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Committee Secretariat
Health Committee
Parliament Buildings
Wellington

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Christchurch City Council submission on the Taumata Arowai—the Water Services Regulator Bill

Introduction

1. Christchurch City Council (the Council) thanks the Select Committee for the opportunity to provide comment on the Taumata Arowai—the Water Services Regulator Bill (the Bill) creating a new regulatory body to oversee, administer, and enforce the drinking water regulatory system.
2. The Council wishes to appear in support of its submission. Council is happy to appear in person or via audio or videoconference. Council's representative will be the Mayor supported by a staff member.
3. The Council is supportive of changes that are focussed on enabling the drinking water regulatory regime to be more responsive to public safety issues. For Council, the delivery of demonstrably safe and high quality drinking water supplies that meets local community aspirations remains a priority.
4. The Council considers this Bill to be a component of the reforms ensuring safer drinking water for everyone and a raising of the bar for demonstrating safety and security. The Council looks forward to meaningful engagement with the Government as it continues its work on the broader reform of the three waters regime and improving the delivery of water services.
5. Council staff will continue to engage with officials from the Ministry of Health and the Department of Internal Affairs to contribute to the development of policy for the regulation and delivery of public drinking water supplies.
6. Council also supports and agrees with the Society of Local Government Managers (SOLGM) and Local Government New Zealand (LGNZ) submissions on this Bill.

Submission

General comments

7. The Council supports an independent regulator being established as a Crown Entity for the purpose of more effectively administering the drinking water regulatory system, and notes Government officials considered a number of options for the organisational form of the new body. The Council agrees the degree of Ministerial independence and oversight is an important factor.

8. The Council notes the regulator is to be a Crown Agent housed within a Crown Entity, newly established for the purposes of the Crown Entities Act 2004. The Council agrees that having a separate governance board puts the regulator at arms-length from Ministers, however, greater clarity is required to ensure the regulator has the statutory independence that is intended.
9. As Councils already have obligations with regards to the provision of water services (drinking water and wastewater services) through the Local Government Act 2002 (LGA), Council recommends work is undertaken to ensure there is alignment between local government obligations in the LGA and the regulatory objectives of the three waters reforms.
10. Council suggests the Minister of Local Government be one of those responsible for administering the new legislation. This would effectively recognise the interest local government has in the supply of drinking water, and the provision of community stormwater and wastewater services, without restricting the desired regulatory objectives.

Imbalance between waters

11. The Bill's mandate for drinking water is extensively defined with the higher level of accountability component of enforcement, and consequently a higher level of compliance standard-setting, monitoring and compliance assessment than the objectives for stormwater and wastewater. For stormwater and wastewater (clause 10(e), (f)) the focus is on, and limited to, an advisory/engagement function for the Regulator, creating the potential for an imbalance of focus.
12. Consequently, there is a perception that the focus of the Regulator's establishment, operation and reporting will be on the drinking water aspects, and that the stormwater and wastewater aspects will not be equitably and effectively dealt with, even with respect to the provision of oversight, advice, leadership, coordination, communication and promotion of public understanding (which are referenced in clause 11(a)).
13. The potential imbalance of focus between drinking water aspects and the stormwater and wastewater aspects from implementation of the Bill is reflective of the inherent differences in the relationship between each of drinking water and stormwater and wastewater with the environment and community health. Drinking water draws from the environment and impacts on human health, whereas stormwater and wastewater discharges impact on the environment. These differences suggest that the most appropriate means for ensuring quality of performance of processes and systems for managing each of drinking water (relative to community health performance/standards) and stormwater and wastewater (relative to environmental performance/standards) are also likely to be different.
14. To ensure Taumata Arowai's resources remain primarily focussed on drinking water. Council recommend the words "...oversight of, and..." are removed from the description of Taumata Arowai's storm- and wastewater objectives (clause 10(e)) and functions (clause 11(d)). This reduces the risk of Taumata Arowai resources being diverted from its primary focus on drinking water and the possibility of role confusion, overlap with other agencies in the wider environmental regulatory system.
15. Another challenge relates to the infrastructure differences between the three waters. Both water supply and wastewater are 100% engineered and piped systems and can be managed very tightly with human health the main focus.
16. However stormwater is only partially piped and engineered and it interfaces directly with the forces of nature and in particular local rain storms as well as with the wildlife, geology, landforms,

groundwater and surface water flows from local and distant sources. Stormwater quality is also affected by land contamination and bed sediment contamination from historic human activities. Stormwater issues and solutions are very site specific and wide ranging, with the main focus being the management of flooding from urbanised surfaces and sustaining ecological health for which quite different contaminants are important. Ecological health depends on managing heavy metals to a much higher degree than is necessary for human health – and bacterial contamination (e.g. coliforms) is not a major issue for ecological health.

Overlap with existing agencies and legislative tools

17. There is an overlap in the objectives and functions of Taumata Arowai and existing legislation and government departments. There needs to be clear guidance for agencies on priorities and hierarchies to avoid the potential for competing objectives between legislation. Key relationships that need to be established by Taumata Arowai to undertake its role need to be clearly identified. For example, the need to ensure District Health Boards still maintain a responsive notifiable disease system.
18. While it is hoped they are not required, Taumata Arowai needs powers to investigate incidents and make recommendations of improvement that are binding for various agencies. These need to be similar to those that are available to the Director of Health.

Wastewater and Stormwater

19. For wastewater and stormwater, the focus of Taumata Arowai is on the environmental impacts of these waters. The Council considers that the objectives and functions proposed in the Bill can be met through the existing RMA legislation tools including National Environmental Standards and National Policy Statements.
20. The involvement of Taumata Arowai in wastewater and stormwater needs to complement the existing Resource Management Act regulatory systems and improvements being proposed through the recent government consultation on the Action for healthy waterways discussion document.
21. The discussion document outlined proposals for a National Environmental Standard for Wastewater Discharges and Overflows as well as risk management plans and nationally-consistent measures for wastewater. For stormwater, risk management plans and nationally-consistent measures were also proposed alongside national guidance on stormwater policy and network management.
22. As the healthy waterways reforms are gathering momentum, Council considers the management of “non-drinking water” water quality should remain with the Ministry for the Environment driving these reforms due to the interconnectedness of water quality, ecological and biodiversity outcomes and supports work to continue to improve these existing mechanisms.

Te Mana o Te Wai

23. The Council supports the inclusion of Te Mana o te Wai in the Bill. However, it is unclear how the interpretation of Te Mana o te Wai and how it is given effect to in the Bill will align with the interpretation in the existing National Policy Statement for Freshwater Management and the draft National Policy Statement for Freshwater Management that was part of the Ministry for the Environment’s 2019 “Action for Healthy waterways proposals”.

24. While the purpose of not defining Te Mana o te Wai in the Bill allows flexibility and adaptation to change over time, there needs to be consistency between the National Policy Statement for Freshwater Management and the Bill, or clear guidance for agencies on priorities and hierarchies to avoid the potential for competing objectives between legislation.

Cost

25. The Bill currently lacks information on how Taumata Arowai will be funded. The DIA departmental disclosure statement states the monetised costs are substantial and greatly exceed the monetised benefits. Council requests the costs of establishing and operating Taumata Arowai are published.
26. There is also a lack of transparency on the likely fees and charges that could be imposed on the regulated community. The 30 September Cabinet paper (paragraph 82) states the Minister of Local Government considers “the legislation should equip the regulator with appropriate funding tools, should these be needed in future” and seeks “agreement to include provisions in the legislation that enable regulations to be made to recover costs from third parties, through fees, charges, and/or levies”. However, this is absent from the Bill and provides no indication of the costs that will be imposed, how they will be applied and when.
27. The regulations developed by Taumata Arowai will have cost implications for all drinking water suppliers, particularly due to the extended jurisdiction of the regulator to all drinking water supplies, except a domestic self-supplier. There also needs to be consideration relating to co-investment in infrastructure by central government where improvements or changes are required on grounds of ‘national good’.
28. Council requests there is greater clarity regarding what cost recovery from the regulated community will be. The bill needs to be clear that when Taumata Arowai either creates new, or changes existing, legislation it is subject to a period of consultation and it is accompanied by a clear impact statement covering financial, cultural, environmental and social effects.

Clause 11 – Functions of Taumata Arowai

29. As the drinking water standards are broader than just drinking water composition, Council suggests clause 11C is amended to:
develop standards that relate to drinking water ~~composition~~ and develop other regulatory requirements and measures necessary to fulfil its responsibilities under this or any other enactment; and

Clause 12 - Board

30. Council recommends that in addition to the proposed knowledge, experience and capability requirements of the Board, that the Board also has members appointed to the board that have skills and experience in the provision and management of drinking water services and infrastructure, for a regulator focused on water supply.
31. If the regulator remains focused on all three waters, in addition to the recommendation above, as the technical skills for the planning and management of stormwater and wastewater are different from drinking water, we recommend further requirements around board composition and skillset balance being introduced to the Bill to reduce the risk of a potential imbalance of focus between drinking water aspects and the stormwater and wastewater aspects, and/or by addressing the stormwater and wastewater aspects via a separate Bill or agency, such as the Environmental Protection Authority with suitably amended terms of reference.

32. However, Council is also concerned about the increased demand for specialised skill and knowledge created by the establishment of Taumata Arowai. Consideration needs to be given to addressing workforce issues arising from the formation of new agencies as the local government sector is a key source of the skills required.

Engagement with Local government

33. Effective working relationships with local government will be necessary for Taumata Arowai to achieve its objective and should be incorporated in the Bill to ensure there is suitable interaction with local government at governance and policy levels.
34. Council recommends establishing an advisory board with local government expertise, similar to the Māori Advisory Group, due to the range of functions held, including asset owners, regulators and as an arm of government.

Conclusion

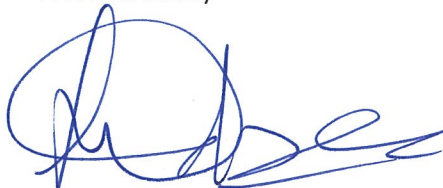
35. The Council

- a. Supports an independent regulator for drinking water
- b. Is concerned about the potential imbalance of focus between drinking water aspects and the stormwater and wastewater aspects from implementation of the Bill
- c. Requests consideration is given on how Taumata Arowai's activities complement the Resource Management Act regulatory systems, particularly for stormwater and wastewater due to the interconnectedness of water quality, ecological and biodiversity outcomes.
- d. Seeks clear guidance for agencies on priorities and hierarchies to avoid the potential for competing objectives and functions of Taumata Arowai and existing legislation and government departments where they overlap
- e. Requests greater transparency of the costs of establishing and operating Taumata Arowai and the likely fees and charges that could be imposed on the regulated community
- f. Recommend the addition of Board members with ...knowledge and experience of, and capability in, - the provision and management of drinking water services and infrastructure regulation, experience in local government and community engagement
- g. The establishment of a local government advisory board to ensure there is suitable interaction with local government.

Thank you for the opportunity to provide this submission.

For any clarification on points within this submission please contact Helen Beaumont (Head of Three Waters and Waste, phone 03 941 5190, email: helen.beaumont@ccc.govt.nz).

Yours faithfully



Lianne Dalziel

Mayor

Christchurch City Council