate this issue.</p> <p>Regular access of assets to carry out planned and unplanned work is important for infrastructure functionality (renewals) and operations. Separating planned and unplanned works would enable the WSE to carry out operations and minimise non-compliance (For example renewals fall into a category which can be planned, and adequate notification can be provided).</p> <p>As it currently stands, the provisions do not provide for meeting the objective of efficiency.</p>
p.33	s.201	Notice required before carrying out work on or under land	<p>Council recommends amendments to address the following:</p> <ul style="list-style-type: none"> • ability for the WSE to recover costs. • that a notice to the landowner should include description of the condition that the property will be left in and proposed reinstatement. • clarify type of ownership and 	<p>Council notes that s201 lacks consideration of cost recovery and delivery requirements of remedial work.</p> <p>Section 201 of the Bill requires Water Services Entities to notify the owner and occupier of the land in writing at least 15 working days before the proposed work is to start. It does not take into consideration the different types of work, land ownership and frequency of work required which</p>

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			<p>type of land to futureproof the clause. The land in question could be council owned or privately owned.</p> <ul style="list-style-type: none"> • Provide for entities regularly working with the TAs to have a shorter notice period. • further provisions for unforeseen and urgent works, which would be different from emergency works. 	<p>would benefit from varied notice periods.</p> <p>As it stands, this notice requirement does not provide for delivery efficiency.</p>
p.33	s.202	Water services entity to be notified of conditions of work	<p>Council recommends:</p> <ul style="list-style-type: none"> • amended provisions that have an outcome of efficiency in carrying out infrastructure works. This could be through reversing the onus on the party who goes through the district court to resolve matters. • the bill to distinguish the impacts of significant infrastructure from more minor works in its notification framework (to ensure adequate engagement, input, and negotiation). • State that monetary compensation is not to be part of a condition. 	<p>Council notes that under s202, the WSE will undertake different scales of work in, on, or under land, which will have varying levels of impact. There must be appropriate engagement, input, and negotiation between the WSE and the landowner ahead of the formal work taking place.</p> <p>There is a requirement that works can only proceed in accordance with landowner's reasonable conditions (unless modified by District Court on appeal). This means that conditions can completely obstruct the ability to do works efficiently and many landowners will not be equipped to impose "reasonable" conditions.</p> <p>Reasonable conditions should relate to questions of cost.</p>

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p.34	s.203	Application to District Court to carry out work	Council recommends the Bill provides clarity on the timing of consent and when the works can start.	<p>Sections 202 and 203 do not clarify if consent from the landowner is required before the work can start. The provisions put onus on the WSE to obtain "approval" from District Court if owner does not consent or imposes unreasonable conditions (under LGA02 it is the landowner who must appeal). In the case of new works this applies even if landowner does nothing at all in response to notice. Change of practical onus plus delays of District Court referral may put landowners in a stronger position to obtain the consent conditions they want.</p> <p>This court result in a higher number of works needing to be approved by a District Court and will be a strain on resources and cause delays in physical works, often dependant on good seasonal conditions and availability of resources. Any appeals will also cause delays and additional cost to the WSE.</p>
p.35	s.204 -205	various	No amendment requested.	
p.35	s.206	Requirement to produce evidence of authority and identity	Council recommends that WSE would benefit from providing a definition of and examples of what an approved 'evidence of authority' needs to be.	s206 of the Bill requires an officer, employee or agent of a WSE to provide evidence of their authority and identity. The bill does not provide a definition and examples of what an approved 'evidence of authority' needs to be.
p.35	s.207	Specific requirements for	Council recommends that s.207	Council has made the recommendation to

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		carrying out work under section 200(1) in relation to land on which marae or urupā is situated or that is Māori reservation	include the same provisions for imposing conditions stated in s.201 to be provided for Māori land as well.	strengthen the outcomes of the section.
p.35	s.208	Specific requirements for carrying out work under section 200(1)(a) in relation to Māori land with more than 10 owners	Council recommends that s.208(2a) include a definition of who has the authority to grant consent.	Council has made the recommendation to strengthen the outcomes of the section.
p.36	s.209	Specific requirements for carrying out work under section 200(1)(b) or (c) in relation to Māori land with more than 10 owners	No amendment requested.	
p.37	s.210	Notice required before carrying out work on or under reserve vested in post-settlement governance entity	Council recommends that s.210 include the same provisions for imposing conditions stated in s.201 to be provided for reserves vested in post-settlement governance entities and administered by a local authority.	Council has made the recommendation to strengthen the outcomes of the section.
p.37	s.211	Power to carry out work in relation to water services infrastructure on or under roads	Council recommends removing the term 'breaking up' from clause 211(1)(c)(i) and change to 'working in the road' to better align with the Utilities Code of Practice.	s.211 of the Bill refers to opening or breaking up any road. Council is concerned that the terminology is inconsistent with the Utilities Code of Practice and set out a wrong approach to working within the road corridor.
p.37	s.212	Notice required before carrying out work under on	Council recommends that s.212 and	The Bill creates a parallel and slightly different

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		or under road	s.213 is deleted and that necessary changes are made to Utilities Act to cover the inclusion of the WSE in this process.	<p>process for functions which currently work well and deal with access to both road and rail corridors.</p> <p>The provisions do not enhance efficiency or clarity for those interacting with road and water service infrastructure.</p> <p>Currently there are limited changes proposed in the Bill under Subpart 27.</p> <p>Council also encourages a review and update of the Utilities Code of Practice to reflect inclusion of the WSE.</p> <p>The Council notes that the Bill attempts to create a set of rules for an approvals process for working within the road (transport) corridor. However, there are pre-existing legislation and guidance for that purpose. These include:</p> <ul style="list-style-type: none"> - Utilities Access Act 2010 - National Code of Practice for Utilities Operators Access to Transport Corridors. <p>The Bill creates a parallel and slightly different process for functions which currently work well and deal with access to both road and rail corridors.</p>

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				The provisions do not enhance efficiency or clarity for those interacting with road and water service infrastructure.
p.38	s.213	Water services entity to be notified of conditions	Refer to comments for s.212	Refer to comments for s.212
p.38 -39	s.214-s.216	various	No amendment requested.	
p.40	s.217	Power to take immediate action in case of emergency or specified serious risk	Council recommends the following amendments: <ul style="list-style-type: none"> • added detail on criteria • additional clause to require the Water Service Entity to demonstrate the proposed emergency works meets agreed criteria • report requirements to relevant stakeholders to ensure that provisions are not utilised inappropriately. That there is further consideration of the process of carrying out urgent work required to mitigate a likely emergency.	<p>RMA s.330 requires a certain bar to be met where an adverse effect requires 'immediate' preventative measures or requires 'immediate' remedial measures, or if there is a sudden event causing or likely to cause loss of life or injury or serious damage.</p> <p>s.217 of the Bill lacks a definition of 'emergency' and clarity on criteria for what would be considered an emergency. s.217 places no obligation on the WSE to demonstrate or test the proposed emergency works against some agreed criteria and to report that assessment to relevant stakeholders to ensure these provisions are not utilised inappropriately.</p>
p.40	s.218	Compensation	Council recommends s.218 further clarifies the application of the provisions on works on residential property and the compensation to be	s.218 lacks clarity on the application of the section on residential properties and lacks consideration of compensation requirements in case of work on roads and works which would

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			<p>provided to residential property owners in varying scope of works.</p> <p>Council recommends the Bill to add a provision of compensation for works on roads and shifting other utilities in the reasonable conditions imposed.</p>	require shifting utilities
p.40	s.219	Protection of water services infrastructure	No amendment requested.	
p.41	s.220	Maintenance of water services infrastructure	<p>Council recommends that s.220(1) should state an obligation to protect the infrastructure, and to not intentionally or unintendedly damage the infrastructure.</p> <p>Council recommends addition of the word 'public' to water services infrastructure.</p>	The ongoing integrity of infrastructure is important for effective and efficient services. While an owner or occupier may not be responsible for maintenance, a duty of care is a reasonable request to ensure continued integrity of infrastructure. This would be required in a bylaw. Further to this, where there is private infrastructure (that should be maintained by the owner or occupier), it will be helpful to differentiate between private and public water services infrastructure.
p.41	s.221	Owner or occupier of land may require water services infrastructure to be moved	<p>Council recommends that s.221 is amended to include:</p> <ul style="list-style-type: none"> a clause that provides for approval subject to asset management planning. a subclause that requires an 	s.221 provides for an owner or occupier of land or buildings to move water services infrastructure, and relay, reconstruct or replace the infrastructure subject to lawful work and compliance and consent.

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			<p>assessment of effects by a qualified person.</p> <ul style="list-style-type: none"> • a clause that requires supervision and cost recovery. • a clause that states that WSE consent should be required to build over, under or in close proximity of water services infrastructure. <p>Council recommends the section considers the resources required to fully analyse the impacts of moving water infrastructure on the water network. The 15 working days' notice period would not be sufficient to develop an impact assessment of the proposed works and/ or suggest alternative methods.</p>	<p>The following issues are listed:</p> <ul style="list-style-type: none"> • There is no consideration of how this work could be done as part of an overall program of works (whether water service related or not) for efficiency. • The clause does not require an assessment of effects • There is no recognition of the need for work to be supervised by a qualified person • There is no cost recovery for that supervision. • 221 does not provide an adequate amount of time for the water services entities to process a notice of work supplied by owners or occupiers of land intending to carrying out work to move water services infrastructure. <p>The lack of provisions to address these issues will not meet objectives of efficiency and environmental protection.</p>
p.42	s.222	Road owner may require water services infrastructure to be moved	<p>Council recommends the Bill to</p> <ul style="list-style-type: none"> • utilise the existing Utilities Code to mitigate some issues associated with the section. • Add a clause to differentiate the notice and consent requirements based on scale and nature of the work 	<p>s.222 provides for road owners to require movement of water services infrastructure, and that may be carried out by the road owner.</p> <p>The following issues are listed:</p> <ul style="list-style-type: none"> • This is <u>not</u> subject to lawful work, compliance, consent, conditions, assessment of effects or consideration of

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			required.	<p>synchronisation with other planned program of works.</p> <ul style="list-style-type: none"> there is no recognition of the need for work to be supervised by a qualified person or cost recovery for that work. The section does not provide for adequate timeframes. 15 days' notice before the work is required to start is not sufficient, particularly for larger infrastructure. See further comments for s.200.
p.43 -45	s.223 – s.230	various	No amendment requested.	
p.45	s.231	Board may designate controlled drinking water catchment areas	<p>Council recommends that the establishment of a controlled drinking water catchment is publicly notified.</p> <p>Council recommends a requirement to provide reasons and a plan to support the need for a catchment management plan</p>	<p>In order to manage source water and regulate an area, it will be in a WSE best interests to put the area in a public notice. This will assist with implementation and enforcement.</p> <p>The current provisions in s231-s233 do not provide for supplementing adequate rationale to initiate a controlled drinking water catchment management area.</p>
p.46	s.232	Board may issue controlled drinking water catchment management plan	<p>Council recommends that s.232 of the Bill needs to:</p> <ul style="list-style-type: none"> further define the scope of prohibitions, restrictions, and requirements. 	<p>It is unclear what rules would be set out in the plans and how they would interact with the District Plans and Regional Plans. This needs to be resolved in the plans.</p> <p>Standardisation of such plans would be useful to</p>

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			<ul style="list-style-type: none"> • State what can or can't be regulated under the plans. • Provides clarity (by referencing other acts) on who the regulator is and what powers they have. 	<p>regulators.</p> <p>Council broadly supports the intent of s.232 which enables the Board of an entity to issue controlled drinking water catchment management plans. It would supplement the outputs of Source Water Risk Management plans. However, these plans would be difficult to execute and implement.</p> <p>Council notes that the establishment and management of Controlled Drinking Water Catchments would need to be practically viable. While it would be possible to execute in certain areas, it would be a difficult programme of work to establish for the Hamilton area.</p> <p>There is also a potential for overlap of powers between the regional councils and the entities, as catchment protection is a power of regional councils.</p>
p.46	s.233	Chief executive may give direction to comply with controlled drinking water catchment management plan	<p>Council recommends that:</p> <ul style="list-style-type: none"> • Define the scope of 'direction' that the Chief Executive may give. Whether it would only be applicable to the WSE or can a Chief Executive issue a direction for customers. There a potential 	<p>s.233 does not clearly define the scope of 'direction' that the Chief Executive may give to comply with controlled drinking water catchment management plan.</p> <p>The Bill does not state the scope of "corrective action" to ensure it aligns well with s408 of the</p>

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			of doubling up of powers between compliance officer's direction and the CE's direction and the associated penalties or corrective actions.	bill which prescribes the liabilities and offences related to breach of the drinking water catchment management plans. Because this is an important power, the legislation needs to provide more clarity.
p.47	s.234	Meaning of small mixed-use rural water service	Council recommends the Bill defines "small mixed use rural water services" and "water supply" to align with Taumata Arowai's definitions.	Council has made the recommendation to ensure consistency of definitions for all operators and regulators in the management of water supply.
p.47 - 51	s.235 - 244	various	No amendment requested.	
p.52	s.245	Access to drinking water supply, wastewater, and urban stormwater services must be assessed	Council recommends a nationally standardised template to ensure consistency.	
p.54	s.246	When assessments must be conducted	No amendment requested.	
p.54	s.247	Additional considerations for assessments	Council recommends that proposed s.247 is amended to require Territorial Authorities to participate in the development of Water Assessments, as opposed to only being 'invited'.	s.247 requires that councils are invited to participate in the assessment, however some of the information requirements within s.245 will require information to be provided by local authorities such as strategic planning and future growth. Specific examples include: <ul style="list-style-type: none"> • community and population receiving services (s.245(2)(a)) • characteristics of those communities and populations (s.245(2)(b))

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				<ul style="list-style-type: none"> current and estimated future demands for water services (s.245(2)(h)) <p>Local authorities should be 'instructed' to participate in the assessment, to avoid a declined invitation.</p> <p>This will:</p> <ul style="list-style-type: none"> ensure that a robust and 'true' water services assessment is prepared, assist in achieving transparency of the performance of water services provide information on community wellbeing
p.55	s.248 - 250	various	No amendment requested.	
p.57	s.251	Fire hydrants	<p>Council recommends a revision of proposed s.251 to default to the Fire Code (or other relevant standard), and for approval to be sought from FENZ where the code (or other relevant standard) is not met.</p> <p>Council recommends the following amendment: "Must fix fire hydrants in the trunk mains, other than bulk mains...."</p>	<p>There is conflicting messaging behind proposed s.251(1), which requires a WSE must set fire hydrants in the most 'convenient' place, but also to ensure approval from Fire and Emergency New Zealand (FENZ) (who will likely reserve approval for proposals which align with the Fire Code (SNZ.4509). This creates a degree of confusion for the WSE.</p> <p>Council consider that this clause should be reworded to require hydrants to comply with the Fire Code (or other relevant standard), and for</p>

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				<p>FENZ to provide approvals where the code (or other relevant standard) is not met.</p> <p>In clauses associated with Fire Hydrants, the term “main pipes” is not a defined term. The term “trunk mains” we recommend should be replaced with the term “bulk mains”.</p>
p.57	s.251	Fire hydrants	Council recommends the Bill to include a requirement for WSE to consult with Transport Corridor Manager for location of fire hydrants.	s251 requires consultation with the territorial authority and FENZ for location of fire hydrants and markings associated with it. However, it does not include consultation with the Transport Corridor Manager. Generally, the fire hydrant markings are maintained by the Transport Corridor Manager, and the location of the fire hydrants can be a safety issue if not correctly located in vehicle or cycle lanes.
p.58	s.252	Pipes to be kept charged with water	No amendment requested.	
p.58	Subpart 2	<u>Stormwater Provisions</u>	Council recommends: <ul style="list-style-type: none"> the Committee seek clarification in terms of managing flooding with respect to stormwater. inclusion of the transport corridor manager as a party which the WSE is required to engage, with respect to matters relating to the road corridor (i.e. 	There are no less than 12 ‘flood’ management statutes that cover a broad range of private property and public good issues relating to land development and management, land use controls, flood management and its funding, flood emergency response and recovery, and flood protection insurance.

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			stormwater and relevant secondary legislation, fire hydrants, Water Service Infrastructure Connections and relevant secondary legislation).	<p>Each of the statutes perform a distinct and important role in managing this flood risk. The WSL Bill does not make it clear who is responsible for flooding matters with respect to stormwater.</p> <p>The Bill outlines certain engagement and notification requirements required to be adhered to by the WSE. Council notes the omission of the Road Corridor Manager as a party that a WSE is required to engage with from several relevant areas in the bill, especially in relation to stormwater which the Road Corridor Authority has a vested interest in.</p>
p.58	s.253	Stormwater Management Plans	<p>Council recommends that the Bill:</p> <ul style="list-style-type: none"> • provides for approved SMPs prepared under the RMA take precedent over other SMP's. • clearly requires catchment based SMPs • should ensure the WSE consider the growth needs of urban areas and plan and provide for servicing these areas in their Stormwater Management Plans. 	<p>s.253 requires development and implementation of a stormwater management plan for all stormwater networks in its service area. There are several issues with the provisions for stormwater management plans:</p> <ul style="list-style-type: none"> • no clear understanding of what a stormwater network is, • catchment based management approach not taken (as clearly expected in the cabinet paper), • does not clearly state how roles and responsibilities for the network are delineated. • Ignores requirement for integrated catchment and land use management as

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				<p>provided or in resource management legislation and policy and iwi management plans (which can be an important tool for giving effect to Te Mana o Te Wai, and Te Ture Whaimana).</p> <ul style="list-style-type: none"> • Poor clarity on the relationship between Stormwater Management Plans prepared by a WSE and others prepared as part of a resource consent process (ie) it is not clear on whether Stormwater Management Plan's prepared by the WSE supersede Stormwater Management Plan's required by resource consents. <p>Regional Council approved SMP's <u>should take</u> precedent over any other SMP. If the SMP needs updating, WSE will need to change the SMP through the RMA consent process.</p> <p>Council strongly considers three waters catchment management plans to be an important tool to provide for integration of land use activities with three waters and manage effects.</p> <p>Council's primary approach to achieving integrated management of land use and three waters infrastructure is to prepare and implement ICMPs. These identify the measures that need to</p>

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				be implemented at source (on lot) and at sub-catchment and catchment-wide levels to appropriately manage the cumulative adverse effects of Maximum Probable development in the catchment. These tools embedded in Council's District Plan. How these are to be managed requires further clarity.
p.58	s.254	Purpose of Stormwater Management Plans	<p>Council recommends that s.254 is reviewed to give further clarity on how it becomes a compliance framework and forms the basis of relationship agreements for roles and responsibilities.</p> <p>Council recommends the Committee seeks clarification of what is sought by the regulator in terms of Stormwater Management Plans. And the definitions of:</p> <ul style="list-style-type: none"> - Overland Flow Path - Service Area 	<p>The purpose of the SW Management plan is unclear and does not provide a compliance framework as required by s.255 (which requires an entity to comply with its stormwater management plan). There are also decisions yet to be made with regard to stormwater management by WSE's.</p> <p>It is Council's understanding that with the mandate for other parties to be part of developing the plan, that one of the outcomes is that it forms the basis of relationship agreements. This needs to be stated.</p> <p>Specificity is required to enable WSE's to deliver Stormwater Management Plans. This includes clarifying definitions such as 'overland flow path' (what contributing catchment constitutes as an overland flow path), and what constitutes a 'service area' (reticulated stormwater network, catchment overland flow paths, drainage and</p>

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				water courses, land drainage catchments and schemes).
p.59	s.255	Water services entity must comply with their Stormwater Management Plans	No amendment requested.	
p.59	s.256	Contents of Stormwater Management Plans	Council recommends that s.256 is amended to consider: <ul style="list-style-type: none"> • state of the environment baseline, • regional measures and standards set under the Resource Management Act (or its replacement). • iwi management plan considerations, • education requirements, • any related policies, • catchment maps, • flood hazard mapping, • roles and responsibilities • key stakeholders. • Future urban growth needs 	s. 256 has a comprehensive list of what needs to be included in a stormwater management plan. As drafted elements are omitted which support better: efficiency, effectiveness, safety, quality, resilience and growth.
p.60	s.257	Engagement for Stormwater Management Plans	Council recommends that public	The clause should also account for obligations to work with 'public stormwater operators'.

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			stormwater operators are added to s. 257 (1)(a)	
p.60	s.258	Taumata Arowai oversight	No comment	
p.60	s.259	Review of Stormwater Management Plans	No comment	
p.61	s.260	Board may make Stormwater Network Rules	Council recommends the Committee seek confirmation that Stormwater Network Rules made under Part 9 Subpart 2 can manage 'nuisance effects' and if not, broadening of the remit of the Stormwater Network Rules to include the ability to set rules relating to nuisance effects.	<p>Staff seek confirmation that rules can be created under proposed s260 which allows for the protection of the stormwater network from discharges of 'nuisance material'. The protection of the stormwater network from nuisance material was included as part of the 2020 revision of Hamilton City Councils' Stormwater Bylaw, and include discharges which could;</p> <ul style="list-style-type: none"> • Cause a breach of any Stormwater discharge consent condition binding Hamilton City Council • Cause a negative effect (including damage) on the efficient operation of a Stormwater System <p>Cause erosion, environmental effects, effects on health and property.</p>
p.61	s.261	Stormwater Network Rules may apply to various networks	Council recommends the amendment of proposed s.261 to: <ul style="list-style-type: none"> • specifically include private properties with private stormwater devices, and • define what a private 	Proposed s261 outlines how Stormwater Network Rules may apply to various networks, including private stormwater networks. It is not clear from the section and its specific definitions whether private properties with an on-site treatment device classifies as a private network.

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			stormwater network is.	<p>Council note that should this qualify as a private network, then Stormwater Network Rules will need to be approved by a majority of property owners before they can apply, defeating the outcome being sought by having Stormwater Network Rules in the first place (i.e. water quality, asset protection).</p> <p>Council consider that this can be resolved by defining what a private stormwater network is, and ensuring that the definition does not include individual properties with private devices.</p>
p.62	s.262 - 263	various	No amendment requested.	
p.63	s.264	Requirement to give effect to stormwater environmental performance standards	Council recommends the committee seek further clarity with regards to the relationship of the Stormwater Environmental Performance Standards, and planning documents made under the Resource Management Act 1991.	<p>Proposed s264 outlines the linkages between the Stormwater Environmental Performance Standards created under Section 139A of the Water Services Act 2020, and other documents under both the WSL Bill and other pieces of legislation. What is unclear is the linkages between planning documents made under the Resource Management Act 1991 such as National Policy Statements, Regional Policy Statements, District Plans, resource consents etc.</p> <p>These documents set environmental outcomes targets and limits, therefore it seems appropriate</p>

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				that there is a link between the performance standards and planning documents. By not linking the two sets of documents, there is a risk that there is a misalignment in terms of environmental outcomes set by the environmental regulators and the WSE and may consequently burden the WSE with unnecessary compliance risk.
p.63	s.265	Application to transport stormwater systems	Council considers that more time is needed to clarify what parts of the network any rules would apply to and who is responsible for bylaw and rule compliance.	<p>s. 264 requires that bylaws need to be written in such a way that it gives effect to stormwater network rules and that it applies to transport stormwater system if the owner or operator of the transport stormwater system is given notice by the corridor manager. With existing uncertainty on what constitutes a stormwater network and roles and responsibilities there is risk to compliance.</p> <p>Council does not consider that the purpose and effect of s.265 provides the clarity needed to the agency involved, Territorial Authorities or the WSE.</p>
p.63	Subpart 3	Trade waste provisions	Council recommends the addition of clauses within the Bill to enable the review, variation, and transfer of trade wastes permits.	Part 9 sub Part 3 includes the ability of WSE's to issue trade waste permits. Staff consider that there are other mechanisms that could be included within Part 9 sub Part 3 that would assist both Trade Waste operators and the water service entities in delivering efficient and effective

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				trade waste services. These include: <ul style="list-style-type: none"> provisions around the variation of trade waste permits provisions enabling the review of specific trade waste permits provisions enabling the transfer of trade waste permits to another person
p.63	s.266	Certain persons may apply for trade waste permits	Council recommends the 'requirement to provide management plans', and the 'requirement to notify a third party' to be added to the list of matters within proposed s.267(2).	Proposed s.267(2) sets out the matters that a WSE may consider adding as conditions to a trade waste permit. Councils often insert conditions to their trade waste agreements relating to third party notification and management plan development. The purpose of these conditions is to mitigate some of the impacts trade waste may have on trade waste conveyance and treatment. It is not clear to Staff whether conditions such as these could be included under the matters specified in proposed s.267(2). Management plans assist a WSE to meet its environmental and public health objectives.
p.63	s.267	Chief executive of water services entity may issue trade waste permit	For the avoidance of doubt, Council recommends proposed s.267(2)(a) is expanded to also include emerging contaminants.	Emerging contaminants are contaminants (either physical or chemical) that have a perceived, potential or real threat to health or the environment, yet may not be well understood and may not be well published. A WSE may be challenged by an applicant for a trade waste

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				<p>permit for inserting conditions relating to emerging contaminants on trade waste permits.</p> <p>This will assist a WSE to meet its environmental and public health objectives.</p>
p.63	s.267	Chief executive of water services entity may issue trade waste permit	Council seeks clarification on whether GPS location qualifies as a unique identifier under proposed s267(2)(i).	s.267(2) sets out the requirements or conditions within a trade waste permit. Subclause 267(2)(i) sets out unique identifiers. Council wants to ensure that a 'unique identifier' included the provisions relating to the GPS tracking of tankered waste operators. This tool has been considered by Council previously as a mechanism to track tankered waste operators to ensure that the contents of tankered waste was sourced as to what their logs had detailed.
p.64	s.268 -269	various	No amendment requested.	
p.65	s.270	Contents of trade waste plans	<p>Council recommends that the Trade waste Plan provides for determining which areas will be serviced by which wastewater treatment plant.</p> <p>Council recommends the amendment of proposed s.270(1)(a) to the following: “...which activities will be allowed with or without a permit”.</p>	<p>A number of matters that a Trade Waste Plan must have are specified. The list does not include the ‘area to be serviced’. It will be important to consider the pros and cons of servicing beyond an entity’s area and impacts on treatment plan location, risk profile and capacity to treat.</p> <p>This will assist a WSE to meet its environmental and business objectives.</p> <p>Section 270 also refers to trade waste plans</p>

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			Council recommends the removal of ‘ under a permit’ at the end of proposed s.270(1)(c).	needing to specify which activities will be allowed with a permit (proposed s.270(1)(a)). Council consider that there is limited need for a permit to be issued by a WSE to allow an activity without requirements.
p.65 - 66	s.271 -273	various	No amendment requested.	
p.66	s.274	Board may make rules restricting water usage	Council recommends the Bill adds the requirement for: <ul style="list-style-type: none"> • A criteria assessment for acceptance of a bulk supply application; and • Inclusion of demonstrated water efficiency practices as part of the initial application and subsequent application renewals. • Cost recovery for auditing of efficiency practices. 	<p>s.274-s.278 exclude the application of several restrictions/rules on consumers entitled to a bulk supply agreement, however, it is unclear why certain consumer behaviour rules would not apply.</p> <p>All consumers with individual agreements should be subject to restrictions, especially where their drought risk or a risk to public health (an inability to service sanitation or firefighting needs).</p> <p>It is also unclear what the scope of a 'commercial bulk supply agreement' would be and the criteria that may be relevant.</p> <p>Cost recovery of auditing of efficiency measures needs to be provided for.</p> <p>This will assist a WSE to meet its environmental and business objectives, uphold iwi interests and cultural outcomes.</p>
p.67	s.275	Board may make rules	Council seek the following:	Proposed s.275(4) refers to rules being created

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		regulating certain consumer behaviour	<ul style="list-style-type: none"> • Wastewater is given its own section • the addition of “Ordinary Domestic Water Supply” and “Ordinary Domestic Wastewater Discharges” to the interpretation section of the WSLB; or • guidance to be released by the DIA relating to the application of ordinary domestic water supply and wastewater discharges 	<p>regulating certain consumer behaviour, and the ability of a WSE to create rules will which restrict ordinary domestic use of water supply and wastewater discharges.</p> <p><u>Wastewater</u> The bill has explicit sections for stormwater and trade waste but does not have the same clarity for general wastewater. Because public and environmental health can hinge on how wastewater is managed, Council is of the opinion that provisions should closely mirror that of stormwater. Some wastewater issues are not always ‘behaviour’ related. A number of scenarios that are not captured in 275 include:</p> <ul style="list-style-type: none"> • significant inflow and infiltration occurring on private property. Risk is that a water service entity is unable to direct a person to remediate the inflow and infiltration. • the replacement of public infrastructure by a person at an inadequate standard. • the stoppage, obstruction or interference of the wastewater network by a person. <p><u>Water</u> What is unclear to staff is the extent to which “ordinary supply” is to be applied. For example,</p>

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				does ordinary domestic supply apply to a resident watering the garden via sprinkler during a time of severe water restrictions? Clarity is required to ensure the WSE utilise this rule in the way intended by the DIA.
p.67	s.276	Requirements for water usage restrictions and consumer behaviour rules	Council recommends that the list of matter that are considered for restricting supply includes: <ul style="list-style-type: none"> • consented abstractions limits • water availability at the treatment plant abstraction point. 	Council notes that requirements for water usage restrictions and consumer behaviour rules does not included matters of exceeding consent limits. This needs to be expanded for scenarios where the restriction is required due to consented abstractions limits or water availability at the treatment plant abstraction point.
p.67	s.277 - 278	various	No amendment requested.	
p.68	s.279	Water services entity must have service agreement with person liable to pay charges	Council recommends that the reference to bulk in s279(3)(a) is removed and that s279(3)(b) is modified to apply to a person who holds a trade waste permit at a specific location or property.	The section as drafted is too restrictive and needs to be expanded to include all supply agreements but limited to a specific location or property.
p.69 -71	s.280-284	various	No amendment requested.	
p.71	s.285	Board may regulate specified classes of work in certain places	Council recommends that s.285(3) is reviewed to ensure that potential damage can be avoided, remedied or mitigated.	s.285(3) states that the rules and regulations of a board for specified classes of work will not apply to other utility operators. The intent of this is unclear given the potential for damage to a network from another parties activities.

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p.72	s.286 - 287	-284	-284	
p.72	Part 10 s. 288	Water Service Infrastructure Connections - development types	<p>Council recommends either of the following:</p> <ul style="list-style-type: none"> • clarification on how this part will address different development types; or • the amendment of this part to provide for different development types. • the clauses are reviewed to take into account allocation limits. 	<p>Part 10 outlines the provisions relating to the Water Service Infrastructure Connections process. This part does well to differentiate between different stages of a development lifecycle (i.e. concept, engineering, physical works), however it is not understood how different scales of development will be managed when considering against the provisions of this bill, and the proposed secondary legislation (such as water service infrastructure plans and infrastructure connection requirements).</p> <p>It is not clear how the provisions apply to each of these types of developments:</p> <ul style="list-style-type: none"> • duplex • apartment block • 400 lot subdivision on a greenfield site <p>Further clarity is also needed for the scenario of when infrastructure is vested for larger scale developments and if individual properties need to seek individual connection approvals, or if the property developer will seek approval for the development as a whole.</p> <p>Guidance or amendments to this part relating to how the proposed approach to managing</p>

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				<p>connections for different development types is sought.</p> <p>Council is concerned to see that consideration has not been given to important matters relating to allocation limits for Stage 1 approval: grounds for declining applications and subsequent opportunities to decline applications and request information.</p>
p.72	Part 10 s. 288	Water Service Infrastructure Connections - Alignment with RMA	<p>Council recommends the review of Part 10 of the Bill, to ensure alignment with the resource consent process with regards to:</p> <ul style="list-style-type: none"> • Decision making criteria; and • Timeframes 	<p>Council consider there needs to be more thought into how the Water Service Infrastructure Connections process will align with the consenting process under the Resource Management Act (or its future replacement, the Natural and Built Environment Act). Council have highlighted two key issues:</p> <p><u>Alignment of Decision Making</u></p> <p>Stage One (Concept) of the Water Service Infrastructure Connections process enables a WSE to decline an application to connect based on service capacity. However, an applicant could obtain land use and subdivision consent without obtaining Stage One approval. A WSE will either be pressured to grant a service connection application when there is limited capacity, or will be seen as a bottleneck for housing development and in direct conflict with development.</p>

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				<p>For this reason, Council consider that a Stage One approval needs to be granted before subdivision and/or land use consent is applied for. This enables the WSE to set realistic expectations regarding developability within certain areas which may be under pressure, and for developers to be informed on where to make investment decisions.</p> <p><u>Timeframes</u></p> <p>Time frames within the Water Service Infrastructure Connections process do not align with the time frames within the Resource Management Act. Should a developer apply for resource consents and Water Service Infrastructure Connections permits at the same time, it is likely that the WSE (who have a longer period of time to review an application) will be under considerable pressure to meet the consent authorities' time frames of 20 working days. Consent Authorities should be empowered to enable a clock stop to alleviate pressure on a WSE to make a decision on connection approvals, and the WSE should also be able to extend timeframes to properly assess connections applications where there are service capacity constraints that need to be worked through.</p>

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p.72	s.289	Application of 3-stage approval process	Council recommends rewording of proposed s.289(2)(a)(i) to the following: “is moving works under s.221 where no additional connections are proposed”	Proposed s.289(2) outlines measures which do not apply when giving effect to proposed s.289(1) (Application of 3-stage approval process). A developer who is moving infrastructure pursuant to proposed s.221 may choose to install additional service connections to the piece of public infrastructure they are moving, however is not required to give effect to the 3-stage approval process for new service connections. This results in the developer sidestepping the water services connection 3-stage approval process. Subsequently, this may result in insufficient 3 waters capacity (such as wastewater overflows, insufficient water pressure for firefighting).
p.73	s.290	Applications may be concurrent	Council recommends the removal of proposed s.290(2)(b).	Proposed s290 enables an applicant to apply for any of the three stage approval process for water service infrastructure connections at the same time. In utilising this section, the WSE must: decide whether to process the applications concurrent (proposed s290(2)(a); then process the applications for each of the concurrent stages at the longest timeframe stipulated for the relevant stage (proposed s.290(2)(b). Proposed subsection (2)(b) is redundant as it

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				requires the approval of the WSE, and the time frame set out later in Part 10 will still apply.
p.73	s.291	Applications may be amended	Council recommends that proposed s.291 is amended to clarify the difference between a variation and a new application for water service infrastructure connection.	Proposed s.291 enables an applicant to amend an application made to the WSE for a water service infrastructure connection. Staff note there is no reference to how big a scale of change maybe. For example, a variation to an application maybe a minor amendment, or may be a new application. The proposed section does not differentiate between the two. This results in a risk that the WSE is having to absorb the time and cost of reassessing an application, and that the WSE may need to process a full application in 10 working days.
p.73	s.292	Obligation to publish water services infrastructure plan	Council recommends that proposed s.292 is redrafted to the following: "... that shows (to the best of its knowledge) the location of the connection point and pipes...	Proposed s.292 requires a WSE to publish a Water Services Infrastructure Plan. However, not all data on connection points, pipes and other assets will be 100% accurate. A developer who uses information from a Water Services Infrastructure Plan without validating the data may seek compensation from the WSE if the data is not accurate. It is important that any water service infrastructure plan that is published should be able to contain a disclaimer on the accuracy of data.
p.73	s.293	Obligation to provide written approvals	Council recommends that proposed s.293 is deleted.	Proposed s.293 sets out obligations for WSE to issue written approvals under the Resource

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				<p>Management Act 1991 in relation to Water Service Infrastructure Connection Approvals.</p> <p>There is a risk that the consent authority may discount any and all adverse effects on a WSE (for example, a build over of a WSE asset or an impact on source water utilised by a WSE).</p> <p>Written approvals of limited scope (i.e. written approval only in relation to the water service connection) is unlawful, and have often been dismissed by the courts.</p> <p>Conditional approval is also seen as an inappropriate response to this issue as there is no onus on a consent authority to confirm that the conditions are satisfied. Staff consider that any conditions attached to a connection approval certificate (i.e. s.300, s.306, s.316) can be alleviated as Augier conditions during resource consenting.</p>
p.73	s.294	Water services infrastructure connection or disconnection requirements	No amendment requested.	
p.74	s.295	Engagement for water services infrastructure connection requirements	Council seek the addition of Transport Corridor Manager as a party for the WSE to engage with when developing Infrastructure	Proposed s595(1) does not include the transport corridor manager. It is considered that the transport corridor manager should be involved in development of the Infrastructure Connection

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			connection requirements.	requirements as they have a vested interest in matters relating to stormwater.
p.74-75	s.296 -298	various	No amendment requested.	
p.75	s.299 s.305	Stage 1 and Stage 2: timing of approval of applications	Council recommends that proposed s.299(1)(a) and s.305(1)(a) are amended as follows: “in the case of an approval or decline, its decision in writing; and”	Proposed s.299 and s.305 enable a WSE to either grant or “initially decline” an application for stage 1 or stage 2 water infrastructure service connection. It is considered appropriate that a WSE is able to initially decline an application when the application may be amended to flip the decision. However, there are going to be situations where the WSE may decline an application due to matters outside an applicant’s control. An example may include a trunk main which is over serviced, and no ability for the WSE to upgrade within the foreseeable future. A WSE needs to be able to be empowered to make final decisions if required.
p.76	s.300 - 301	various	No amendment requested.	
p.76	s.302 s.308 s.315	Stage 1, 2, 3: Period of validity for approval	Council recommends a significant reduction of the validity of approval for the entire Water Service Infrastructure Connection process. Council considers that a maximum duration of five years for the entire process is appropriate.	Council consider that the period of validity of a Stage One, Stage Two and Stage 3 approval is too long (between 8 and 18 years), and may result in the banking of three waters network capacity. This means that other developments could be declined. There is also the risk of the commodification of connection approvals, similar to that of water

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				<p>rights for rural and commercial land use activities.</p> <p>There is potential for significant change in demand across a system to occur in the time between Stage 1 approval and Stage 3 physical work.</p> <p>Council consider that this risk can be alleviated by reducing the timeframes of each individual stage, or providing an overall limit on the timeframe allowed to complete the Water Service Infrastructure Connection process (stage one to stage three), with the maximum duration of either approach being five years.</p>
p.77 - 78	s.303 -307	various	No amendment requested.	
p.78	s.308	Stage 2: Period of validity for approval	See recommendation for Stage 1 Validity of approval	See comments made for Stage 1 Validity of approval
p.79	s.309	Stage 3 approval: application of sections 310 to 315	Council recommends the committee reconsider the drafting of this section.	This section is not clear on the purpose of this section, what it relates to, and if works are complete or about to be done.
p.79 - 80	s.310 -312	various	No amendment requested.	
p.80	s.313	Stage 3 approval: Certificates of connection or disconnection	Council recommends the committee reconsider the drafting of this section.	This section is not clear on what it relates to and what has been signed off.
p.80	s.314	Stage 3 approval: Grounds for declining applications	No amendment requested.	

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p.81	s.315	Stage 3: Period of validity for approval	See recommendation for Stage 1, 2 Validity of approval	See comments made for Stage 1, 2 Validity of approval
p.81	s.316	Registration of consent notices with continuing conditions	No amendment requested.	
p.82	s.317	Vesting water services infrastructure in water services entity	Council recommends that the committee consider whether RMA and Building consent conditions are sufficient for the WSE to acquire vested assets or whether further recognition is required in this legislation.	Vesting water services infrastructure water services entities s317 implies vesting is voluntary, in many cases the WSE would require vesting as part of consent conditions. In these cases the quality of the asset would be of greater importance to the entity.
p.83	s.318	Charging information needed by territorial authorities	Council recommends that the WSE is required to provide the information to TLA by 1 August of each year.	Many rates rebate clients are seeking to get their rebate in advance of paying their first instalment. Many councils invoice in August with a payment due later in the month. It would not be appropriate to delay a welfare payment due to the WSE not doing some admin in a timely manner.
p.83	s.319	Rating information needed by water services entity	Council recommends in s.319(2) – replace “give” with “provide”.	For consistence with s.319(3)
p.83	s.320	Rating information that may not be withheld	No amendment requested.	
p.84	s.321	Liability for water services charges in respect of property	Council recommends that s.321 is re-drafted to develop definitions that	This section mixes rating and by-law terminology and needs tidying up to avoid confusion.

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			are consistent with the data source (rates data) and provide more clarity to avoid any confusion where liability lies.	<p>This Part of the Bill would be clearer with a definition of:</p> <ul style="list-style-type: none"> - Owner (see s.5 rating act and include Lessee from s.11 rating act), and - Occupier (for trade waste and similar) - Property (defined as a rating unit (see rating act) <p>The WSE is primarily using council rating database to charge revenue so strong links would be beneficial.</p> <p>With these definitions s.321(2) would be improved if the “person” is “The person that is the Owner of the property is liable ...”</p> <p>Since rating law changed from occupier to owner there has been a gain in rates management efficiency for local government.</p>
p.84 - 87	s.322 - 328	various	No amendment requested.	
p.87	s.329	Charging for volumetric use	Council recommends that s.329 only applies to water supply as defined in the WSE Act.	<p>As draft volumetric use applies to “water services” which as defined in the WSE Act “...means services relating to water supply, wastewater, and stormwater”</p> <p>Council does not support a volumetric charge on residential wastewater that is not separately</p>

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				<p>metered. It is not appropriate to charge based on the input of water a process more akin to being tax collector than a utilities provider.</p> <p>Council also does not support that this section could be used for volumetric charging of stormwater. While this seems improbably, by not excluding stormwater it can only be concluded the government intend to find ways to charge stormwater volumetrically.</p>
p.88	s.330	Board may set certain charges	Council recommends that s.330(2) is explicit in providing for capital value as a variable charging tool.	<p>Capital value charging is referenced once in the Bill regarding stormwater charging (s.340) and once for transitional matters.</p> <p>Many councils use capital value rating for waters services as it provides two significant opportunities the fixed charges or volumetric charges don't offer. These are:</p> <ul style="list-style-type: none"> - A recognition that the beneficiaries of waters networks extend beyond those serviced directly - A recognition of lower decile communities' ability to pay (without income data capital value somewhat represents ability to pay) <p>Councils make decisions in the context of</p>

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				<p>community wellbeing, and it is a requirement of councils to make funding decisions in this context.</p> <p>Much of the new investment in waters services today is to do with environmental outcomes that the whole country benefits from. All WSE should recognise this and use capital value across the whole community to a portion of the cost.</p> <p>Having capital value as a charging option would require consideration on the non-rateable and 50% non-rateable matters from the rating act. These clauses have already been drafted in s.341.</p>
p.88	s.331	Charging principles	<p>Council recommends that charging principles are developed that support the WSE Objectives.</p> <p>Council does not support the proposed principles, that represent the charging approach of other profit-oriented utilities which will create harmful outcomes for disadvantaged communities.</p>	<p>Council has recommended in Sch 1 cl.60 that transitional charging principles are developed that support the transitional period and the move to the principles that apply from 1 July 2027.</p> <p>As the local government act requires funding decisions have regards to well-being the charging principles for the WSE's should support the objectives.</p> <p>The principles can ensure that charging choices support the public health, the environment, planning processes, growth, and housing and</p>

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				<p>urban development, the best interests of present and future consumers and communities, sustainability and resilience and climate change adaptation.</p> <p>The community will be better off for this rather than a simple utility tariff that does little to get good outcomes.</p>
p.89	s.332	Obligation to review and publish charges	No amendment requested.	
p.89	s.333	Chief executive of water services entity may discount charges	Council recommends that s.333(1)(b) be modified to focus on better outcomes for the WSE Objectives rather than “burdens”.	<p>The WSE Act has created strong and worthwhile objectives that support the wellbeing of New Zealanders and our country. However, these Objectives are not being supported by this Bill that focusses on old fashion commodity approaches – in other words the more volume more revenue.</p> <p>These WSE entities are not traditional utilities, do not have profit as their leading objective. Throughout this Bill the wider Objectives of these community focussed entities must be supported.</p>
p.90	s.334	Charges for water services may be averaged geographically	Council recommends that the Committee adds a clause to s.334 to require the introduction or modification of geographic averaging	<p>Council recognises that geographic averaging cannot start for three years until 1 July 2027.</p> <p>The Minister has widely promoted her vision for</p>

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			to be including in a Funding and Pricing Plan under s.154 – 156.	<p>equality in waters services across all of New Zealand.</p> <p>Geographic averaging will put the price of waters in cities up as massive investment in small communities creates the equality the minister seeks.</p> <p>Council does not oppose geographic averaging however, there needs to be stronger process for community input into its introduction.</p> <p>Linking the decisions to use geographic averaging into the Funding and Pricing plan provides an appropriate forum for the RRG, Councils and committees to provide feedback to engagement on the introduction or modification of geographic averaging.</p>
p.90	s.335	Chief executive of water services entity may enter into negotiations to change certain provisions in certain contracts	Council recommends that a clause is added to s335(2) requiring the chief executive to engage with the local government organisation to identify the rational, including outcomes for it entering the contract.	<p>Most councils have contracted waters service agreements often with large users.</p> <p>In establishing the terms of the contract, a Council takes account of the whole relationship it has with the contracting parties and the wellbeing of the community.</p> <p>In reconsidering a relationship, the Chief Executive must consider the original intent of the</p>

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				council in entering the contract.
p.91	s.336	Chief executive of water services entity may authorise local authorities to collect charges	Council recommends s.336 to 338 be moved to Schedule 1 as it is a transitional arrangement.	
p.91	s.337	Terms of charges collection agreements	See above	
p.91	s.338	Local authorities not responsible for collecting unpaid charges	See above	
p.92	s.339	Liability for certain charges in respect of properties not connected to water supply or wastewater networks	Council recommends the s.339 be removed.	<p>Availability rates arise from another era dominated by small schemes looking to boost revenue to pay down debt.</p> <p>The biggest change is councils and WSE collect development or capital contributions as the land is developed and built on. These charges incorporate the costs of building and financing the network.</p> <p>Taking a further charge to fund operating costs for service a property doesn't receives is inequitable. When the property is built on it will pay its capital contribution and a full connection fee.</p>

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p.92	s.340	Requirements for charges for stormwater services	<p>Council recommends the references to “must” should be softened to “can choose” in s.340 (1) and (2).</p> <p>Council recommends the “3-yearly” be removed from s.340(2)(a).</p>	<p>Council notes that all previous charging sections refer to “water service” which as defined in s.6 includes all three waters. As such this section is additional to the opportunities previously laid out.</p> <p>The use of the word “must” in the first two sub-sections as this effectively becomes the only option to fund the “total recoverable costs” and removes funding options from previous clauses.</p> <p>In making this compulsory it removes the opportunity to develop funding that supports the WSE Objectives. For example, good stormwater management improves water quality assisting recreational use of the waterway by all residents. The WSE Board and RRG should have opportunity to explore the funding of who gets the benefit more widely that a 1940’s catchment approach.</p> <p>Council notes that while 3-yearly valuation cycles are most common there is provision for short valuation cycles. There is no need for this Bill to overcomplicate this – it should just remove 3-yearly.</p>
p.93	s.341	Liability for stormwater services	Council recommends the s.341 be incorporated into s.321.	s.321 as drafted includes stormwater as the section applies to waters services as defined in s.6. Having separate sections for stormwater is

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			<p>Should it not be joined as above.</p> <p>Council recommends:</p> <ul style="list-style-type: none"> • that the clause be renamed “Liability for stormwater charges” • that s.341(3) is modifies to remove must (see s.340 comments above) • that 341(5) be the same as 321(1) and not extended to any lease 	<p>creating confusion.</p> <p>There should be one “liability for charges” section.</p> <p>We have proposed that capital value is an option for collecting revenue in s.330. which needs the rating act provisions.</p> <p>s.341 creates an unnecessary administration inefficiency by expanding to leases holders (other than as provide in s. 321(1)(b)). Councils do not hold this information in the rating data being provided to the WSE. The WSE would have to search and manage the data. Stick with the owner ... its working.</p>
p.93	s.342	Water services entity not liable for rates in certain cases	Council recommends that this clause be removed.	<p>Throughout this reform councils have been told they will be no worse off. Yet rates revenue used to fund non-waters services is being stripped away.</p> <p>Council strongly opposes this inequity.</p> <p>Section 342 excludes virtually all waters entity owned assets from utility rates. Like other utility providers the network infrastructure is largely</p>

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				<p>within transport corridors or land not owned by the utility company.</p> <p>For Hamilton City Council this is a multi-million dollar lost income stream annually, a massive eroding of revenue over 30 years (the time used in the governments reform to demonstrate efficiencies in waters costs).</p> <p>Council will still have outgoings for valuing these assets as they are still required to be in the rating information database in accordance with the Rating Valuation Act.</p> <p>Furthermore, this clause makes for a considerable inequity for other utility providers, especially electricity and telecommunication networks. The government can expect these industries to seek equality by removing the utilities' rating options – further reducing Councils review opportunities by millions more.</p> <p>Even councils pay rates, sometimes to each other (eg. Hamilton City Council pays the regional council). WSE are established as local government as shown by compliance with LGOIMA and there listing in schedules of other acts. They are not part of the crown so non-rateability of those provisions do not apply.</p>

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				There is no rational reason why these entities should not be contributing to communities in the same way all other do.
p.94	s.343	Basis on which water infrastructure contribution charges (ICCs) may be set	Council recommends that: <ul style="list-style-type: none"> • this section is redrafted in plain language. • the purpose of ICCs is defined plainly (similar to LGA02 s.197AA) • definitions are added (similar to LGA02 s.197) 	<p>s.343 is difficult to read and terms are undefined yet these same terms were defined in the LGA).</p> <p>Additionally, a simple statement identifying the purpose of the charges would assist in interpretation of the processes.</p> <p>Refer to Attachment A – National Development Contributions Working Group Submission</p>
p.94	s.344	Principles for setting water infrastructure contribution charges		Refer to Attachment A – National Development Contributions Working Group Submission
p.95	s.345	Board may set lower water infrastructure contribution charges in certain circumstances	Council recommends the word “discounts” is used to align with s.346(2)(e).	Refer to Attachment A – National Development Contributions Working Group Submission
p.95	s.346	Board must set or adopt water infrastructure contribution charges policy		Refer to Attachment A – National Development Contributions Working Group Submission
p.96	s.347	Consultation requirements for proposed water infrastructure contribution charges policies	Council recommends “in accordance with section 462 engagement principles” is added to s.347.	Refer to Attachment A – National Development Contributions Working Group Submission
p.96	s.348	Crown exempt from water	Council recommends this clause be	The benefits of the Crown’s investment should be

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		infrastructure contribution charges	removed.	contributed nationally, not at a local level. It is inequitable for the residents of a waters entity to be subsidising benefits provided beyond their communities of interest. Refer to Attachment A – National Development Contributions Working Group Submission
p.96	s.349	When water services entity may invoice for water infrastructure contribution charges		Refer to Attachment A – National Development Contributions Working Group Submission
p.97	s.350	Territorial authorities may no longer use certain contributions		Refer to Attachment A – National Development Contributions Working Group Submission
p.97 - 98	s.351 - 353	various	No amendment requested.	
p.98	s.354	Water services entity must issue compliance and enforcement strategy	Council recommends the expansion of proposed s.354(2)(a) to include not just the Act, but also secondary legislation developed by the WSE.	Under Part 12, subpart 2 of the WSL Bill, the WSE is required to prepare a compliance enforcement strategy. Part of the scope is to “provide transparency about the WSE’s intended approach for achieving compliance within the act over a three-year period...”. Council questions whether this should relate to just the Act, or the secondary legislation that can be developed by the WSE under the WSL Bill.
p.99	s.355 - 362	various	No amendment requested.	

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p.101	s.363	Power to restrict water supply	Council recommends the addition of compliance powers enabling the ability of a WSE to restrict wastewater discharges into their network.	There is no ability for a WSE to restrict wastewater discharges into the entities network. Restricting water supply may not necessarily restrict wastewater discharges as a person may have an alternative water supply not under the control of the WSE (i.e. a private surface water take or bore).
p.101	s.363	Power to restrict water supply	Council recommends the amendment of proposed s.363 to enable supply to such a degree that it does not compromise public health.	A compliance officer's ability to restrict water supply should only be to such a degree that "it does not compromise public health". A water service entity could be liable for adverse health impacts resulting from restricting water supply.
p.101	s.363	Power to restrict water supply	Council recommends the Bill to reword the title of s363 from Power to restrict water supply to "Power to restrict water infrastructure services", to enable the WSE to protect the three waters networks and associated assets.	s.363 currently focuses on restriction of water supply. However, to meet compliance requirements, prevent non-compliant discharge and carry emergency works, the WSE would need to be able to restrict water infrastructure services as a whole.
p.102 – 103	s.364 - 367	various	No amendment requested.	
p.103	s.368	Power to obtain information	Council recommends that separate guidance is provided by the DIA on the interpretation of "at all reasonable times", or proposed s.368	The proposed s.368(1) provides a compliance officer of a WSE the ability to seek records and documents "at all reasonable times". There is ambiguity behind the statement and puts the

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			is expanded to elaborate on its interpretation.	onus on a compliance officer to make this determination. However this puts risk on the WSE as there is no clear guidance on what is a “reasonable time”, and could be challenged.
p.104	s.369	Power to require name and address	Council recommends the addition of powers to request the date of birth to an alleged offender.	Council notes that the power to require name and address does not require the requirement to obtain date of birth. It is understood that a date of birth is required to lodge a conviction against a person for an offence through the district courts.
p.104	s.369	Power to require name and address	Council recommends the Bill to consider the alignment of s.369 and the powers of compliance offices with the Bill of Rights Act. The WSE would need to ensure that correct systems and funding is in place to enable the compliance officers to enact their duties.	Council has made the recommendation to improve the outcomes of the section.
p.104	s.370	Power to question	Council recommends the committee clarify whether an enforcement officer is required to read out the rights when undertaking compliance and enforcement actions.	It is unclear whether a compliance officer is required to read the rights when undertaking compliance and enforcement actions against a person. Staff request that this is clarified within the Bill to ensure proper enforcement can be carried out and minimise risk to the WSE.
p.105	s.371 –	Various powers to obtain	Council recommends that a clause be	There is no ability to have police escort enabled

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	s.379	information	added which enables a compliance officer to request police support.	when entering property for the purpose of enforcement. It is recommended that this is included within legislation, similar to section 170 of the Local Government Act 2002. Police presence has the ability to de-escalate heated situations where a compliance officer may not feel comfortable managing it.
p.106 – p.115	s.372 - 399	various	No amendment requested.	
p.115	s.400	Knowingly or recklessly connecting to or disconnecting from stormwater network without authorisation	Council recommends adding an addition clause relating to an offence for recklessly disposing of materials and substances into the stormwater network.	There appears to be a gap relating to recklessly disposing of materials and substances into the stormwater network. Council seek that a clause is included similar to proposed s.393 and s.394, specific to stormwater.
p.116 – p.117	s.401 - 406	various	No amendment requested.	
p.118	s.407	Carrying out work in immediate proximity to water supply network, wastewater network, or stormwater network without notification	Council recommends the Bill include a numerical area to define immediate proximity and clearly define the conditions under which work can or cannot be done.	s.407 does not define the meaning of immediate proximity. Under Hamilton City Council Water Supply Bylaw, Council has the power to mark out within 0.5m of the location of Council's services and nominate in writing any restrictions on work to protect the integrity of the water supply system. The phrase 'immediate proximity' is open to interpretation and can be subject to non-compliance.
p.118 - 121	s.408 – s.419	various	No amendment requested.	Council supports provisions for breaches of controlled drinking water areas. This will be a

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				deterrent for damaging assets and protecting source water.
p.122	s.420	Interpretation	Council recommends the expansion of proposed s.420 to include all offences under Part 12, Subpart 4 of the Bill.	<p>Staff note that proposed s.420 of the WSL Bill provides the ability of Water Service Entities to issue infringement notices for breaches against five of the possible 28 offences outlined in Part 12, Subpart 4.</p> <p>Staff question the logic in limiting a Water Service Entities ability to issue infringement notices.</p> <p>Infringement notices are useful tools in enforcement as they create a disincentive for minor breaches of the Bill where prosecution may not be justified (for example - a minor breach of pH limits in a trade waste permit). By providing the ability of water service entities to issue infringement notices for minor breaches of the water service legislation bill, or secondary legislation under the bill (for example, stormwater rules), Water Service Entities will be in a better position to undertake enforcement activities for minor offences, and to not be hamstrung when managing minor offenses.</p>
p.122 - 125	s.421 - 428	various	No amendment requested.	Council supports the provisions for an infringement system. This will provide another tool for deterring unwanted three waters related

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				behaviour.
p.125	s.429	Person may notify Director of Compliance and Enforcement of interest in knowing of enforcement action	Council recommends adding: The Director of Compliance and Enforcement shall notify Mana Whenua in writing— <ul style="list-style-type: none"> • whether any enforcement action in respect of any incident, situation, or set of circumstances that has had a negative environmental impact on any water body or sites of cultural significance has been taken; and • if enforcement action has not been taken, whether the Chief Executive of the water services entity or compliance officer intends to take enforcement action in respect of that incident, situation, or set of circumstances 	<p>s.429 does not provide a definition of 'persons'. Therefore, the provisions may or may not include mana whenua, depending on the definition of persons.</p> <p>Council's recommendation reflects themes raised by Mana Whenua around notification requests and ongoing protections of their sites of significance.</p>
p.125	s.430 - 431	various	No amendment requested.	
p.126	s.432	Continuing or repeated matters	Council recommends the s.432 is amended to further clarify the following: <ul style="list-style-type: none"> • if more than one party can take enforcement actions 	s.432 indicates that enforcement action can be undertaken again for the same incident if the matter continues or is repeated. The two scenarios would require different approaches to identify the issue; 1. a single incident continuing

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			<p>simultaneously.</p> <ul style="list-style-type: none"> the process for managing Criminal Proceedings if a conviction is issued by Court but then the same offence continues or repeats itself if criminal proceedings can be filed in the District Court by a “person” when the defendant has already been issued with a infringement penalty that they have paid. 	on the same site 2. multiple similar incidents being repeated/ reoccurring on the same site.
p.126 – p.127	s.433 – s.435	various	No amendment requested.	
p.128	s.436	Defences in prosecution for strict liability offence	Council recommends the Bill include definitions of 'life' and 'health', to clarity whether it refers to human life or the life of the river, flora fauna and animals. Using a broad definition of life would provide WSEs an opportunity to apply Te Mana o Te Wai hierarchy of protection.	Council notes that the themes in s.436(3)(a) can appear to cause conflict with one another. For instance, which defence would take precedent if an action was taken in the interests of protecting life however, that action caused an adverse effect of the environment. The use of the word “adverse effect” raises questions around the definition of adverse and “less then minor” effects.
p.129 - 139	s.437 - 460	various	No amendment requested.	
p.139	s.461	Engagement requirements	Council recommends that s.462 includes provision for how significance is considered through	s.461 sets out the activities that a WSE must engage on, and the approach to be taken. s.461 and s.462 Principles of engagement with

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			<p>requiring a significance policy.</p> <p>Council recommends WSE to consult with affected parties (such as Territorial authorities, Treaty Partners and Regulators) to ensure clear and practical policy advice on the requirements for interactions between the parties.</p>	<p>consumers do not include provisions which consider 'significance'. Local Authorities are required to prepare a Significance and engagement Policy' under the Local Government Act 76AA. The Policy is intended to enable the local authority and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities; and to provide clarity about how and when communities can expect to be engaged in decisions about different issues, assets, or other matters; and to inform the local authority from the beginning of a decision-making process about the extent of any public engagement that is expected before a particular decision is made; and the form or type of engagement required.</p>
p.141 - 146	s.462 – s.470	various	No amendment requested.	
p.146	s.471	Requirement to provide information to territorial authority for purposes of land information memorandum	<p>Council recommends that s.471 and s.472 be removed and replaced with new clauses that instruct the water services entities to have processes in place to meet its property information obligations under the Local Government Official Information Act.</p> <p>Should this section not be removed</p>	<p>Council has an obligation to comply with LGOIMA for the property information it holds. With this obligation Council's carry significant and real risk litigation and financial consequences.</p> <p>Council should not be responsible or a party to another entity's obligations under LGOIMA. Further to this, there are no time restrictions for a WSE to provide information. This may lead to issues with meeting LGOIMA Act statutory</p>

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			then Council's must be indemnified by the entity.	timelines and no liability.
p.147	s.472	Requirement to provide information to territorial authority for purposes of project information memorandum	See s.471 recommendation	See s. 471 rationale
p.147 – 148	s.473 - 474	various	No amendment requested.	
p.149	s.475	Regulations: volumetric charging	Council recommends that s.475(2) have local government owners added to those who should be consulted on in the event of volumetric charging regulations under this section.	<p>The limiting of volumetric charges may have merit depending on the where the remaining costs are recovered from. Where they be recovered from a fixed rate then many lower income consumers would be worse-off.</p> <p>Councils know their communities and are focussed on the wellbeing of all in their communities. These regulatory measures and to manage the wellbeing of consumers.</p> <p>Councils should be consulted on alongside those listed in subsection 2.</p>
p.150 s.23	Sch 1	Sch 1 amended	No amendment requested.	
p.150 s.24	Sch 3	Sch 3 amended	No amendment requested.	

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p.150 s.25	Sch 5	Sch 5 replaced	No amendment requested.	
p.151	Part 2	Amendments to and repeal of other legislation		
p.151 s.26 to 30		Amendments to Civil Defence and Emergency Management Act 2002	No amendment requested.	
p.151 s.31 to 32	Climate Change Response Act 2002	Amendment to Climate Change Response Act 2002	Council request that subsidiaries of WSE should be included, in the same way CCO's are included in section 5ZW of the Climate Change Response Act 2002.	WSE subsidiaries may be companies or body corporates and may or may not undertake trading activities or not. These public entities should be accountable for Climate Change response in the same way as their parent and owners are.
p.152 s.33 to 36		Amendments to Crown Organisations (Criminal Liability) Act 2002	No amendment requested.	
p.152 s.37 to 38		Amendment to Financial Markets Conduct Act 2013	No amendment requested.	
p.152 s.39 to 40		Amendment to Fire and Emergency New Zealand Act 2017	No amendment requested.	
p.153 s.41 to 43		Amendments to Goods and Services Tax Act 1985	No amendment requested.	

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p.153 s.44 to 45		Amendment to Government Rooding Powers Act 1989	No amendment requested.	
p.153 s.46 to 62	Health Act 1956	Amendments to Health Act 1956		
s.46 - 47		various	No amendment requested.	
		General	Council recommends: <ul style="list-style-type: none"> • Clarity is provided on roles and responsibilities for stormwater prior to amendment of the Health Act 1956 • Other acts and regulators are more clearly referred to for powers to manage private drains and drainage in and outside urban areas. 	<p>Council supports modernisation of the terms drainage works and sewerage works with more accurate descriptions of services for water, wastewater and stormwater in the Health Act 1956 (s48). However, these are removed from the list of what a minister may require a local authority to provide for (s3).</p> <p>There is still uncertainty on what stormwater services will be provided by the WSE and that would fall under the Water Services Act and Water Services Legislation bill or under the Building Act.</p> <p>Given that councils will remain as the consenting authority they may still have a role or obligations in relation to small self-supply or private systems that are unlikely to fall within the scope of the WSE management/oversight.</p> <p>Council has significant concerns on lack of clarity</p>

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				on roles and responsibilities for stormwater.
			Council recommends amendment of the provision to also provide for consultation with affected Local Authorities.	The Minister may require a water services entity to provide water, wastewater and stormwater services for the benefit of its service area and Taumata Arowai must be consulted (s3A). Given that land use and spatial planning is integrated with water, wastewater and stormwater, and the strong relationship that Local Authorities have for 'four wellbeing's' including health, there is benefit and a need for consultation with affected Local Authorities.
s.48		Section 25 amended (Local authority to provide sanitary works)	Council recommends amendment of the provision to provide for early engagement between the Minister of Health, Taumata Arowai and the affected Territorial Authority prior to the Minister issuing a requisition.	The Minister will be able to make a requisition to provide water services for the benefit of its service area. Modern business practices should see the Minister of Health engaging with both Taumata Arowai and the affected Territorial authority and a mutually acceptable solution sought well before any requirement is issued. Any business planning processes and constraints could then be recognised and reflected by the Minister in their requisition. Funding and service contracts would be drawn up.

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		Section 25A (new) Roles of WSEs and Councils in relation to sewerage and stormwater drainage and land drainage.	Council recommend that clarity on stormwater management is provided prior to amendments.	Councils must get the WSE's agreement before exercising certain LGA74 powers. This part is confusing and unclear based on previous comments relating to private drainage responsibilities and powers, the potential for overlap and gaps, and where powers lie.
s.49		Section 27A amended (Grants and subsidies for refuse disposal works, sewerage works, and water supplies)	No amendment requested.	
s.50-51		Section 33 amended (Proceedings in respect of nuisances)	Amend the provision so that wastewater nuisance and abatement is added to s50(1) and (2), and s51.	s.50(1) and 50 (2) references nuisance relating to water supply, or stormwater drainage. Wastewater is not considered. S.51 references nuisance relating to water supply, or stormwater drainage and power to abate. Wastewater abatement is not considered. Council considers that many nuisance effects arise from wastewater and questions if this is an omission.
s.51 - 52		various	No amendment requested.	
s.53		Section 64 amended (Bylaws)	Council recommends that clarity is provided on roles and responsibilities for stormwater prior to amendment of the Health Act 1956.	The term 'drainage' will be amended to 'private drains' and Local Authorities will retain the ability to regulate (via bylaws) private drains, the collection and disposal of sewage, and prescribing conditions to be observed in the construction of approved drains. There is no reference to what happens with Transport stormwater systems.

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				Under the Bill, it is the Water Service Entity that has the power to make regulations for network management. Council requires clarity on where responsibility lies for private three waters infrastructure and its management in order for all three water service providers and regulators to meet their responsibilities.
s.54 - 62		various	No amendment requested.	
p.157 s.63 to 65	Income Tax Act 2007	Amendments to Income Tax Act 2007	Council recommends similar tax clauses as for local government CCO's in s.CW39(4) of the Income Tax Act 2007.	Council views that subsidiary trading organisation should be taxable to avoid anti-competitive tax advantages over the private sector.
p.158 s.66 to 68	Infrastructure Funding and Financing Act 2020	Amendments to Infrastructure Funding and Financing Act 2020	Correct incorrect reference in s.67 "3(b)" should read "3(1)(b)"	
p.158 s.69 to 86	Local Government Act 1974	Amendments to Local Government Act 1974		
s.69-71		various	No amendment requested.	
s.72		Section 338 amended (Council may grant right to lay conduit pipes along or under road)	Council recommends that the Committee consider whether the s.338 amendment wouldn't be necessary if the correct changes to the Utilities Access Act 2010 are made as part of an overall	The Council reiterates the concerns raised for Section 212 and 213 for Section 338 amended (Council may grant right to lay conduit pipes along or under road).

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			consideration of the transport stormwater network.	
s.73		New Part 25A inserted	Council recommends that the Bill state that these would be more responsibilities for the Territorial Authority and/or transport corridor manager in addition to the ones mention in the Bill.	<p>Part 25A proposes to introduce new clauses into LGA 1974, with the following being of relevance to transport and stormwater.</p> <ul style="list-style-type: none"> - 439A Local authorities must obtain agreement of water services entities to exercise certain powers affecting stormwater network or management plans. -439B Local authorities must provide notice to water services entities in certain circumstances. -439C Local authorities must consult water services entities before applying for declaration under section 507 -468A Contracts relating to provision of drains
s.73	Part 25A 439A LGA 1974	Local Authorities must obtain agreement	Provide clarity on roles and responsibilities for stormwater	s439A requires local authorities to obtain agreement of water services entities to exercise certain powers affecting stormwater network or management plans. This includes covering water courses to make them public drains, entering agreements for how drainage works are to be diverted, requiring owners to provide private drains, entering premises to lay private drains, declaring drainage areas. This seems to be unusual given that Regional Councils (as an Authority) is a regulatory authority and given that the Water Service entity Bill has deemed that

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				private drains are not within the scope of what they wish to control. In some cases a Water Service Entity would be best described as an 'interested' party. Without clarity on roles and responsibilities between WSE, Regional Authorities and territorial authorities, there is strong potential for matters to become confusing.
s.74 -86		various	No amendment requested.	
p.163 s.87 to 113	Local Government Act 2002	Amendments to Local Government Act 2002		
s.87		various	No amendment requested.	
s.98		Section 143 amended (Outline of Part)	Clarify roles and responsibilities and provide amendments to s143 (outline) and 146 (specific bylaw making powers of territorial authorities) .	s143(d) repeals the provision for Territorial authorities to make bylaws to undertake activities in relation to 'water services', including discharge of sewage and trade wastes. s146 lists what a Territorial authority may make bylaws for. Water services by definition includes all three waters. There is still uncertainty about roles and responsibilities for parts of the stormwater system including road corridor, overland flow path, private drainage and water sensitive devices. This makes it difficult to understand liability, and resourcing requirements, and clarity for people living in towns and cities.
s.99		various	No amendment requested.	

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p.170 s.127 to 131	Local Government Official Information and Meetings Act 1987	Amendments to Local Government Official Information and Meetings Act 1987	Council recommends that along with the s.471 and s.472 be removal of Councils involvement WSE LIM data that s.129(3) be removed.	<p>Council has recommended that s.471 and s.472 are modified to exclude Council's being involved in the WSE LIM LGOIMA responsibilities.</p> <p>Council has an obligation to comply with LGOIMA for the property information it holds. The s.471 and s.472 propose will mean that councils carry significant and real risk litigation and financial consequences.</p> <p>Council should not be responsible, or a party to, another entity's obligations under LGOIMA.</p> <p>Council's do not hold the information of other utility providers.</p> <p>There are a number of corrections that could be made including:</p> <ul style="list-style-type: none"> • Schedules 1 and 2 of LGOIMA are already amended by sections 225 and 226 WSEA, so clauses 130 and 131 are not required. • Sections 45, 57 and 62 WSE already applies LGOIMA meeting requirements to Board, RRGs and RAGs. There needs to be further consideration on whether WSE committees and subcommittees are included.

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p.171 s.132 to 136 and 138 p.171 s.317	Local Government (Rating) Act 2002	Amendments to Local Government (Rating) Act 2002	Council recommends that s.317 of the Bill be removed from the Bill.	<p>s.317 amends Schedule 1 (Land fully non-rateable) of the Local Government Rating Act 2002. This makes all land owned by the WSE as non-rateable.</p> <p>There are several issues associated with this:</p> <ol style="list-style-type: none"> 1. It would include land owned for investment purposes or other land not essential to delivery of waters services. 2. Where the WSE is operating commercial operations in competition to the private sector the WSE has an equitable financial advantage. 3. As a utility it has an inequitable and significant financial advantage over all other utility companies in NZ that all pay rates. 4. As a local authority this treatment is inequitable as to the rates a local authority must pay either to itself, regional councils or neighbouring councils where it owns land. 5. WSE entities are part of the community and the user of council services in the same way every other business in the community is. They should pay their share of the costs. We acknowledge that water users would pay for these costs,

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				<p>but that would be based on the tariff structures of the WSE and would be more appropriate than an allocation of the lost revenues and therefore higher rates from a Local Authority to ratepayers that result in a different and less appropriate allocation of this revenue. This is inconsistent with the rating principles of the LGA02</p> <p>6. Councils will be financially worse off every year after this clause is in operation as current rates revenues are lost.</p> <p>7. It is unreasonable for Hamilton to be refused potential rates revenue from water services land use and assets within Hamilton which service a regional base. This land use not only restricts potential rates income to benefit Hamiltonians, it also prevents Hamilton from developing other revenue, services or employment opportunities on the sites. Allowing individual territorial authorities to rate entity assets would be more equitable and transparent for all councils in the entity area and for the entity's true cost structures.</p>
p.172	Ombudsmen Act	Amendment to	No amendment requested.	

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s.139 to 140	1975	Ombudsmen Act 1975		
p.172 s.141 to 142	Public Audit Act 2001	Amendment to Public Audit Act 2001	No amendment requested.	
p.172 s.143 to 144	Public Records Act 2005	Amendment to Public Records Act 2005	No amendment requested.	
p.172 s.145 to 146	Public Works Act 1981	Amendments to Public Works Act 1981	No amendment requested.	
p.173 s.147 to 148	Rates Rebate Act 1973	Amendment to Rates Rebate Act 1973	See comments on Local Government (Rating) Act 2002	Territorial Authorities will no longer be able to rate for water and wastewater activities. Council has provided comment on this on matters relating to revenue and Amendments to the Local Government Rating Act 2002.
p.173 s.149 to 159	Resource Management Act 1991	Amendments to Resource Management Act 1991	Council recommends reviewing this reference	Reference to vesting under section 126 of the WSEA is about 'breach of indemnity and insurance limits' rather than matters relating to subdivision consent applications and information to be provided.
p.175 s.160 to 161	Search and Surveillance Act 2012	Amendments to Search and Surveillance Act 2012	No amendment requested.	
p.175 s.162 to 163	Amendments to Social Security Act 2018	Amendments to Social Security Act 2018	No amendment requested.	

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p.176 s.164 to 165	e Ture Whenua Maori Act 1993	Amendment to Te Ture Whenua Maori Act 1993	No amendment requested.	
p.176 s.166 to 182	Urban Development Act 2020	Subpart 26—Amendments to Urban Development Act 2020	<p>Council recommends the Act is amended to:</p> <ul style="list-style-type: none"> • Include both WSE and Territorial Authorities when stating that Kainga Ora is responsible for costs. • Review the definition of Urban Area. 	<p>s160 states that Kāinga Ora is responsible for costs of works of any new water-related infrastructure that it constructs in relation to specified development projects subject to any agreement to the contrary with the relevant territorial authority. The reference to Territorial Authority is being replaced with water service entity. Given the lack of clarity on responsibilities for stormwater, it would be safer to include both Territorial Authorities and water service entities. Council recommends that Water services entity is an addition rather than a replacement. This would preserve the obligation of Kaainga Ora to be responsible for all three waters costs.</p> <p>Council has previously discussed the importance of the definition of Future Urban Area that need to be recognised in relevant spatial planning documents, but not necessarily zoned for urban development in the district plan or relevant planning instrument. Ensuring that future urban areas are defined will align with strategic direction of Rautaki Hanganga o Aotearoa (the New Zealand Infrastructure Strategy) which advocates for future planning to improve the</p>

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				efficiency and outcomes of infrastructure (section 6.3). Water Services Entities must consider future servicing needs of these future urban areas as part of their infrastructure strategies and plans (and protect future corridors)
p.179 s.183 to 184	Utilities Access Act 2010	Amendments to Utilities Access Act 2010	No amendment requested.	
p.179 s.185 to 201	Water Services Act 2021	Amendments to Water Services Act 2021		
s.185 - 186		various	No amendment requested.	
s.187		Section 5 amended (Interpretation)	Council recommends that the stormwater definition amendment be aligned with changes to the scope of a stormwater network.	s5 replaces the definition of stormwater network. Given that there is some uncertainty with stormwater related definitions, Council proposes that further clarity provided prior to amendment.
s.188 - 194		various	No amendment requested.	
s.195		Section 62 amended (Special powers of Taumata Arowai during drinking water emergency)	Council considers that the matter of funding provisions should be addressed.	Council supports the amendment but notes Councils previous submission point about funding of emergency responses has not been addressed in the Act.
s.196		Section 104 amended (Directions)	No amendment requested.	
s.197		New subpart 7A heading in Part 3 and new section	Council recommends the Bill:	Council notes that subpart 7A 139A refers to

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		139A inserted	<ul style="list-style-type: none"> list Territorial Authorities and Transport Corridor Managers in part (1) as a party to be consulted. provide clarity in Part (3) about how Territorial Authorities and/or Transport Corridor Managers are to be included in the achievement of these performance standards. 	Stormwater Network Manager but does not include Transport Corridor Manager or Territorial Authority as one of the parties to be consulted with in the development of these standards. Additionally, it states that 'Performance standards may apply to all stormwater networks and their operators'.
s.198 - 203		various	No amendment requested.	
p.185 Sch1	Part 2 of Sch 1	New Part 2 inserted into Schedule 1 of Water Services Entities Act 2022		
	cl.38	Interpretation	No amendment requested.	All
	cl.39	Consultation on Allocation Schedule	Council recommends that cl.39 is connected to cl.44 to be clear that the allocation schedule has arbitration rights as implied by cl.44	Council supports the independence of the arbitration process
	cl.40	Ministerial approval of the allocation schedule	Council recommends that cl.40(1) has reference to ensure the ministers approval comes after the cl.44 arbitration.	Council supports the independence of the arbitration process
	cl.41	Application of clause 42 to 47	No amendment requested.	

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	cl.42	Transfer of assets, liabilities and other matters to WSE by Order in Council	Council recommends review of functions and responsibilities for assets that fall under the remit of stormwater (and wastewater and water)	Clause 43(2)(b)(ii) excludes vesting of stormwater services outside of urban areas (which is presumably due to the definition of stormwater network being limited to “in urban areas”). The Act would benefit from a clear statement of what functions and responsibilities remain with councils, which will then be reflected in what and how assets and liabilities are transferred.
	cl.43	Transfer of assets, liabilities and other matters to WSE	Council recommends reference is made to the Settlement Statement.	The Settlement Statement, prepared well in advance of the establishment day should address most of the risk of disagreement.
	cl.44 - 47	various	No amendment requested.	
	cl.48	Updating titles to land	Council recommends that Cl.48(4) be amended to add that the instrument is also executed by the local authority.	Having an instrument signed by the current “proprietor of the estate” as well as the new demonstrates agreement and would reduce the risk a dispute.
	cl.49 - 51	various	No amendment requested.	
	cl.52	Reconfiguration of existing agreements and Process for giving directions	<p>Council recommends that Cl.52 (2) (b) be expanded to require replacement contracts to be substantially on the same terms and conditions for the 3rd party</p> <p>Council recommends that Cl.52 (3) (c) and Cl.52 (4) be deleted</p>	3rd parties will have made investment decisions or commitments that rely on existing contracts with Local Authorities. In the case of urban development, the 3rd party commitments could easily extend to \$100m-plus, in order to achieve urban housing outcomes. It is essential that any replacement contract offered is on the same terms and conditions.

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				3rd parties should not be given the option to terminate an existing agreement as part of three waters reform. In the case of urban development, a developer will have only been granted consent to develop based on the agreement with the local authority. To allow a developer to terminate an agreement means they are free to develop under their consents but without any of the agreed essential infrastructure. The implications are adverse environmental outcomes and/or infrastructure deficit for the WSE.
	cl.54	Payment by water services entity to territorial authority for water services infrastructure debt	Council recommends that Cl.54(4) is removed, and reference is instead made in this clause to the Settlement Statement.	The Settlement Statement is a binding contract on the transfer of assets and liabilities. That contract would address any term councils had agreed. With some financial contracts everyone may be better-off with a longer than 5-year period.
	cl.55	Requirement to enter into relationship agreements	No amendment requested.	
	cl.56 to 57	Board may make specified instruments during establishment period	Council recommends: <ul style="list-style-type: none"> amendment to the Act that provides for an extension to instruments, methods, associated policies associated with the bylaw, and any resolutions made under the 	WSE Board can make certain instruments during establishment period, however, these will take time to develop, engage on and finalise. The Board has the ability to adopt existing bylaws, which may refer to other specific instruments or policies as the method to manage the activity or

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			bylaw to avoid a skeleton bylaw. <ul style="list-style-type: none"> inclusion of these plans in s56, and be considered for model instruments in s59. 	<p>may have resolutions made under such bylaws. There needs to be provision for adopting the instruments, methods, associated policies and resolutions, until the WSE is able to address (through their own methods, processes and rules) the matters made by the instruments, methods and policies.</p> <p>s.56 allows the board to make up to 9 specified instruments during the establishment period. Council notes that nearly all instruments will require engagement and consultation to develop and (in some cases) agree on the contents. This is unlikely to be achievable given that many Territorial Authorities are currently facing resourcing issues. See further comment in previous sections relating to instruments, and the absence of other plans as instruments (or the scope of such plans)</p>
	cl.58	Adoption of existing controlled drinking water catchment management plan	See recommendation above	See comment above
	cl.59	Chief executive of department may issue model instruments	No amendment requested.	
		<i>Charging Matters</i>	Council recommends that transitional charging principles are	Council does not support that there are no charging principles until 1 July 2027.

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			developed.	Principles should be developed that will recognise the challenges of bring many TLA charging mechanisms together but supports the direction of the s.331 charging principles.
	cl.60 - 62	various	No amendment requested.	
	cl.63	Charges for stormwater services	Council recommends this clause is removed.	<p>Day 1 stormwater charging is best done on a capital value basis, possibly with differential charging. It is relatively simple to calculate the property owners' liability. Should the entity not be ready to undertake the revenue collection process there is provision in the Bill for the entity to enter a contract with councils to collect the revenue.</p> <p>Councils set their rates for 2024/25 prior to 30 June 2024. The entity isn't operational until the day after, 1 July 2024. Councils would have to undertake additional and complex processes under the Local Government Act 2002 and the Local Government Rating Act 2002 to amend the Long-Term Plan and reset the council's rates. The exemption from certain process provisions of Schedule 1 do not apply after 30 June 2024 and the Bill states it is unlawful for council to have a waters activity required to meet its legislative responsibilities in creating a lawful rate.</p>

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				Should councils be required to implement this it will increase Council rates (because of the waters entity) which will create further distrust as to the integrity of this reform.
	cl.64 - 69	various	No amendment requested.	
	cl.70	Trade waste consents	Council seek that proposed s.70 is amended to provide for low risk, high quantity nature of specific trade waste operators.	Although Council supports the premise of this clause, we note the approximate 900 trade waste operators which have permitted pre-treatment agreements in Hamilton which do not expire. These agreements acknowledge the low risk but high quantity nature of specific trade waste operators, for example; hair dressers and hospitality venues. The proposed clause will create an expiry date for these operators, creating unnecessary workload to renew these agreements by the WSE, and creating uncertainty for the operators.
	cl.71- 72	various	No amendment requested.	
	cl.73 to 75	Applications for resource consent	Council recommends adding a clause that would have the effect of upholding existing arrangements and key decisions made.	Council supports continuation of Applications under a Water Service Entity noting it will be important to uphold engagement arrangements made with key stakeholders and mana whenua who may have been part of a very long engagement journey, and any key decisions on preferred options.
	cl.76 - 79	various	No amendment requested.	

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	cl.80	Other transitional regulations	Council recommends that the Commission is involved in these regulations in the same way as cl.79(2)	<p>With a short time left to implement the proposal, and with clear gaps in legislation and planning for the transition and establishment, extraordinary measures seem practicable.</p> <p>However, these powers need independent review in the absence of proper governance practices like a select committee and consultation process. The Commerce Commission is already undertaking transition roles and is the appropriate independent party.</p>
p.206 Sch 2	Sch 5	Schedule 5 replaced with new schedule on Subsidiaries		
	cl.1	Application	No amendment requested.	
	cl.2	Water services entity may establish, own, or operate subsidiaries under certain conditions	Council recommends all matters regarding the conditions for establishing a subsidiary are put in one place in the Act. Sch.5 cl.2 being the most appropriate.	<p>Council considers there is an inconsistency between s.13, s.118 s.119 and Sch.5 cl.2 in respect to the function a subsidiary can undertake.</p> <p>See also submission points on s.6 (definition of Trading subsidiary), s.13 (functions), s.118 (significant infrastructure) and s.119 (asset transfer)</p>
	cl.3 - 6	various	No amendment requested.	
	cl.7	Decisions relating to	Council recommends the decisions of	The statement of expectations addressed

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		operation of subsidiaries	<p>a subsidiary also have regard to the shareholders Statement of Expectations.</p> <p>Council recommends that Cl.7 have an added clause requiring the subsidiary to be guided and informed by the consumer engagement principles of the new s.462(2) (a) to (e) of the WSE Act.</p>	<p>relationships with Māori, shareholders, other stakeholders and the community.</p> <p>All decisions should have regard to these expectations requests and engagement following the same principles as the shareholder (the WSE).</p>
	cl.8 -13	various	No amendment requested.	
	cl.14	Consultation regarding statement of intent	<p>Council recommends cl.14 is removed.</p> <p>If cl.14 must stay, then it should either reiterate the reference to the LGA rather than the two seemingly random extractions from the LGA requirements.</p>	This clause is unnecessary as it is already addressed in cl.12 and the requirements it has to use Part 1 of Sch.8 of the LGA 2020.
	cl.15 – 16	various	No amendment requested.	
	cl.17	Performance monitoring	Council recommends the committee consider the opportunity to ensure that any requirements of the regulators become part of the performance monitoring requirements of a subsidiary	<p>Council is concerned the transparency of operations to the regulators may be obfuscated by the creation of subsidiaries.</p> <p>It is important that the regulators have transparency when appropriate.</p>

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	cl.18 - 21	various	No amendment requested.	
	cl.22	Auditor-General is auditor of subsidiaries	Council recommends the committee remove “subsidiary of a subsidiary” from this clause.	<p>Council has concerns about the use of subsidiaries and further losses of transparency of public entities owned by Council’s on behalf of communities.</p> <p>A “subsidiary of a subsidiary” is a long way removed from public transparency and accountability.</p>
	cl.23 - 27	various	No amendment requested.	
p.216 Sch 3		New Part 7 inserted into Schedule 1AA of Local Government Act 2002	No amendment requested.	
p.217 Sch 4		Amendments to secondary legislation	No amendment requested.	