

HAMILTON CITY COUNCIL SUBMISSION

Water Services Entities Bill

The Finance and Expenditure Select Committee



20 July 2022



**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. Maaori comprise around 20 percent of Hamilton's residents and around 40 percent of those identifying as Maaori are from hapuu with close ties to the Hamilton area. Hamilton has one of the fastest growing urban Maaori populations.

The Waikato-Tainui Te Kauhanganui Incorporated is the principal constitutional and legally mandated local iwi authority, encompassing some 33 hapuu 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. 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 and will remain so until any legislative change is enacted.

It is in this context that Council provides its submission to this select committee on the Water Services Entities Bill.

Council approval and reference

This submission was approved by Hamilton City Council at its meeting held on 20 July 2022.

Hamilton City Council Reference D-4286434 - Submission # 695

Executive summary – Hamilton opposes this Bill

Overview

1. Hamilton City Council has provided feedback to Government on its developing Three Waters Reform at every opportunity. We are strongly opposed to Government's four-entity model. Our preference, as we made clear to the Working Group on Representation, Governance, and Accountability, is for a smaller regional CCO model based on existing strategic relationships between Waikato/Bay of Plenty councils.
2. Our previous submissions identified core success factors for Government's reforms. These are: community consultation, local voice in representation arrangements, rights of ownership, placemaking and alignment with other Government reforms.
3. These factors have not yet been addressed satisfactorily by Government and are not resolved in the Water Service Entities Bill.
4. Despite constrained timelines, we have sought the views of our community and received almost 1300 submissions. There is no doubt our community has significant concerns around key aspects of this reform, concerns which are shared by our Council.
5. A detailed breakdown of our consultation results, verbatim comments from our community, and copies of our previous submissions on this matter is included as part of our submission.

Local Voice, Representation and Rights of Ownership

6. The Bill does not address our concerns over the lack of effective local voice in the governance structure of the proposed new entities. This presents a subsequent risk to strategic planning of water services to support wellbeing for Hamiltonians and the wider Waikato.
7. There is no provision for Hamilton to have guaranteed representation in any governance structure. Hamilton is the largest growth council, asset owner and population base in the proposed Entity B area.
8. Representation on the RRG should be on a population basis, with provision for specific seats for rural, provincial, and metro councils and guaranteed representation for the largest metro council.
9. We do not support 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.
10. 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.
11. Council reiterates its view of September 2021 – we would like to work with government to understand, review and evaluate alternative ownership models including the Tasmanian, Welsh, and other company models (like a CCO, joint ventures or other off-balance sheet funding models) that use well established governance and business structures.

Placemaking - Tier 1 Growth Concerns

12. 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 entity, regional partnerships and individual councils will mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.
13. 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 entity to ensure cohesive planning for the Hamilton, Waipā and Waikato sub-region.

Transition Concerns

14. 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. There is yet further legislation required to enable any transition which is not yet before the House.
15. Reform of this scale, especially if rushed, is fraught with risk. This has been highlighted in the difficulties evidenced in the Reform of Vocational Education. The transition, financial reporting and performance issues which have been raised around Te Puukenga are a concern – but similar issues in water reform could have additional catastrophic effects on public health and the environment.
16. A poor or fractured transition presents significant risk to Council, the quality of our water services delivery, and the wellbeing of our ratepayers and staff. Government is yet to provide sufficient evidence of a structured and achievable pathway to transition.

Funding Concerns

17. There remains insufficient information from Government on the immediate and subsequent financial impacts of reform, both for Council and its ratepayers, from July 2024.
18. At the instruction of Government, costs related to Three Waters Reform were excluded from our 2021-2031 Long Term Plan and are therefore unbudgeted. Despite repeated requests we have yet to be provided assurance that all our costs of this reform will be met by Government.
19. All costs for Council to participate in the reform programme must be met by Government. We have not been told what funding is available between now and 1 July 2024. Funding indications from Government after 1 July 2024 would mean Hamilton faces a shortfall in stranded costs of at least \$21 million.
20. We have strong concerns that Hamilton consumers will pay an unfair proportion of Entity B establishment costs and any other reform costs which are carried by the entities.

Lack of Government support

21. Hamilton City Council has been provided insufficient opportunity to engage more fully with its community on this legislation. However, Council received more than 1200 submissions across two surveys in June/July 2022 which clearly showed community concern over loss of local voice, insufficient financial detail and the loss of ownership and decision-making rights over its Three Waters assets and services.
22. We express our continued disappointment with Government communication regarding this reform and the continued unavailability of key information necessary to make a full assessment of the impacts on, or benefits for, our community.

Conclusion

23. 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.
24. 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. As a minimum, to deliver outcomes which improve the wellbeing of Hamiltonians, all of our recommended amendments must be implemented as a total package.

Detailed technical submission

25. Should the Bill not be withdrawn, our technical submission below details the clauses which require modification, and we provide Council's alternate and preferred wording.

Community feedback

26. We conducted two community surveys with support from NielsenIQ following the introduction of the legislation to the House.
27. We remain disappointed by the restrictive timeframes imposed between the introduction of legislation and the closing of select committee dates. This timeframe fails to give due regard to Council processes to enable a fuller engagement process with our community.
28. We do not believe the ‘public consultation’ opportunities offered by Government are in the spirit of what Hamilton understood from statements by the Minister, and from assurances by Government as this reform has developed.
29. Council sought community views between 22 June and 7 July 2022.
30. Two surveys were run concurrently, a targeted, demographically representative survey and a general survey. Both surveys were developed in partnership with NielsenIQ and received a total of 1262 responses, 709 of which were from the representative survey and 553 from the general survey. The reports from both surveys are attached.
31. At a very high level, opinion on the reform is slightly negative in the Representative Survey and largely negative in the General Survey.
32. Opinion on individual aspects of the reform is slightly positive in the representative survey and strongly negative in the General Survey.
33. Both surveys indicate positive views on the environmental and water quality impacts of the reform.
34. General additional themes across both surveys relate to a perceived lack of information from Government and a lack of confidence or trust in Government to deliver water reform effectively.
35. Key areas of concern about the reform expressed by the community broadly align with issues Council has raised in previous submissions to Government.
36. Analysis of survey results from the representative and general surveys is attached as Appendix A and Appendix B
37. A copy of public submissions from our general survey is attached as Appendix C and D to provide the select committee with the views of Hamiltonians.
38. A copy of verbatim community commentary via social media about Council’s consultation and the reform programme is attached as Appendix E.
39. A copy of Council’s previous submissions to Government and the Working Party on Governance, Representation and Accountability is attached as Appendix F.
40. Below is a summary of findings from the sections of Council’s consultation. A full breakdown of results is in the respective analysis reports.

	Representative Survey Targeted, demographically representative survey, with potential participants randomly chosen from Hamilton’s electoral roll and invited to complete a survey online 709 respondents.	General Survey General citywide survey, communicated via print, radio and digital advertising as well as static signage and via social media, which was open to anyone who wished to take part. 553 respondents.
Overall	Views of the reforms are very polarised, with similar proportions of respondents supporting and opposing the Government’s proposal (47%	Views of the reforms are generally negative amongst the public who provided their views of the reforms through the general survey - nearly three in four (73%) negative mentions

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	support and 53% do not support). Those who oppose primarily do so because they want to see Councils retain control of their water assets.	were gathered when the public was asked for their thoughts on the reforms; 44% of mentions stated their opposition of the reforms when compared 23% of mentions that stated their support.
Public Health	Views are polarised, the balance of opinion is that the reforms will lead to better environmental outcomes and better water quality , for Hamilton but even more so for New Zealand as a whole.	While the sentiment of mentions are polarised, the balance of opinion is that the reforms will lead to better environmental outcomes and better water quality .
Operations	Views are polarised, but the balance of opinion on the likely impact of the reforms on efficiency and standard of water services is more positive than negative .	However, the likely impact of the reforms on services and costs is believed to be more negative – with one in two expressing negative sentiment across points such as costs, a worse service or general disbelief in what the Government has communicated.
Governance	There is considerable uncertainty with regards the governance structure, and four in ten are unable or unwilling to express an opinion about the proposed structure. Of those with an opinion, similar proportions feel the structure is appropriate as those who feel it should be changed .	Negative views on the aspects of governance far outweighs positive sentiment –with 64% of mentions stating a negative view across points such as the co-governance model and expected bureaucracy, compared to 23% of mentions stating a positive view of the reforms across points such the importance to have Mana Whenua representation (9%) or general support for the reforms.
Financial structure	The balance of opinion is towards the reforms allowing costs of improvements to New Zealand’s water services to be managed better. The outcome of the reforms most evident to respondents is that it should allow Hamilton City Council, and Councils throughout New Zealand, to focus on services other than water.	From their views, the balance of opinion is that ratepayers will lose out , with some uncertainty of financial management also raised as a concern amongst those who had stated negative mentions. More than half have a negative view on the Government’s protections against privatisation.
General themes	The general sentiment beyond the four key topics asked highlighted that	The general sentiment beyond the key topics asked highlighted that lack of confidence in

	<p align="center">Representative Survey</p> <p align="center">Targeted, demographically representative survey, with potential participants randomly chosen from Hamilton’s electoral roll and invited to complete a survey online 709 respondents.</p>	<p align="center">General Survey</p> <p align="center">General citywide survey, communicated via print, radio and digital advertising as well as static signage and via social media, which was open to anyone who wished to take part. 553 respondents.</p>
	<p>lack of confidence in Government in delivering the reform effectively – with comments indicating a concern with added bureaucracy and issues from a centralised model that may not work for each Council.</p> <p>There is also concern with the lack of transparency and detailed information of the reforms overall.</p>	<p>Government in delivering the reform effectively – with comments indicating a concern with added bureaucracy and issues from a centralised model that may not work for each Council.</p> <p>There is also concern with the lack of transparency and detailed information of the reforms overall.</p>

Further information and opportunity to discuss our submission

- 41. 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 6699 or email andrew.parsons@hcc.govt.nz in the first instance.
- 42. 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 Entities Bill.

Yours faithfully



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In addition to our Detailed Technical Submission (below), Council is also providing the following attachments:

Appendix A: HCC Representative Survey Analysis Report

Appendix B: HCC General Survey Analysis Report

Appendix C: HCC Representative Survey submissions

Appendix D: HCC General Survey Submissions

Appendix E: HCC Community consultation commentary via social media

Appendix F: HCC previous submissions to Government

Detailed Technical Submission

43. We oppose this Bill. This technical submission is made as it would be irresponsible to not improve the outcomes for our community should this Bill advance to assent.
44. The following analysis considers each clause of the Bill in the event the Bill reaches assent without regard to Council’s substantive submission. We have considered the Bill by topic and have grouped sections in this way.

Section	Sub-section
1. Governance Structure	a) Overview
	b) Establishment of Water Services Entities (including Objectives, Functions, Operating Principles and Duties)
	c) Ownership and Rights of Ownership
	d) Regional Representative Groups
	e) Regional Advisory Panels
	f) WSE Board
2. Matters Iwi/Maori	
3. Operation of Water Services Entities – Part 3	a) Obligation to maintain ownership and control of water services and significant assets
	b) Contracting Out of Waters Services
	c) Bylaws – Amendment of LGA – New Section 159A
4. Financial and Accountability	a) Overview
	b) Government Policy Statement
	c) Statement of Strategic and Performance expectations
	d) Statement of Intent
	e) Asset Management Plan
	f) Infrastructure Strategy
	g) Funding and Pricing Plan
	h) Annual Report
	i) Audit

	j) Financial Independence
	k) Engagement
5. Monitoring and Miscellaneous	
6. Schedule One - Transition	
7. Schedule Four - Privatisation	

Acronyms used in this submission							
CE	HCC Chief Executive	GPS	Government Policy Statement	NTU	National Transition Unit	TLA	Territorial Local Authority
CCO	Council Controlled Organisation	LGA	Local Government Act	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 B	Water Services Entity B

Topic / Bill Reference	Scope of amendment	Our view	Reasons
1. GOVERNANCE STRUCTURE			
1(a) Overview			
The 4 Entities Model s.3(a) Sch 2 s.15(1)	s.3 <i>“The purpose of this Act is to— (a) establish 4 water services entities to provide water services in New Zealand; and (b) provide for their objectives, functions, service delivery areas, and governance arrangements.”</i>	We strongly oppose the four-entities Model. This Bill should be set aside, and a new Bill be developed based on a regional CCO model. We agree that reform is needed.	Our preference, as we made clear to the Working Group on Representation, Governance, and Accountability, is for a smaller regional CCO model based on existing strategic relationships between Waikato/Bay of Plenty councils. Our previous submissions identified core success factors for Government’s reforms. These are: community consultation, local voice in representation arrangements, rights of ownership, placemaking and alignment with other Government reforms. We oppose the share allocation methodology and the removal of the rights of ownership that are usually attached to shares. We also have no clarity on many of the financial matters of the reform, such as water services pricing on day 1, harmonisation plans, definitions and methodologies of waters debt, stranded costs etc.

Topic / Bill Reference	Scope of amendment	Our view	Reasons
			<p>It is also clear that the Establishment Day expectation of this Bill cannot be met.</p> <p>Every indication is that Council and the Community are worse off, to use a Government reform term.</p> <p>A CCO model is a proven business model. The four entities model is a new unproven statutory body corporate model.</p>
<p>Establishment Day</p> <p>Sch.1 Cl.1</p>	<p><i>Cl.1</i> <i>“establishment date means the earlier of—</i> <i>(a) a date appointed by the Governor-General by Order in Council; and</i> <i>(b) 1 July 2024”</i></p>	<p>We strongly recommend that the establishment date be at least twelve months later (1 July 2025).</p> <p>We support a full and complete Day 1 transfer.</p>	<p>Delays in the process of implementing the reform is resulting increasing NTU discussion about a “minimum viable product” on 1 July 2021. This is of significant concern.</p> <p>Alongside other reforms we have and continue to invest significant mahi into transforming from an asset dominated organisation to solely a community well-being organisation that will be more connected to our community and an advocate for them.</p> <p>For Council to continue in the waters business beyond 1 July 2024 would be costly and disruptive given the WSE would be responsible for waters services. The costs of lost opportunity to our community would likely be significant and well above any cost recovery opportunity being considered.</p>
1(b) Establishment of Waters Entities (including objectives, functions, operating principles and duties) – Part 2 – Water services entities			
<p>Objectives</p> <p>s.11(c)</p>	<p>s.11(c)</p> <p><i>“support and enable housing and urban development”</i></p>	<p>We recommend that the definition of “Urban Development” be included in the Bill.</p> <p>We recommend that “Urban Development” should be defined in Section 10 of the Urban Development Act 2020.</p>	<p>We are concerned that without definition the WSE may disregard business, jobs and economic development and focus exclusively on housing.</p> <p>A city cannot be built with a focus on only one part of its growth i.e. housing alone.</p>
<p>Objectives</p>	<p>s.11(e)</p> <p><i>“act in <u>the best interests</u> of present and</i></p>	<p>We recommend that “best interests” be replaced “act to <u>protect or</u></p>	<p>The Bill refers to “best interests” which is inconsistent with wellbeings which are included in the GPS and in</p>

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s.11(e)	<i>future consumers and communities:</i>	improve the wellbeing of present and future consumers and communities	LGA. The wellbeings are well established in the TLA waters business. The Bill also is linked to wellbeings in the GPS and s.116(3)(a)(ii)(C).
Objectives s.11(f)	s.11(f) <i>“deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.”</i>	We recommend that “mitigate be replaced with <u>“avoid, remedy or mitigate”</u>”	To just “mitigate” for climate change is a lower standard than the RMA range to “avoid, remedy or mitigate”. Our experience is that RMA expectations start with an expectation that three waters often have the bar set at “avoid”.
Objectives Additional matter	s.11	We recommend that the Bill is clear that the Objectives are not a hierarchy.	The investment and management of waters activities will result in compromise across the objectives. For clarity the bill showed be clear that there is no hierarchy of objectives. This means it will be the WSE, RRG and communities that will determine direction toward the objectives though the strategic documents and consultation on those.
Objectives Additional matter	s.11	We recommend the Select Committee seek guidance on the place of waters security in the Objectives.	The GPS (s.130(3)(a)(v)) includes “waters security” as an outcome. This has not been included in the objectives of the WSE. It is unclear what the water entities’ role in waters security is.
Functions of water services entities s.12	s.12 “The functions of each water services entity are— (a) to provide safe, reliable, and efficient water services in its area; and (b) any functions that are incidental and related to, or consequential on, its functions set out in paragraph (a).”	We recommend a clause be added to recognise the significance of waters to growth investment. We recommend a new clause – <u>“to provide support to economic growth and urban development”</u>”	The provision of or not of waters services is a fundamental base for economic growth and urban development. Quite simply – no water, no growth. The current function implies a focus on just maintaining waters services. The three waters issues and cost

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			associated with urban development are greater than sum of business-as-usual maintenance, operation and renewals activities.
Operating Principles s.13(f)	s.13 The operating principles of a water services entity for the purposes of section 73 are— ... (f) partnering and engaging early and meaningfully with territorial authorities and their communities; and	We recommend that clause s.13(f) be amended to add “... <u>each territorial authority</u> ...”	We want the principle to be clear that it is intended that in s.13(f) that this is at an individual TLA level. This is necessary to avoid an interpretation that for example, engaging with the RRG or a RAP meets the standard of this clause. This does not exclude a group of TLAs agreeing to be invited to a joint meeting or process. Or individual TLA's declining to be involved. The importance of these matters to a Tier 1 growth council is such that our expectations of involvement are high.
Operating Principles s.13(g)	s.13 <i>The operating principles of a water services entity for the purposes of section 73 are—</i> ... (g) <i>co-operating with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector</i>	We recommend s.13(g) be amended to strengthen the role of the WSE in growth and urban development by replacing “co-operating with” as follows: <u>“(g) actively participate with, and supporting, other water services entities, infrastructure providers, local authorities, and the transport sector on growth and urban development.</u>	WSE governance structures are dominated by councils facing minimal growth challenges. Entity B has three Tier 1 councils. They are not guaranteed a say in the RRG or any other position of influence. It is important the Bill takes every opportunity to ensure the WSE is clear on the significance of the WSE role in activating growth.
Requiring Authority under RMA		We recommend the Bill include the necessary sections to legislate the four WSEs as requiring authorities under the RMA s.167.	The WSEs will be hitting the ground running, taking over existing projects at different stages. To avoid any doubt this Bill should have a section that makes the four WSE Requiring Authorities under the RMA. This will allow the strategic protection of critical sites or corridors etc. For example: Treatment plants, reservoirs or stormwater swales and flood retention. It removes the need for the Minister and the four WSE

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			to go through the RMA processes on establishment to get the Requiring Authority status they will immediately need to continue the investment plans for growth councils.
1(c) Ownership and the rights of ownership			
Shares s.15(2) to (5) s.16(1) & (2)	s. 16 <i>“Shares in water services entities</i> <i>(1) Shares in a water services entity are, on each relevant date, allocated or reallocated to each territorial authority owner based on the population of its district or part district.</i> <i>(2) The allocation or reallocation is as follows:</i> <i>(a) if that population is not more than 50,000 people, 1 share:</i> <i>(b) if that population is more than 50,000 people,—</i> <i>(i) 1 share for every 50,000 people in that district or part district; and</i> <i>(ii) 1 share for a group of fewer than 50,000 people, additional to those 1 or more multiples of 50,000 people, in that district or part district.</i> <i>(3) In this section,—</i> <i>population, of a district or part district of a territorial authority owner, means that population as determined by the most recent available census of population and dwellings carried out by Statistics New Zealand under the Statistics Act 1975”</i>	We recommend that s16 be modified to provide a more representative basis of share allocation: <ul style="list-style-type: none"> - Shares are population based - Are based on the usual residential population on census night - Are issued on the basis of one resident one share. 	Shares must be population based and could be 1 share per the usually resident population on census night. There is no need for the current allocation in 50,000 people bands. This gives rural councils a disproportionate interest in the shareholding. We acknowledge the rights of shareholders means that the only decision a shareholder can make must be a majority decision. We are concerned however of the risk of an unintended use of shares at some future time is relatively high and this will result in a significant under-representation for large communities.
Shares and rights of ownership s.166	s. 166 <i>“(1) A territorial authority owner (in its capacity as a holder of shares in a water services entity, or any other capacity), a regional representative group, or a regional representative—</i> <i>(a) has no right, title, or interest (legal or</i>	We oppose the share clauses of the act that remove all usual rights of ownership.	Shares carry no rights of ownership. Council does not support that the shareholding excludes the normal rights of ownership the community expects from shareholding. This unorthodox model has been developed under the

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>equitable) in the assets, security, debts, or liabilities of a water services entity (and the constitution cannot confer any such right, title, or interest — see also sections 15(3) and 93(2)(c)); and</i></p> <p><i>(b) must not receive any equity return, directly or indirectly, from a water services entity; and</i></p> <p><i>(c) must not give a water services entity any financial support or capital; and</i></p> <p><i>(d) must not lend money or provide credit to a water services entity; and</i></p> <p><i>(e) must not give any person any guarantee, indemnity, or security in relation to the performance of any obligation by a water services entity.</i></p> <p><i>(2) However, nothing in subsection (1) or (3) limits or affects—</i></p> <p><i>(a) the allocation or reallocation of shares under sections 15(2) and 16; or</i></p> <p><i>(b) the holding of those shares by the relevant territorial authority owner; or</i></p> <p><i>(c) voting under Schedule 4 on a divestment proposal.”</i></p>		<p>pretence of the WSE needing balance sheet separation to attract greater funding. Balance Sheet separation is an accounting construct determine by the application of Generally Accepted Accounting Practice. We have asked for evidence from a reputable accounting firm and the Controller and Auditor General, that this model achieves balance sheet separation. No evidence of balance sheet separation, from a reputable professional has been provided.</p> <p>A CCO model is a well-established structure using the Companies Act to administer good company practices as well as conveying the typical rights of ownership and the ability for communities to have value in shares for the transfer of the assets they have paid for.</p>
1(d) Regional Representative Group (RRG) - Subpart 4			
Overview		We oppose the RRG model of “Governance”.	<p>The governance structure of the entities is unorthodox, complex and cumbersome.</p> <p>A CCO model is a well-established structure using the Companies Act to administer good company practices as well as conveying the typical rights of ownership and the ability for communities to have value in shares for the transfer of the assets they have paid for.</p>
Membership of RRG	<i>s.32 Method of appointing territorial authority representatives to regional representative group</i>	We recommend that s.32 be significantly changed the Bill be changes to provide for TLA	We are concerned that as the Bill is drafted there is no guarantee that WSE B’s metro councils are represented on the RRG.

Topic / Bill Reference	Scope of amendment	Our view	Reasons
<p>s.27 s.32 s.91(a)</p>	<p>(1) <i>The territorial authority owners of a water services entity must appoint territorial authority representatives to the regional representative group of the water services entity in accordance with section 27(2) and (3) and the constitution.</i></p> <p>(2) <i>The territorial authority owners must appoint only persons who are—</i></p> <p>(a) <i>elected members or chief executives of a territorial authority owner of the water services entity; or</i></p> <p>(b) <i>senior managers of a territorial authority owner that, in the collective opinion of the territorial authority owners, have the appropriate knowledge, skills, and experience to assist the regional representative group in performing its role (see section 28).</i></p>	<p>representation on the RRG to be representative of the population across metro, provincial and rural groupings of TLA's.</p> <p>We support the smaller RRG membership proposed in the Bill compared with the previously released discussion bill.</p>	<p>Potentially the biggest populations, with the most complex needs and greatest consequences in the event of failure are not guaranteed representation.</p> <p>We acknowledge the Minister could manage this in the constitution, but we note that we have no evidence that this would happen. The constitutions do not exist.</p> <p>We propose that the Bill is changed to be clear that TLA representation appointments to the RRG are required to be representative of the population (as described in 16(3) – noting we propose an amendment to 16(3)) across metro, provincial and rural TLA.</p> <p>For WSE B this would mean; 2 metro, 3 provincial and 1 rural representative in a RRG of 12 members.</p>
<p>Role of RRG s.28</p>	<p>s.28 <i>Role of regional representative group</i> <i>The role of a water services entity's regional representative group is—</i></p> <p>(a) <i>appointing and removing the entity's board members under this Part; and</i></p> <p>(b) <i>participating in the process of setting the entity's strategic direction and performance expectations under subpart 4 of Part 4; and</i></p> <p>(c) <i>reviewing the performance of the entity under section 139; and</i></p> <p>(d) <i>approving the appointment and remuneration policy prepared by its board appointment committee under section 40; and</i></p> <p>(e) <i>performing or exercising any other duties, functions, or powers it has under legislation.</i></p>	<p>We recommend an additional clause is added: <u>“engaging and communicating with territorial authority owners.”</u></p>	<p>We are concerned there is no requirement for the RRG to engage with the TLA owners on matters before the RRG.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
RRG appointment s.32	<p>s.32 <i>Method of appointing territorial authority representatives to regional representative group</i> (1)<i>The territorial authority owners of a water services entity must appoint territorial authority representatives to the regional representative group of the water services entity in accordance with section 27(2) and (3) and the constitution.</i> (2)<i>The territorial authority owners must appoint only persons who are—</i> (a) <i>elected members or chief executives of a territorial authority owner of the water services entity; or</i> (b) <i>senior managers of a territorial authority owner that, in the collective opinion of the territorial authority owners, have the appropriate knowledge, skills, and experience to assist the regional representative group in performing its role (see section 28).</i></p>	<p>We recommend that s.32 of the Bill be modified to:</p> <ul style="list-style-type: none"> - allow for TLA owner appointments to be valid for a period of 3 months after the local elections. - allow for the RRG representatives to have alternates to maintain representation in the event an RRG representative is absent. - Allow for the TLA owners to remove at any time a RRG representative (appointed by the TLA owners) 	<p>These matters could be addressed in the constitution of the WSE. However, we have seen no evidence to suggest that these will be. As such we recommend them to the Bill</p> <p>These provisions deal with three matters:</p> <ol style="list-style-type: none"> 1. To allow TLA owners time after a local election to make new appointments and to allow certainty for RRG representatives of the TLA owners certainty of a post-election process. 2. To maintain an equity of voting for all members of an RRG and in the case of TLA representatives ensure appropriate representation of metro, provincial and rural representation. 3. To allow for TLA owners to address performance issues or other matters such as relocation outside the rohe of the WSE.
Board Appointment Committee s.38(1)	<p>38 <i>Regional representative group must appoint board appointment committee</i> (1) <i>Each regional representative group must appoint a board appointment committee.</i></p>	<p>We recommend that s.38(1) be modified to remove “each”.</p>	<p>In s.38(1) we are unclear what “each” means.</p> <p>Does it mean that after each triennial local election that the RRG is a new RRG and must appoint a new board appointment committee or does it mean each WSE RRG?</p> <p>We support the reappointment of TLA owners RRG members after each local election.</p>
Board Appointment Committee s.38(2)	<p>38 (2) <i>The regional representative group must appoint members to the board appointment committee who, collectively, have knowledge of, and experience and expertise in relation to,—</i></p>	<p>We recommend that RRG TLA representatives that have been elected through a local election and appointment to the RRG by their peers from all TLAs in the WSE rohe are exempt of these criteria by virtue</p>	<p>We note that in s.32(2) elected members and chief executives can be appointed to the RRG without any appropriate knowledge, skills and experience.</p> <p>It is likely this group would appoint predominantly elected members who have been chosen to represent</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p>(a) performance monitoring and governance; and</p> <p>(b) network infrastructure industries; and</p> <p>(c) the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and</p> <p>(d) perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.</p>	<p>of their communities' support of their skills in electing them twice (from their electorate and their peers)</p>	<p>the community and not any other specific skills, including those listed in 38(2).</p> <p>As such clause 38(2) could be frustrated by RRG members not having the appropriate knowledge, experience or expertise for the board appointments committee.</p> <p>We propose that being a representative of the communities is sufficient skill to be a member of the RRG and Board Appointments Committee.</p>
<p>Constitution</p> <p>s.91(a)(vi)</p>	<p>s.91 What a constitution must contain.</p> <p>s.91(a)(vi)</p> <p>the composition of any other committees</p>	<p>We support the RRG able to establish committees for any purpose approved by the constitution.</p> <p>We do not support the RAP provisions of this Bill.</p>	<p>We consider that the right for the RRG to have other committees is sufficient for each of the four entities to develop necessary bespoke committees – which if an RRG considers appropriate could be similar to the RAP.</p> <p>As such we consider the RAP sections of the Bill can all be removed. See our further comments under RAP - subpart 5.</p>
<p>1(e) Regional Advisory Panel (RAP) - Subpart 5</p>			
<p>Overview</p>		<p>We recommend that the RAP provisions of the Bill are removed in their entirety.</p>	<p>We do not support the addition of regional advisory panels.</p> <p>As stated above the s.91(a)(vi) provides sufficient opportunity for the RRG to establish appropriate committees.</p> <p>The RAP committees are unnecessary.</p> <p>The change to the operating principles esp. s.13(f) &(g) that have been added since the consultation draft of the Bill eliminates the need for the panel while creating the opportunity to establish appropriate committees or join existing groups such as the Waikato growth forum - Future Proof or other Tier 1 growth group.</p> <p>If the RAP must stay, we request the removal of “geographic area” and replace with the ability for the</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
			constitution to create RAP that are based on any common areas of interests e.g., spatial planning, golden triangle, water catchments, areas of risk.
1(f) WSE Boards			
Membership of Board s.38(2) s.57(2)	<i>s.57 Membership of board</i> (1) <i>The board of a water services entity consists of no fewer than 6, and no more than 10, members.</i> (2) <i>The board appointment committee must appoint board members who, collectively, have knowledge of, and experience and expertise in relation to,—</i> (a) <i>performance monitoring and governance; and</i> (b) <i>network infrastructure industries; and</i> (c) <i>the principles of te Tiriti o Waitangi/the Treaty of Waitangi; and</i> (d) <i>perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.</i>	We recommend the s.38(2) - Board appointment committee and s.57(2) – Board Members are amended to add “customer services and community engagement” to the list of skills required.	A WSE will have 800,000 consumers and more residents in communities with expectations – as set in the government’s expectations of the benefits of reform – of better customer services than seen by TLAs. This certainly will not be achieved without appointments to the WSE Board having customer services experience and expertise.
Transparency s.60 s.91(l)		We recommend that all meetings of the Board should be public and live streamed except where the provisions of LOIGMA allow for in committee meetings.	WSEs are performing a function undertaken by TLAs for decades. TLAs are subject to LGOIMA and undertake the vast majority of their work in public meetings (often livestreaming today). We can see no reason why the decisions on waters activities not continue to be undertaken with the same level of transparency as TLAs. Day to day business of waters activities is rarely commercially sensitive. All meetings of the Board RRG’s and RAP should be in accordance with LGOIMA Pt 7.
Term of Appointment		We recommend that the Bill limit the appointment of Board Members to 2	Board Members should be limited by the Bill to “No more than 2 successive terms”

Topic / Bill Reference	Scope of amendment	Our view	Reasons
s.65		successive terms.	
Duty of Care s.98		We recommend that professional directors should be subject to the same duty of care as they would in a CCO under company law.	We consider that professional directors of the WSE should have the same standards of duties of care as a company director would have.
Conflicts of Interest s.107 s.108		We recommend that s.107 and s.108 Conflict of Interest waivers be removed from the Bill	We do not support conflicts of interest being waived.
2. MATTERS IWI/MAAORI			
Te Mana o te Wai Statements s.140 s.141 s.142	<p>140 <i>Mana whenua may provide Te Mana o te Wai statements for water services</i></p> <p>(1) <i>Mana whenua whose rohe or takiwā includes a freshwater body in the service area of a water services entity may provide the entity with a Te Mana o te Wai statement for water services.</i></p> <p>(2) <i>A Te Mana o te Wai statement for water services provided under subsection (1) may—</i></p> <p>(a) <i>be provided by an individual iwi or hapū, or by a group of iwi or hapū:</i></p> <p>(b) <i>relate to 1 freshwater body, or to multiple freshwater bodies.</i></p> <p>(3) <i>Mana whenua who have provided a Te Mana o te Wai statement for water services under subsection (1)—</i></p> <p>(a) <i>may review the statement at any time; and</i></p> <p>(b) <i>following a review, may provide a new statement that replaces the statement that was reviewed, in which case, the reviewed statement expires when it is replaced.</i></p>	We recommend that the clause on Te Mana o te Wai is3 clear that a response under s.142, does not in itself invoke an action by the WSE and that, any financial or asset management response would be incorporated, as appropriate in the next update of strategic documents.	<p>A WSE is expected to receive many Te Mana o te Wai statements, which can be modified at any time. Each of these statements will be responded to by the WSE (s.141) and the WSE will give effect to these based on the RRG direction in the Statement of Strategic Performance (s.136(2)(iv)).</p> <p>The above processes and the principles and objectives in the Bill should give the RRG and the WSE the direction they need to address priorities and conflicting matters arising from multiple strategic policies and statements.</p> <p>These statements could lead to investment by the WSE. These investments would be part of the set of strategic financial and asset management forecasting documents.</p> <p>We note that:</p> <ul style="list-style-type: none"> - the statement of intent is prepared annually; and - the funding and pricing plan, asset management plan and infrastructure plan are prepared 3-yearly. <p>Section 142 appears to create an expectation of investment within two years of receiving the Te Mana o</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>(4)A statement provided under subsection (1) or (3)(b) expires after 10 years.</i></p> <p><i>141 Water services entity must respond to Te Mana o te Wai statement for water services</i></p> <p><i>(1) As soon as practicable after receiving a Te Mana o te Wai statement for water services under section 140, the board of a water services entity must—</i></p> <p><i>(a) acknowledge receipt of the statement; and</i></p> <p><i>(b) engage with the mana whenua who provided the statement in accordance with section 202 in relation to the preparation of a response to the Te Mana o te Wai statement for water services.</i></p> <p><i>(2) A response to a Te Mana o te Wai statement for water services must include a plan that sets out how the water services entity intends (consistent with, and without limiting, section 4(1)(b)) to give effect to Te Mana o te Wai, to the extent that it applies to the entity’s duties, functions, and powers.</i></p> <p><i>142 Obligation to publish response to Te Mana o te Wai statement for water services</i></p> <p><i>The board of a water services entity must make its response to a Te Mana o te Wai statement for water services publicly available by publishing a copy on an Internet site maintained by, or on behalf of, the entity in a format that is readily accessible—</i></p>		<p>te Wai statement. This does not align with the main statutory planning documents.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p>(a) as soon as practicable after issuing the response; and</p> <p>(b) in any event, within 2 years after receiving the statement to which it relates.</p>		
3. OPERATION OF WATER SERVICES ENTITIES – PART 3			
3(a) Obligation to maintain ownership and control of water services and significant assets			
<p>Definitions</p> <p>s.6</p>		<p>We recommend that the definitions the following definitions be added to the Bill.</p> <ul style="list-style-type: none"> - water supply - wastewater - stormwater 	<p>The s.6 definitions include a definition for drinking water, however there are no definitions that support clarity on the Bill’s purpose to “provide waters services”.</p> <p>Waters services are defined as “...services relating to water supply, wastewater and stormwater.”</p> <p>It is not clear in the Bill what these three services are.</p> <p>These definitions are significant to the reform and critical to the establishment of a WSE, the obligations of a TLA under schedule 1, the identification of the assets, liabilities and revenues that transfer over and the mahi to make all this happen from the Bill’s assent to Establishment Day.</p>
<p>Obligation to Maintain Waters Services</p> <p>s.116</p>	<p>116 <i>Obligation to maintain water services</i></p> <p>(1) <i>A water services entity must continue to provide water services and maintain its capacity to perform or exercise its duties, functions, or powers under this Act.</i></p> <p>(2) <i>In order to perform or exercise its duties, functions, or powers under this Act, a water services entity must not do any of the following:</i></p> <p style="padding-left: 20px;">(a) <i>use water services assets as security for any purpose:</i></p> <p style="padding-left: 20px;">(b) <i>divest its ownership or other interest in a water service except in</i></p>	<p>We recommend the s.116 focus on maintain and improving services and not specific assets.</p>	<p>We are concerned the drafting of s.116 is too restrictive and could lead to perverse outcomes.</p> <p>A perverse outcome could be a requirement to have a Schedule 4 poll for the sale of a wastewater treatment plant not necessary for the provision of services to current and future communities due to its obsolescence.</p> <p>The whole pretext of this reform is to be more efficient and more responsive to investment needs. Examples such as outlined above undermine the reforms goals.</p> <p>However, it is likely that many old, out of date and surplus waters assets should be disposed of to achieve the outcomes the reform is seeking.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>accordance with Schedule 4:</i></p> <p>(c) <i>lose control of, sell, or otherwise dispose of, the significant infrastructure necessary for providing water services in its service area except—</i></p> <p>(i) <i>in accordance with Schedule 4; or</i></p> <p>(ii) <i>if, in doing so, the entity retains its capacity to perform or exercise its duties, functions, or powers.</i></p>		<p>The sale of these assets of themselves would not reduce “maintaining waters services”.</p>
<p>Significant Infrastructure</p> <p>s.116(3)(b)</p> <p>s.154</p>	<p>s.116(3)</p> <p><i>significant infrastructure means any of the following:</i></p> <p>(a) <i>water services assets that—</i></p> <p>(i) <i>are owned and operated by a water services entity for the purpose of delivering water services to consumers or communities in any part of the entity’s service area; and</i></p> <p>(ii) <i>a water services entity needs to retain to—</i></p> <p>(A) <i>maintain its capacity to achieve its objectives; or</i></p> <p>(B) <i>perform or exercise its duties, functions, or powers; or</i></p> <p>(C) <i>promote an outcome that the entity has identified as important to the current or future well-being of consumers or communities in the entity’s service area; and</i></p> <p>(b) <i>infrastructure that is identified by the water services entity as being material to its operations and that is included in the entity’s current statement of intent</i></p>	<p>We recommend that that s.116(3)(b) and s.154 be modified to allow a WSE to specify its material infrastructure in its Infrastructure Strategy.</p>	<p>“Significant Infrastructure” is referred to in just two sections of the Bill and Schedule 4.</p> <p>Those sections require an understanding as to “what is significant infrastructure”.</p> <p>What is significant infrastructure to Auckland versus a small rural council is very different. What will be significant infrastructure to each of 4 WSE is likely to be substantially higher than the sum of all assets for most councils in the WSE rohe.</p> <p>The material “significant infrastructure” should be included in the Infrastructure Strategy and referenced in s.154.</p> <p>By providing this in the Infrastructure Strategy the opportunity exists to understand, through long-term asset planning, how the material assets would change.</p>
3(b) Contracting Out of Waters Services			
Overview	117 <i>Contracts relating to provision of</i>	We support the WSE having flexible	We have been successful at achieving significant

Topic / Bill Reference	Scope of amendment	Our view	Reasons
s.117	<p><i>water services</i></p> <p>(1) <i>Despite section 116, a water services entity may enter into a contract for any aspect of the operation of all or part of water services for a term not longer than 35 years.</i></p> <p>(2) <i>If a water services entity enters into a contract under subsection (1), it must—</i></p> <p>(a) <i>continue to be legally responsible for providing the water services; and</i></p> <p>(b) <i>maintain ownership of the infrastructure and assets relating to the water services; and</i></p> <p>(c) <i>retain control over—</i></p> <p>(i) <i>the pricing of water services; and</i></p> <p>(ii) <i>developing policy related to the delivery of water services.</i></p> <p>(3) <i>This section does not prevent a water services entity from entering into a contract with 1 or more other water services entities if the purpose of the contract relates solely to water services.</i></p>	<p>contracting out clauses.</p>	<p>benefits from innovative contracting, working with or neighbours and the development industry.</p> <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.</p>
<p>Joint arrangements</p> <p>s.118(2)</p>	<p><i>“s.118 Joint arrangements for purpose of providing water services</i></p> <p>...</p> <p>(2) <i>Before a water services entity enters into a joint arrangement or joint water services entity arrangement, it must have consulted in accordance with the procedures set out in Part 6 of the Local Government Act 2002 as if it were a local authority.</i></p> <p>...”</p>	<p>We recommend the removal of s118(2) as any material opportunity would have been included in asset management and infrastructure strategies which are already consulted on.</p>	<p>This clause adds no value and constrains the entities from gaining efficiencies from cross entities collaborations.</p> <p>Any material opportunity would be included in asset management and infrastructure strategies documents. TLA owners would be consulted on these as laid out in Schedule 3.</p> <p>We request the clause is removed from the Bill.</p>
3(c) Bylaws - Amendment of Local Government Act 2002 -New Section 159A			
Bylaws		We recommend the Select Committee	HCC supports the flexibility provided by the LGA

Topic / Bill Reference	Scope of amendment	Our view	Reasons
s.214		<p>seek further advice on the practicalities of the LGA amendment - section 159A.</p>	<p>amendment s.159A which allows deferral of a water service bylaw (where the term of a 10-year bylaw ends in a transition period, and the local authority makes the decision in the transition period). However, further clarity in the proposed amendment is needed to address key bylaw making requirements under the LGA.</p> <p>There are several key requirements of a bylaw review process which include (1) approval to review or revoke a bylaw (2) approval to endorse public consultation or revoke a bylaw (3) special consultation procedure and hearing (4) deliberating on a final draft bylaw and endorsing it for Council adoption/revoke, and (5) Council approval to adopt/revoke a bylaw.</p> <p>Under current legislation, Hamilton City Council's Water Supply Bylaw (2013) either has to be reviewed by 1 November 2023 or endorsed for review before 1 November 2023 and the bylaw adopted prior to 1 November 2025 (or revoked).</p> <p>The transition period (beginning when the Bill has assented) has potential to begin early 2023, leaving a short period of time in which to utilise this proposed provision but to follow through on Local Government requirements for consultation and decision making (which can typically take up to 12-18 months), and may go beyond 1 July 2024.</p> <p>Council agrees with the Taituarā submission that Clause 159A(3) is problematic in that public consultation is required under LGA s.156 to introduce, amend or revoke a bylaw, and then by default, to defer a bylaw. We support Taituarā's submission that consideration of these factors should be made in the final drafting and that guidance and examples are given to Council's in how to utilise clause 159A while meeting their statutory requirements.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
4(a) Overview			
		<p>We recommend that the strategic and financial policies be simplified to have a:</p> <ul style="list-style-type: none"> - single budgeting/forecasting financial document and - single asset management/investment forecasting document. <p>We recommend that the Bill requires significant forecasting assumptions to be documented and included with each financial and asset investment forecasting document.</p>	<p>We consider that these policies could be simplified and in doing so provide better information more efficiently.</p> <p>The Statement of Intent and Funding and Pricing Plan (including financial strategy) are essentially one financial document. If combined it would avoid repetition, simplify engagement, and make for a more cohesive financial story.</p> <p>The same applies to the asset documents – the Asset Management Plan and the Infrastructure Strategy. Under the LGA the Infrastructure Strategy is developed from the Asset Management Plans and TLAs are effectively consulting on the Infrastructure Strategy. It would make sense the WSE reflect this practice and combine the two single documents.</p> <p>All the above documents (whether combined into a single planning document or separate documents) should be based on a single set of significant forecasting assumptions.</p>
4(b) Government Policy Statement			
<p>Purpose s.130(2)(a)</p>	<p>s.130(2) “A Government policy statement must include the following: (a) the Government’s overall direction for water services, which must include a multi-decade outlook: ...”</p>	<p>We recommend that “multi-decade” be replaced with “30 years”, the same timeframe as the infrastructure strategy.</p>	<p>Align and ensure consistency across with strategic planning documents.</p>
<p>Purpose s.130(3)(a)(iii)</p>	<p>s.130(3)(a)(iii) “A Government policy statement may also include— (a) the Government’s expectations in relation to the contribution of water services entities to the outcomes sought by the</p>	<p>We recommend that “urban development” should be defined in the Bill as it is defined in section 10 of the Urban Development Act 2020.</p>	<p>This will assist to ensure consistency between all parts of Government.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p style="text-align: center;"><i>Government in the following areas:</i></p> <p>...</p> <p style="text-align: center;"><i>(iii) housing and urban development:</i></p> <p>..."</p>		
<p>Purpose</p> <p>s.130(2)</p>		<p>We recommend the Bill be amended by adding a clause that requires the Government to explicitly state how the Government intends to support other agencies to implement the GPS or explain its reasons for not providing support.</p> <p>We recommend the Bill be amended by adding a clause that requires the Minister to undertake an analysis of the costs and benefits of the objectives in the GPS.</p>	<p>The GPS water is not specific to the water services delivery by the WSEs. By adding this clause, it compels officials to make it clear which parts of the GPS are specific to the WSE. An indication of the costs and benefits would assist in determine the scale of impact the Government is expecting from components of the GPS.</p>
<p>Purpose</p> <p>s.131(b)(iv)</p>	<p>131 <i>Preparation or review of Government policy statement</i></p> <p><i>When preparing or reviewing a Government policy statement, the Minister must—</i></p> <p><i>(a) be satisfied that it promotes a water services system that contributes to the current and future well-being of New Zealanders; and</i></p> <p><i>(b) consult—</i></p> <p><i>(i) the water services entities; and</i></p> <p><i>(ii) the regional representative group of each water services entity; and</i></p> <p><i>(iii) Taumata Arowai—the Water Services Regulator; and</i></p> <p><i>(iv) other persons, and representative groups of persons, who have an interest in water services in New Zealand.</i></p>	<p>We recommend that the Bill be modified by including TLA WSE owners be added to the groups to be consulted with on the GPS.</p>	<p>TLA owners, particularly from high growth areas, have significant interest in waters services as an essential building block for growth and the need to be integrated with land use decisions and transport infrastructure provisions.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
Purpose s.131(b)	<i>See above</i>	We recommend s.131(b) is amended to replace “consult” with “engage”.	Replacing the word ‘consult’ with the words ‘engage’ give effect to the requirements of s.202.’
Purpose		We recommend the GPS include a statement of significant assumptions.	A statement of significant assumptions in the GPS will inform and influence the strategic planning of the WSE and often assist in understanding actual outcomes that are different from planned outcomes.
4(c) Statement of Strategic and Performance Expectations			
s.135 – s.139		We recommend the Bill include a requirement for the RRG to engage with TLA owners on the statement of strategic and performance expectations.	TLA owners, particular in high growth areas, will have specific expectations of performance in or to deliver efficient sustainable and integrated urban development.
		We recommend the Bill include a requirement for the statement of strategic and performance expectations to include the significant assumptions used in developing the statement.	A statement of significant assumptions informs the reader and often assist in understanding actual outcomes that are different from planned outcomes.
4(d) Statement of Intent			
s.143 -s.146 Sch 3 Part 1		We recommend the Statement of Intent is merged with the Funding and Pricing Plan to create a single coherent financial story.	Having one set of financial statements would assist with co-ordinating information into a single coherent statement covering the first 3 years in detail and the forecast for the following 7 years.
		We recommend the Bill include a requirement for the statement of intent strategic to include the significant assumptions used in developing the statement.	A statement of significant assumptions informs the reader and often assist in understanding actual outcomes that are different from planned outcomes.
4(e) Asset Management Plan			
s.147 – s.149		We support requirement that the WSE must engage with TLAs and that the	Asset management plans are incredibly detailed and complex documents that cover the 30-year period of an

Topic / Bill Reference	Scope of amendment	Our view	Reasons
Sch 3 Part 2		engagement is in accordance with s.202 and s.205.	<p>infrastructure plan.</p> <p>These technical documents are likely to be of little benefit to the majority of consumers and community.</p> <p>The asset management plans are good practice in asset management and should be prepared and reviewed by the board.</p> <p>Note that; the LGA 2002 does not specify an asset management plan is required, however it is considered best practice and is reviewed by auditors so that they may form an opinion on the reasonableness of asset planning documents.</p>
		We recommend the Asset Management Plan is merged with the Infrastructure Strategy to create a single coherent financial story.	<p>Key information for the community is asset investment, in maintaining and improving service levels and investing in growth.</p> <p>This information could be in a single document combined with the infrastructure strategy and having a 10-year view in detail and the remaining 20-years in summary with a focus on strategic issues.</p>
		We recommend the Bill include a requirement for the Asset Management Plans to include the significant assumptions used in developing the statement.	<p>A statement of significant assumptions informs the reader and often assist in understanding actual outcomes that are different from planned outcomes.</p>
s.148(b)	<p><i>“s.148 Content of Asset Management Plan</i></p> <p><i>An asset management plan for a water services entity must, for the period to which it relates, set out—</i></p> <p><i>(a) the investment priorities for the infrastructure assets of the entity; and</i></p> <p><i>(b) how the entity will—</i></p> <p><i>(i) operate, maintain, and renew its infrastructure assets; and</i></p> <p><i>(ii) provide new infrastructure</i></p>	We recommend that s.148 is amended by adding and new clause: “how the plan assists spatial planning and urban development”	<p>TLA owners, particular in high growth areas, will have specific expectations of performance in or to deliver efficient sustainable and integrated urban development.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>assets; and</i> <i>(c) how the plan meets the proposed activities and intention of the entity set out in its statement of intent; and</i> <i>(d) how the plan relates to any actions the entity intends to take (consistent with its plan under section 141(2)) as part of its response to a Te Mana o te Wai statement for water services."</i></p>		
4(f) Infrastructure Strategy			
<p>s.153-155 Sch 3 Part 4</p>		<p>We support the requirement that the WSE must engage with TLAs and that the engagement is in accordance with s.202 and s.205.</p>	
		<p>We recommend the Asset Management Plan is merged with the Infrastructure Strategy to create a single coherent financial story.</p>	<p>Key information for the community is asset investment, in maintaining and improving service levels and investing in growth.</p> <p>This information could be in a single document combined with the infrastructure strategy and having a 10-year view in detail and the remaining 20-years in summary.</p>
		<p>We recommend the Bill include a requirement for the Infrastructure Strategy to include the significant assumptions used in developing the statement.</p>	<p>A statement of significant assumptions informs the reader and often assist in understanding actual outcomes that are different from planned outcomes.</p>
4(g) Funding and Pricing Plan			
<p>Sch 3 Part 3</p>		<p>We support the requirement that the WSE must engage with TLA's and that the engagement is in accordance with s.202 and s.205.</p>	
		<p>We recommend the Statement of Intent is merged with the Funding and Pricing Plan to create a single</p>	<p>There must be a full set of 10-year financial statements compliant with generally accepted accounting practice.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
		coherent financial story.	These budgets then become part of the comparative figures in the Annual Report financial statements, giving stakeholders the comparison of budget to actual as well as actual to previous year.
		We recommend the Bill include a requirement for the Funding and Pricing Plan to include the significant assumptions used in developing the statement.	A statement of significant assumptions informs the reader and often assist in understanding actual outcomes that are different from planned outcomes.
4(h) Annual Report			
s.156(1)(a)	<p><i>156 Obligation to prepare and publish annual report</i></p> <p><i>(1) A water services entity must,—</i></p> <p><i>(a) as soon as practicable after the end of each financial year, prepare a report on the affairs of the water services entity; and</i></p> <p><i>(b) provide the report to its regional representative group no later than 15 working days after receiving the audit report provided under section 161.</i></p>	We recommend that s.156(1)(a) be amended to replace “as soon as practicable” with a specific date of “three months”	<p>The legislation should specify the date that Annual Reports are adopted and published.</p> <p>Typically, within 3 months of balance date for Government entities with a requirement to operate in a commercial business-like manner.</p>
s.157		We recommend that an Annual Report financial statements include comparative actual to budget information from the statement of intent and funding and pricing policies (or our proposed single financial planning document).	<p>Comparative actual and budget information is part of TLA reporting.</p> <p>It provides stakeholders better open and transparent information to assess the performance of the WSE.</p>
s.157		We recommend that an Annual Report include a report of performance against financial targets in the Funding and Pricing Plan.	<p>The Funding and pricing plan includes the Financial Strategy and detailed revenue targets.</p> <p>For transparency on performance the Annual Report should report on actual performance against forecast performance. These could be specified in the Statement of Delivery Performance s.158.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
s.158	<i>Statement of Service Delivery Performance</i>	We recommend that the Statement of Service Delivery Performance reports service delivery performance by community.	The Statement of Service Delivery Performance should report by community in the same way as the pricing plan and asset management investment.
4(i) Audit			
s.161.	<p>s. 161 <i>Audit report</i></p> <p>(1) <i>A water services entity must forward to the Auditor-General—</i> <i>(a) the entity’s annual financial statements and statement of service delivery performance; and</i> <i>(b) any other information that the Auditor-General has agreed, or is required, to audit.</i></p> <p>(2) <i>The Auditor-General must—</i> <i>(a) audit the statements and information referred to in subsection (1); and</i> <i>(b) provide an audit report on those statements and that information to the water services entity.</i> <i>Compare: 2004 No 115 s 156(1), (2)</i></p>	<p>We recommend that s161 be modified to include a requirement that the Auditor General must audit the financial and asset management strategic documents:</p> <ul style="list-style-type: none"> - Statement of Intent - Funding and Pricing Plan - Asset Management Plan - Infrastructure Strategy 	<p>The financial and asset planning documents are critical to the consumers, communities, regulators, Ministers and TLA owners’ confidence in the WSE plans and its ability to deliver water services for current and future communities.</p> <p>The quality of these documents must meet the highest standards. In Local Government these standards were not met until the requirement that the council long term plans and infrastructure strategies were audited.</p> <p>The Office of the Auditor General has always placed emphasis on the Waters activities due its materiality and significance.</p> <p>The role of the auditor in s.161 must be extended to continue the Office of the Auditor General’s oversight and scrutiny of these documents and in doing so giving confidence to stakeholders.</p>
4(j) Financial Independence			
s.166(3)(a)	<p>166 <i>Financial independence</i></p> <p>(3) <i>In this section,—</i> equity return means— <i>(a) profits of the entity; or</i> <i>(b) distributions from the entity; or</i> <i>(c) any benefit derived, directly or indirectly, from a water services entity that represents, is calculated by reference to, or is determined by,—</i></p>	We recommend that section 166(3)(a) is amended to replace “profit” with “surplus”.	It is not the objective of a WSE to profit from water service delivery. The entity will budget for surpluses to contribute to capital payments (assets and debt).

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p>(i) a share in or proportion of the entity's capital; or</p> <p>(ii) the entity's surplus or residual economic value (after satisfying prior contractual claims); or</p> <p>(iii) the entity's profitability or any other indicator of its success</p>		
4(k) Engagement			
s.205	<p>205 Principles of engagement</p> <p><i>In performing its functions under sections 147 to 155 and 204, a water services entity must be guided and informed by the following principles:</i></p> <p>(a) <i>the entity's communication to consumers should be clear and appropriate and recognise the different communication needs of consumers:</i></p> <p>(b) <i>the entity should be openly available for consumer feedback and seek a diversity of consumer voices:</i></p> <p>(c) <i>the entity should clearly identify and explain the role of consumers in the engagement process:</i></p> <p>(d) <i>the entity should consider the changing needs of consumers over time, and ensure that engagement will be effective in the future:</i></p> <p>(e) <i>the entity should prioritise the importance of consumer issues to ensure that the entity is engaging with issues that are important to its consumers.</i></p>	<p>We recommend that s.205 be amended to change every reference of "consumer" to "<u>consumer and community</u>"</p> <p>We recommend an additional principle is added to s.205: That all engagement with the community should include the TLA representing that community or each TLA where engagement is with multiple communities.</p>	<p>Note that not all water services will have a clear and obvious consumer, especially in the case of stormwater and firefighting.</p> <p>TLAs representatives are elected by the community to represent them. They are well informed and have a good strategic knowledge of the needs, aspirations and wellbeings of our community.</p>
5. MONITOR and MISCELLANEOUS			

Topic / Bill Reference	Scope of amendment	Our view	Reasons
171(3)		We recommend the reference to the Official Information Act be changed to the Local Government Official Information and Meetings Act 1987.	This change is recommended to be consistent with the WSE other obligations under LGOIMA.
s.175 to 180		We recommend that consideration be given to either amending section 175 to 180 or adding adding the subpart 5 Amendments to Other Acts clause that provide clarity between the Ministers intervention and Taumata Arowai's,	<p>Sections 175 to 180 provide for ministerial intervention.</p> <p>The Water Services Act 2021 (Subpart 12 s.83) regarding non-performance by drinking water supplier provides for the Taumata Arowai CE</p> <ul style="list-style-type: none"> - to appoint 1 or more operators to act in place of the supplier, - to perform or require a drinking water supplier to appoint 1 or more operators, - to perform all or any of the supplier's functions or duties as an operator under this act. <p>It is unclear how the two pieces of legislation will work together should the failure of the WSE lead to a serious risk to public health.</p>
175(1)(c) 177(1)(b) 179(1)(b)	<p>175 Minister may appoint Crown review team</p> <p>(1) The Minister may appoint a Crown review team to perform functions under this section if—</p> <p>(a) the water services entity has received a notice under section 170 and, without good reason, has not provided the information required by the notice by the stated or agreed date; or</p> <p>(b) the Minister believes on reasonable grounds that a problem relating to the water services entity may exist and—</p> <p>(i) the water services entity is unable or unwilling to effectively address the problem; or</p> <p>(ii) a ministerial body currently or previously appointed in relation to the</p>	We recommend that s.175(1)(c) and s.177(1)(b) and s.179(1)(b) be modified to add “and territorial authority owners”	<p>Sections 175(1)(c) and 177(1)(b) and 179(1)(b) all allow for Ministerial intervention at the written request of the WSE or RRG.</p> <p>Council is of the view that TLA owners should be added to each of these clauses.</p> <p>It is our view that the concerns of a metro council alone could be sufficient for the Minister to consider an intervention given the significant population and growth issues of cities.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>water services entity has recommended the appointment; or</i></p> <p>(c) <i>the Minister has received a written request to do so from the water services entity or the entity's regional representative group.</i></p>		
183(5)		<p>We recommend that s.183(5) is amended to add “must consult with territorial authority owners”</p>	<p>While recognising the mana of Local Government NZ (LGNZ), in itself it is not elected by the community and representative and accountable to our community.</p> <p>Council's request the TLA owners should be explicitly listed (as LGNZ is) and not implied by “any other person, organisations or group”.</p>
s.196		<p>We recommend that s.196 include a requirement for the minister to consult with the territorial authority owners.</p>	<p>This review should, in regard to the delivery of waters services, involve the TLA owners.</p>
6. SCHEDULE ONE – TRANSITION			
Overview		<p>Council opposes this reform but if it must happen it must do so quickly.</p> <p>Councils face multiple reforms and will be planning for an uncertain and different new future Council.</p> <p>This requires a transition that acknowledges and supports councils to deliver safe waters services until establishment day and that on establishment day council is completely out of the waters business focusing on making better what is left.</p> <p>We require a full completion of the</p>	<p>Since the 1 July 2024 was agreed by Cabinet in 2021, Every communication from the Minister, DIA and DIA's NTU has been that a full transition will occur.</p> <p>Fundamentally without the package of legislation (this and the next Bill) transition has no basis for planning and no legal mandate.</p> <p>Based on our estimate of the Bill's progress its assent would give only 18 months (potentially less) to implement the Bill's purpose.</p> <p>It will be an exceptional undertaking in those few months to transfer the, as yet undefined, waters services assets, liabilities, staff and revenues.</p> <p>It is overly ambitious to amalgamate in 18 months, 67</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
		<p>transition on 1 July 2024 establishment day. If that cannot be achieved, we reluctantly recommend the Establishment Day move out to at least 1 July 2025.</p>	<p>councils' waters services into 4 new WSE, that today have no senior leaders, no offices or technology, no strategic documents yet and are intended to operate waters services from Establishment Day. During that same 18 months the DIA/NTU/LEE will have oversight powers and decision-making functions in relations to TLA provision of three waters services.</p> <p>Reform of this scale, especially if rushed, is fraught with risk. This has been highlighted in the difficulties evidenced in the Reform of Vocational Education. The transition, financial reporting and performance issues which have been raised around Te Puukenga are a concern – but similar issues in water reform could have additional catastrophic effects on public health and the environment.</p> <p>As the months pass by we hear more and more that transition will be the “minimum viable product”. This option must be a full and complete transition that leaves councils out of the waters business focussing on its remaining core roles to improve our community's wellbeing from Establishment Day.</p> <p>In order to minimise risk to the water services operations we reluctantly would extend the Establishment Day at least twelve months.</p>
<p>Objectives of WSE during establishment period cl.2(a)(ii)</p>	<p>2 <i>Establishment functions and objectives of water services entities</i></p> <p><i>During the establishment period,—</i> <i>(a) section 11 must be read as if—</i> <i>(i) the objective set out paragraph (a) of that section were to ensure that, by the establishment date, the water services entity will deliver water services and related infrastructure in an efficient and financially sustainable manner; and</i> <i>(ii) the objective set out paragraph (f) of</i></p>	<p>We recommend that the objective Sch1 cl.2(a)(ii) be removed.</p>	<p>The objective on cl.2(a)(ii) is just ludicrously ridiculous given the creation the 4 WSE and the transition of TLA services is without mandate until the assent of the Bills.</p> <p>It is a distraction to achieving Establishment Day to think that the transition team could possibly consider delivering “water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards” on Establishment Day.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>that section were to ensure that, by the establishment date, the water services entity will deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards; and (b) section 12 must be read as if the function described in paragraph (a) of that section were to ensure that, by the establishment date, the water services entity will have sufficient capacity and capability to provide safe, reliable, and efficient water services in its area.</i></p>		
<p>Establishment Board for WSE cl.3</p>	<p>This section has 5 technical clauses for the Minister on the appointment of the LEE Establishment Board with no reference to the TLA owners.</p>	<p>We recommend the Sch1 cl.3 be amended to require the Minister to consult with the TLA owners on the appointment of individuals to the LEE Establishment Board</p>	<p>Cl.3 should be amended so that the Minister is required to consult with TLA owners prior to making appointments to a LEE Establishment Board.</p> <p>This LEE Board, established by the Minister becomes the WSE Board until replaced by the RRG. The Bill provides for the RRG to appoint a Board Appointments Committee.</p> <p>This process should be respected in establishing the LEE Establishment Board. The councils of a WSE could meet and appoint suitably qualified persons to processes run by the Minister. For example, a Ministers appointment committee.</p>
<p>CE appointment cl.4</p>	<p>This section has a number of technical clauses for the DIA CE on the appointment of the Establishment CE with no reference to the LEE Establishment Board.</p>	<p>We recommend the Sch1 cl.4 be amended to require the DIA CE consult with the LEE Establishment Board, if fully appointed, or TLA owners on the appointment of the Establishment CE.</p>	<p>Cl.4 should be amended so that the Minister is required to consult with TLA owners prior to appointing the Establishment CE, should the LEE Establishment Board positions not be fully appointed.</p> <p>The Bill provides for the WSE Board to appoint the WSE CE.</p>
<p>cl.5</p>	<p>This section provides that the LEE CE must prepare an allocation schedule specifying the assets, liabilities, other</p>	<p>We recommend that Sch 1 Cl.5 be amended to add: - The establishment CE must</p>	<p>The clause requires that a TLA CE must co-operate. There is no obligation for the LEE CE work with TLA CEs in partnership and in recognition they have quite</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p>matters relating wholly to the operation of waters services.</p>	<p>consult with the TLA CEs on the preparation of the allocation schedule.</p> <p>- That a process for an independent reviewer or mediator be established.</p>	<p>different roles and outcomes as a consequence of this reform.</p> <p>Being professional and reasonable would go a long way toward success. The Bill should be encouraging of the CE's to work together to achieve their goals and have a reasonable and business-like process to settle disputes.</p> <p>This section requires co-operation between LEE and TLA CEs on matters that are subjective. There is a natural conflict with the roles and responsibilities of these roles.</p> <p>To avoid the more draconian judicial processes (provided in this schedule) being activated, an independent reviewer or mediator should be established to resolve differences more effectively.</p>
<p>cl7(1)</p>	<p>7. Chief executive of department may approve establishment water services plan</p> <p>(1) The chief executive of the department <u>may</u> prepare and approve an establishment water services plan for a water services entity.</p> <p>(2) The chief executive of the department must, before approving a plan under subclause (1), consult with the relevant water services entity.</p> <p>(3) A plan approved under subclause (1) for a water services entity must include—</p> <p>(a) the processes, policies, and guidance for identifying the functions, staff, and assets, liabilities, and other matters to be transferred to the entity; and</p> <p>(b) the proposed timing for the transfer of functions, staff, and assets, liabilities, and other matters to the entity; and</p> <p>(c) the reporting requirements for the quarterly reports to be provided to the</p>	<p>We recommend that cl.7(1) be modified by replace “may” with “must”.</p> <p>We recommend the cl.7(2) and (3) be amended by adding a requirement to consult with the TLA owners on the plan.</p>	<p>Cl.7(1) says the DIA CE “may” have an establishment plan.</p> <p>To date this reform has been frustrated by poor planning and an absence of information that would allow TLA's to prepare for reform. Detailed planning is essential to providing certainty to TLA's and especially their staff.</p> <p>Cl.7(2) and (3). The legislation must add a requirement to consult with TLA owners on the plan and its components. This reform has been frustrated by a lack of TLA knowledge within the transition workstreams.</p> <p>Once completed, the plan must be public and widely dispersed to affected parties, especially the TLA owners.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
	<p><i>chief executive of the department under clause 9 of this schedule.</i></p>		
cl.8	<p>8. <i>Transitional requirements for asset management plan and funding and pricing plan during establishment period</i></p> <p><i>During the establishment period, sections 147 to 152 (relating to the requirements to prepare an asset management plan and a funding and pricing plan) apply with the following modifications:</i></p> <p>(a) <i>references to the regional representative group must be read as references to the chief executive of the department:</i></p> <p>(b) <i>sections 147(2)(c), 149(b), 150(2)(c), and 152(b) (which relate to engagement with consumers and the regional representative group) do not apply.</i></p>	<p>We recommend that cl.8 be modified to require the LEE establishment CE and/or the DIA CE must consult with the TLA owners in the development and confirmation of Assets Management Plans and the pricing elements of the first Funding and Pricing policy</p>	<p>It is incredible to imagine that the first and subsequent an asset management plans could be developed without the experience of each TLA owner. A Plan that will become the day 1 plan for which the TLA owners through the RRG will have responsibility for through strategic and performance statements and policy reviews.</p> <p>Cl.8 must require the WSE CE to consult with TLA owners in the development and confirmation of asset management plans and pricing elements of the Funding and Pricing Policy.</p>
cl.11	<p><i>Clause 11 addresses the duties of TLA's to co-operate with this reform.</i></p> <p><i>How TLA's fund this in not included.</i></p>	<p>We recommend that the Bill include clauses that emphatically confirm that all reasonable costs a TLA has incurred in planning for, managing and implementing the requirements of this Bill and future Bills is fully reimbursed, and</p> <p>That it is for each TLA to determine their approach to meeting the requirements of the Bills, and</p> <p>Reasonable costs are defined to be costs additional to the 2021-2031 LTP up to 2025 that are for the transition and consequential transformation of council due to the reform, and</p>	<p>Cl.11 should, for clarification, confirm that TLA Owners will be reimbursed for the full costs to the TLA (and thus their ratepayers) that are consequential to the reform using the 2021-2031 LTP's as the base of comparison.</p> <p>The 2021-2031 LTP is used as the base as they were drafted on the assumption that Waters Reform would not happen. They are the base on which WICS built their models and the DIA /NTU are monitoring financial change.</p> <p>This would include all costs of:</p> <ul style="list-style-type: none"> - preparing and providing information to the various transition entities from 1 July 2021 to 30 June 2025, and - any operating costs that are consequential to the reform (including stranded costs and

Topic / Bill Reference	Scope of amendment	Our view	Reasons
		<p>That the Better Off Funding is not treated as funding for transition and consequential costs as it is required to be spent on projects that are not linked to the transition, and</p> <p>That the Government acknowledges that ratepayers and consumers are different groups, and</p> <p>That each TLA will be no worse off financially as a consequence of the reform, and</p> <p>That “no worse off financially” means that ratepayers will not be facing higher council rates or debt as a consequence the reform, and</p> <p>That TLAs are not obligated to undertake any transition activity prior funding receiving the funding.</p> <p>That all disputes are considered by an independent reviewer or mediator.</p>	<p>the costs of removing stranded costs for a period of 3 years after the later of Establishment Day (assuming a 100% transition of all services) or the day a TLA ceases to provide services to the WSE.</p> <p>It is inappropriate for ratepayers to pay for the Government’s reform or its consequences. Ratepayers and consumers are not the same group.</p> <p>Council understands that the Government has chosen to allocate some of their costs to the WSE’s which will increase the cost of waters services. This recognises that consumers and taxpayers are different and that certain costs should be funded by future consumers.</p> <p>We note that this would most likely be a materially different reallocation of those costs with the WSE area. It is not appropriate or correct to say the same people pay.</p> <p>Council does not consider the Better Off Funding as revenue to fund the cost of transitioning and the consequential transformation. Better Off Funding is a generous grant, with a contracting attempting to implement elements of schedule 1 of this Bill although not relevant to any of the specific projects allowed from the Better Off Funding.</p>
cl.11(2)		<p>We recommend that a process for an independent reviewer or mediator be established.</p>	<p>The clause requires that a TLA must co-operate. There is no obligation for the “<i>department and any relevant water services entity</i>” to work with TLAs in partnership and in recognition of the quite different roles and outcomes as a consequence of this reform.</p> <p>Being professional and reasonable would go a long way toward success. The Bill should be encouraging of the TLAs and “<i>department and any relevant water services entity</i>” to work together to achieve their goals and have a reasonable and business-like process to settle disputes.</p>

Topic / Bill Reference	Scope of amendment	Our view	Reasons
			To avoid the more draconian judicial processes (provided in this schedule) being activated, an independent reviewer or mediator should be established to resolve differences in a more timely manner.
cl.13(2)(c)		We recommend that cl.13 include a process for an independent reviewer or mediator be established.	Cl13 provides for some draconian judicial provisions. We have suggested an independent reviewer or mediator be appointed that would go a long way to avoid a lengthy and costly judicial process. Further to that, the clause should simply require that the DIA CE be first required to establish the reasons for non-compliance prior to issuing direction, and the TLA CE must respond to that request in writing within 5 working days.
Oversight Powers of the Department cl21(b)(iii) to (vi)		We recommend that cl.21 should be modified to allow for existing arrangements between TLA's and the Government (including Government Funded) are excluded from the DIA oversight.	As a Tier 1 growth council we have multiple arrangements under development with developers and with Government and Government funded projects that are post the 2021-31 LTP. These contracts already have Government agency oversight. It should not be necessary for those changes to be re-litigated again by a party with no knowledge of the topic. In other words, there is a significant risk of disruption to housing supply during the transition and transformation period prior to 1 July 2026.
cl.24		We recommend that cl.24 include a process for an independent reviewer or mediator be established.	Clause 24 provides for the unilateral reversal of a TLA decision by the DIA CE. As with other matters described above between CE's, decisions of a TLA should also be able to be reviewed by an independent reviewer or mediator.
Transitional cost recovery cl.26		We recommend that Government develop in consultation with the Auditor General clear policy on what costs are appropriately transferred to	Clause 26 provides for the Crown to transfer all reform costs incurred by the Government to the WSE. We require that the clauses be modified to include an

Topic / Bill Reference	Scope of amendment	Our view	Reasons
		<p>WSE's and thereby their consumers as opposed to being costs to taxpayers; and</p> <p>the Auditor General undertake a review of the actual Government expenditure that is transferred to the WSE; and</p> <p>That the Auditor General attests to the appropriateness against the policy.</p>	<p>assessment of the appropriateness of these transactions as to whether they are costs of benefit to the nation and should be tax funded or of benefit to a WSE's consumers.</p> <p>As discussed above we consider the Government should fully fund all costs incurred by TLAs to transition to, and as a consequence of, the reform. Some elements of this would be appropriate to be a cost to future waters consumers (e.g. costs of contributing to the entities asset management information).</p> <p>We require that the Auditor General review the transactions and considers the appropriateness of whether they should be paid by the taxpayer or consumer.</p>
7. SCHEDULE FOUR - PRIVATISATION			
		<p>Council supports the Schedule 4 attempts to minimise the risk of privatisation.</p> <p>Council supports all Parliamentary Parties to support a motion to further strengthen the Bill with a super majority of Parliament to be required to sell a WSE or amend Schedule 4 of the Bill</p>	<p>Council although opposing this Bill, would support all Parliamentary Parties to support a motion to further strengthen the Bill with a super majority of Parliament to be required to sell a WSE or amend Schedule 4 of the Bill, should it become apparent that the Bill cannot be stopped from being made into law.</p>