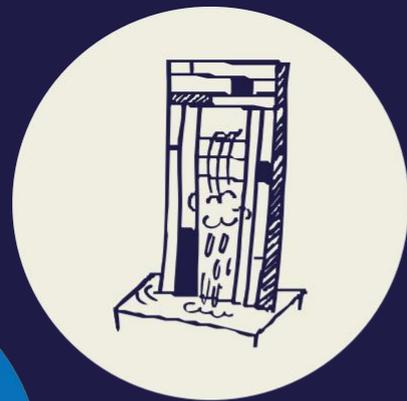


# HAMILTON CITY COUNCIL SUBMISSION

## Water Services Entities Legislation Amendment Bill

Parliament's Governance and Administration Select Committee



4 July 2023



**Hamilton  
City Council**  
Te kaunihera o Kirikiriroa

# Improving the wellbeing of Hamiltonians

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

Our city has the environment at its heart. Kirikiriroa-Hamilton has more than 1,000 hectares of open space and is built on our connection to the Waikato awa, which runs for 16km through the city. 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. Hamilton City Council and Waikato-Tainui work together to give effect to Te Ture Whaimana o Te Awa o Waikato – the Strategy and Vision for the Waikato River.

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

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

It is the lawful provider of water services to its community until services transition to any new entity and thereafter an owner of the entity of which Hamilton is a part.

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

## Council approval and reference

This submission was approved by Hamilton City Council at its meeting held on 29 June 2023.

Hamilton City Council Reference D-4806620 - Submission # 740

## Part 1: Executive Summary

1. Hamilton City Council remains strongly opposed to the Government's model for water services reform.
2. Hamilton City Council is not against water services reform. Hamilton has consistently acknowledged the need for reform in this sector to improve environmental outcomes and improve long term affordability for all communities in New Zealand.
3. Hamilton acknowledges changes made by Government to the model in an attempt to provide greater localism. However, Council's view has always been that this is best provided through a CCO model, which provides more transparent rights of ownership. This Bill does not provide for a CCO model.
4. The changes to ten entities delivered by Government in this Bill result in a less-efficient model from a financial perspective, while not addressing Hamilton's core concerns around more equitable representation, better reflection of Hamilton's asset base within the entity, and assurance that the special needs of Tier 1 growth councils can be met.
5. Key issues for our Council are either unaddressed or made worse by the Water Services Entities Amendment Bill, and by the haste and lack of cohesion in this legislation.
6. This undue haste is illustrated in the constrained time for submissions and feedback on this Bill. Providing Councils with nine working days to consider and respond to significant, far-reaching legislation and complete a robust governance process to review submission points is disappointing. It further erodes any confidence the local government sector can have that this process understands the impacts on territorial authorities and undermines Government statements that it seeks to partner with councils in good faith.
7. Repeated changes, missed deadlines, a lack of clarity on establishment processes and potential ambiguity in the transfer of responsibility for stormwater management within this reform creates financial uncertainty and unwarranted risk for our ratepayers. This has been worsened by the removal (with no consultation) of Better Off funding, continued mixed messages about the availability or quantum of transition funding and no certainty or clarity for the No Worse Off funding.
8. Further risk and uncertainty is created through interim arrangements to Council's long term planning. Removal of water services from part of Council's long term plan may impact Council's ability to transparently map Development Contributions charges for waters infrastructure. Certainty for developers is critical to cohesive growth management. A piecemeal approach risks time-consuming and costly legal challenges for Council as it meets the financial challenges of growth and ensures long-term wellbeing for Hamiltonians.
9. As the Bill is currently drafted, Developer Contributions will significantly and inappropriately reduce given the proposed move from 10 years of projects in the long term plan to just two years of projects. This is without any legislative framework proposed to account for the Developer Contribution charges associated with projects in years 3-10 (and in some cases for Hamilton, years 3-15).

- 10.** Staged transition presents multiple new issues for Hamilton City Council. We risk losing senior and experienced staff to entities which are established earlier and face additional complexity in rating and financial management of transition mid-way through a financial year. There are no signs that Government is prepared to financially support these very real costs.
- 11.** Ministerial oversight provisions and interim measures in the establishment period are ambiguous and risk removing transparency from council decision making and removing the ability for our community to influence Council decisions making. Council is placed in the invidious position of being unable to determine its own future, while also being unable to consult with its community on key decisions as Council is removed from the decision-making process.
- 12.** Hamilton has aligned with Government's legislated timelines for this reform and has progressed critical infrastructure development to futureproof regional capacity for wastewater reform. Government's inability to meet its deadlines now means Hamilton ratepayers are carrying additional cost and risk.
- 13.** The change in entity numbers from four to 10 places an undue burden on Hamilton as the highest-growth area, and the greatest contributor of three waters assets, in the new Entity B region, while removing any ability for Hamilton ratepayers to have a voice which reflects its very large contribution to this entity.
- 14.** Council notes the Government's own statements on the scale of entities required to achieve projected efficiencies are at odds with the decision to move to ten, smaller, entities.
- 15.** Our previous submissions already noted a shortfall of more than \$20 million in projected 'worse-off' funding. We raised concerns of a shortfall in transition funding in the original timeframe. Council is now losing the community wellbeing benefit of \$44 million in Tranche 2 funding and is forced to consider carrying the costs of funding regionally-focussed infrastructure for up to two more years due to delayed transition. This must be addressed by Government as a matter of urgency.
- 16.** Government decisions to step away from previous commitments to this Council in recent months represent a combined negative impact on our community of \$64 million plus any cost is due to delayed transition. Council is not convinced Hamilton will remain no worse off under this reform.
- 17.** Hamilton's repeated concerns about this reform's lack of integration for strategic and sustainable urban growth are not addressed in this Bill.
- 18.** Representation arrangements give insufficient weight to the unique needs of Tier 1 growth councils and mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.
- 19.** In its present form, this Bill does not address the lack of equitable local voice in representation arrangements, and the removal of legal rights that come with asset ownership. It is critical for the continuity of effective local and regional planning that the only Tier 1 growth council in the entity has strong representation in any new structure. Council's previous submissions strongly advocated for a CCO model, with true rights of ownership, as the way to deliver this reform.

20. Council's concern over representation arrangements as asset owners are not a challenge to the separate issue of mana whenua representation (as non-asset owners). Hamilton City Council has built enduring and mutually-supportive relationships with iwi/Maori in our region. As noted previously to Government, Council's position supports waters decision making in our region which is directed by the vision and principles of Te Mana O Te Wai, recognises treaty settlements and gives effect to Te Ture Whaimana/the Vision and Strategy for the Waikato River.
21. Hamilton City Council must request Government withdraw the Water Services Entities Amendment Bill and revisit the Water Services Act to address the fundamental flaws within it.
22. We respectfully urge you heed our submission, and thus enable reform which can achieve the stated goals of improving environmental outcomes and public health, sustainability of services and long-term affordability for ratepayers.

## Part 2: Specific areas of concern

### Ten entities lose the required economies of scale

23. Government's financial projections for the four-entity model claimed Hamilton's average water services charge by 2051 without reform would be \$2740. The reform projected this to reduce to \$1220. Announcing the Water Services Entities Amendment Bill, the Minister states the average water services charge for Waikato by 2054 without reform would be \$7660 per household and now estimates the average Waikato charge to be between \$2760 and \$3090.
24. It is of concern that Government's own statements indicate 'improvements' to its plan create greater uncertainty over future financial benefits for our ratepayers.
25. We have strong concerns that Hamilton consumers, community and ratepayers will pay an unfair proportion of our entity's establishment costs and any other reform costs which are carried by the entities.

### Staged transition creates new issues

26. Government's provision for our neighbouring local authorities to transition up to two years earlier than Hamilton creates commercial risk for our operations, which could result in risks to public health and management of critical infrastructure. There is already a shortage of experienced staff and contractual capacity in the waters sector and this Bill's staged timelines created an unequal landscape for employment and contractual matters for those councils which transition later.
27. A poor or fractured transition presents significant risk both to Council and to the wellbeing of our ratepayers. The risk to our community is through poor delivery of three waters services, water quality and critical response to adverse weather events.
28. Council faces financial risks in funding and managing an organisation without a third of our business, as well as maintaining the wellbeing of staff, whether they are transferring to the entity or remaining with Council.

## Waikato must remain as a whole

29. Notwithstanding our previous concerns about the reduced financial capacity of the ten-entity model, we believe that the Waikato entity grouping should remain connected, either as a standalone entity or in any future merger with adjacent authorities. Splitting some councils from the Waikato grouping would further impact the projected efficiencies of scale, would place an undue burden on Hamilton ratepayers, and would be misaligned with long-term spatial planning connections and partnerships.
30. In addition, Council requests that provision be made in the Bill to allow the potential for regional entities to join at the outset, on the establishment date for the entity, should the relevant representative groups determine to do so.

## Community Priority Statements

31. Council supports greater opportunities for our community to have meaningful input into decisions which impact them. However, the addition of 'community priority statements' does not appear to place any onus on the entity to take these statements into account in decision-making.
32. The Regional Representative Group is only required to send the statements to a 'consumer forum' and there is provision for reporting on any response by the entity to these statements in an annual consumer report.
33. With no detail on how these statements are to be reflected in decisions made by the entity, it is uncertain what value they add over already-legislated community representation via Council on the RRG and appear likely to simply create further administrative work for the entities and the RRG.
34. Council notes further concern over the effectiveness of Community Priority Statements is driven by inconsistencies in wording around how the entities must give effect to these statements, as opposed to the requirements on the entities to give effect to Te Mana o te Wai statements.

## Loss of local voice

35. The introduction of community statements for consideration by the Regional Representative Group does not sufficiently address our concerns over local voice. It is vital that we maintain a voice for our citizens to ensure we can give effect to local well-beings including economic, social, environmental and cultural, while giving effect to the needs of a Tier 1 growth council.
36. Governance and oversight arrangements through this reform are growing progressively distant from ratepayers and are eroding localism. The shape of the governance structures, and provisions within this Bill, represent a fundamental constitutional shift. Non-elected individuals and organisations with no direct accountability to ratepayers are given the powers to tax our community. Provision for subsidiaries of these organisations represents a further step away from one of the core tenets of our local government system – that our people have a say in decisions that affect them.

## **Long-term planning processes and Development Contributions**

37. The constant reshuffling of timelines, changing of legislative provisions, and uncertainty on financial arrangements are impacting Council's processes to deliver a structured and effective LTP process. It is unreasonable that the incoherence and rush of this reform process is compressing Council's deadlines to deliver one of its most critical, and legally-required, documents.
38. Council needs to understand more fully the impacts on amendments within this Bill that relate to inclusion or exclusion of water services in the LTP in the context of preparing a development contributions policy. Council is concerned its current legally robust framework to levy development contributions for future capital works could be challenged if these costs must be excluded in later years of the LTP. These are complex matters and the truncated timeframe for submissions on this legislation provides insufficient time for Council to receive and consider appropriate legal advice and determine its position.

## **Financial risk for Council**

39. We have sought confirmation and clarity that Government will not distance itself from previous assurances that the reform will not leave Council worse off. We must now demand detail to prove this city and this Council will not be left damaged by a financial burden caused by a lack of reasonable funding from Government.
40. There remains insufficient information from Government on the immediate and subsequent financial impacts of reform, both for Hamilton City Council and its ratepayers. Despite repeated requests we have yet to be provided assurance that all our costs from this reform will be met by Government.
41. Removal of promised Tranche 2 Better Off funding – a key element of Government's previous commitments to this reform – sadly reinforces our concerns over the continued 'shifting of the goalposts' as our Council has tried to respond in good faith to this reform process.

## **Water as a commodity**

42. The Waters Services Entities Act 2022 states the objectives of the entities, which reflect key wellbeing outcomes for the community and, of particular importance for our Council, support and enable planning processes, growth, and housing and urban development growth. Many parts of this Bill fail to recognise these responsibilities and treat waters as a commodity only. Community wellbeing goes far beyond economic imperatives and includes social and environmental outcomes as well as ensuring climate change resilience. This Bill largely is disconnected with the outcomes as represented in the Water Services Entities objectives, which in turn means the Water Services Entity is not obligated to deliver on aspects that are fundamental to the entire rationale of the reform.

## **Stormwater**

43. It is Council's view that any reform of this sector must be a full three waters reform and not leave any aspects of stormwater back with the Councils. A full three waters reform is essential to the integrated management of our finite water resources moving into the future.

## **Overly prescriptive**

44. The Bill is overly prescriptive – creating a ‘one size fits all’ approach which removes the ability to innovate or respond to specific local needs and creating a cumbersome process at a time when we need agility to respond to a changing climate and a changing world. This is illustrated in the development of 20 functions of the entities, when the original two in the Waters Services Entities Act 2022 were clear.

## **Rights of ownership in the entities**

45. 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.

## **Placemaking - Tier 1 growth concerns**

46. Council’s previous submissions sought changes to representation to provide a better link between the entities and Tier 1 growth councils. Our recommendations have not been supported in this Bill.
47. It is disappointing that our suggestion for bespoke representation arrangements in our entity has not been endorsed by the Minister, despite bespoke arrangements being offered in other entity areas. Tier 1 Growth Councils have entirely different needs to their provincial and rural neighbours, and failure to recognise this in the entity governance structures will create a needless, and futile, competitive environment for influence.
48. Governance and representation provisions still do not provide for the very different strategic imperatives between metro, provincial and rural Councils. A loss of connection between the Water Services Entity, regional partnerships and individual Councils will mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.
49. The Bill further exacerbates our concerns that the reform is falling short on providing the flexibility to support the entities objectives to enable planning, growth, housing, and urban development.

## **Staff wellbeing through this process**

50. This process has been difficult for our staff and continues to place undue pressure on staff at all levels of our business to continually respond at short notice to understand and report changes in the direction of this reform. Council is concerned for the ongoing wellbeing of waters staff who continually strive to deliver an outstanding service to our community and have done so with the prospect of drastic change hanging over them for more than two years, a change which has yet again been thrown into uncertainty through the most recent Government announcements. This reform often focusses on institutions, but we must remember that what drives our institutions are our people. We urge Government to remember this and keep the wellbeing of our people at the forefront of any change.

## Further information and opportunity to discuss our submission

51. Should the Parliament's Governance and Administration Select Committee require clarification of the submission from Hamilton City Council, or additional information, please contact **Andrew Parsons** (Executive Director – Strategic Infrastructure) on 07 838 6896 or 021 791 612, in the first instance, email [Andrew.Parsons@hcc.govt.nz](mailto:Andrew.Parsons@hcc.govt.nz)
52. Hamilton City Council does wish to speak to Parliament's Governance and Administration Select Committee at the hearings in support of its submission on the Water Services Entities Amendment Bill.

Yours faithfully



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**CHIEF EXECUTIVE**

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