

Upper Hutt City Council's submission regarding the proposed Water Services Entities Amendment Bill

On behalf of Upper Hutt City Council (UHCC), please see our submission regarding the proposed Water Services Entities Amendment Bill.

We **do not** wish to speak to our submission.

Introduction

Upper Hutt City Council is responsible for the largest geographical district in the Greater Wellington region. The district provides a significant proportion of the fresh water that supplies the region, both as a catchment area and source, and much of the water storage, treatment and distribution infrastructure.

Te Awa Kairangi (the Hutt River) and its tributaries catch and transport the largest single volume of stormwater in the Wellington region, and provide recreation for many residents and visitors to the region.

Our Sustainability Strategy 2020 includes the goal to 'have good quality and sufficient water supply'.

Submission comments

1. UHCC acknowledges the Government's reform reset decisions proposed to be given effect to through this Bill are an improvement on the previous four-entity model and rushed reform implementation approach.
2. These changes are a start to address some key concerns regarding local voice and representation, and accountability of the new Water Services Entities (WSE) to their public owners and communities.
3. UHCC supports the Local Government New Zealand (LGNZ) submission comment that the process to establish the first entity needs broad local government input, because it will set precedents for all other entities. Core elements that enable this entity's establishment, like the Constitution and Development Code, will have implications for the remaining WSEs established later.

LOCAL GOVERNMENT TRANSITIONAL ARRANGEMENTS INCLUDING AMENDED PLANNING AND REPORTING

4. UHCC has consistently submitted on, and engaged with officials on, significant concerns regarding the reform impacts on developing our Long Term Plan 2024-34 (LTP).
5. UHCC appreciates the certainty provided by provisions to address some matters through the bill's section 35 amendments to the Local Government Act 2002, however the ongoing uncertainty on the establishment date for Entity G has created new concerns for the LTP process.
6. As a result, the overall risks and implications for this critical statutory planning process remain unresolved.

7. We submit that along with overall certainty and clarity on critical aspects such as transition timeframes, further specific guidance is required to the sector from the Office of the Auditor-General to clearly set our compliance expectations for this LTP, as soon as possible.

Establishment timeframes and processes

8. The timeframes and proposed establishment processes associated with obtaining definitive clarity on the reform implementation through the establishment and operational start of the new WSE are hugely problematic for Council.
9. Council, like most others, is significantly advancing and largely settling major aspects of development of our LTP over the next four months to October 2023. This will lead to the draft LTP being largely in place by around November, to enable further preparation to complete statutory audit processes in early 2024.
10. Certainty on the WSE timeframes, which impact on the complex information developed and considered for decisions made in the LTP development, is needed now or as soon as possible, well before the end of 2023.
11. The complexity of the process as it stands and proposals such as mid-financial year transition dates (on financial quarters), plus any potential changes to timeframes or the current model, are a major risk and have significant workload and resourcing impacts on our LTP process, as well as other statutory deliverables like Annual Report and rating.
12. With regards to the specific, potential mid financial year transition dates proposed in the bill, UHCC submits that the transfer occurring on either 1 July or 1 January of a given year is more workable compared to the adverse impacts and complexity of the alternate 1 October or 1 March dates.
13. UHCC submits that all mid financial year transitions will have additional risk and cost implications for Council's resourcing and compliance, and these need to be acknowledged and mitigated.

Transitional arrangements and residual functions of councils

14. As part of our LTP development and decision-making over the next four to six months Council needs clarity on the transitional arrangements and residual functions of Council at the WSE start date and during its initial operational period.
15. Council seeks that the overall implications of the reform for local authorities be clarified and confirmed urgently, so that Council can plan for appropriate resourcing, funding and associated requirements to be included in development of the LTP to deliver services post-transition.
16. Across a range of functions and the changes being worked through as part of the transition, there remains significant questions of what residual functions and activities Council will have, including working with the WSE across its operations. This is yet to be confirmed as part of eventual development of relationship and service level agreements under the Water Services Entities Act and associated changes in the Water Services Legislation Bill.
17. UHCC has specific concerns about the pass-through billing process for the new water entity and any expectations that UHCC will act as a billing agent in the early years of Entity G's existence. This would impact on UHCC workload and resourcing, as well as community understanding of the reform and role of the new WSE.
18. Along with pass-through billing, other notable residual functions include stormwater management, planning for and enabling growth, and regulatory functions under the Building and Resource Management Acts.

Financial impacts

19. Waters assets currently account for around 45% of UHCC's total asset value as at 30 June 2022. DIA are unable to confirm if and when they will take over our water-related debt on the establishment date or if not the establishment date, when UHCC will receive a cash equivalent payment, plus whether any penalties for breaking long-term loan instruments will be borne by DIA or UHCC.
20. UHCC raises debt via a debenture secured over our total rates revenue, of which 32% currently comes from water rates. A loss of this revenue will have a significant impact on our ability to raise debt funding.
21. The proposed staggered repayment of this debt over a five-year period creates uncertainty for both the execution of current debt raising strategies, along with the development of future focussed debt strategies.
22. The transfer of the debt settlement process to the Treasury creates the potential for further uncertainty.
23. UHCC has grave concerns about the complete lack of clarity around how stranded overheads will be compensated for; not just in the one or two years beyond the establishment of the WSE, but for at least five years thereafter. We believe it will take at least this length of time for any overhead re-allocation to be transitioned, so as not to cause untenable financial burden on our communities and ratepayers.
24. In the case of UHCC our overheads for the three waters services are currently around \$2 million. These overheads range from the likes of governance services and IT infrastructure through to direct involvement in delivering the three waters services. Currently, these overheads are allocated through water rates. By removing water rates, UHCC will have to reallocate these overhead costs across the remaining services (once three waters service delivery is passed on). There are no direct or easy solutions to this, as there are many staff where water related matters are a part of their job, but not their entire job. The likes of governance services and IT infrastructure cannot be 'downsized' and therefore there is no option other than reallocation of these overheads.
25. Reallocation of overheads that will need to be done, could constitute an approximate 5% rates rise resulting from this transition alone for Upper Hutt ratepayers and there would be a flow on effect to ratepayers for a number of years. This would create a price transference situation and be completely contrary to the Government's proposition that the change in delivery model for three waters services would be more financially efficient for our communities.
26. No clarity has been provided so far on how councils will be financially supported to transition stranded overheads in an equitable manner, as the 'no worse off' funding process remains in development, and there being concerns on the sufficiency of the total funding allocated to this process to cover all councils.

OTHER MATTERS

Bulk drinking water gap identified

27. UHCC supports the submission of Greater Wellington Regional Council (GWRC) regarding a conflict between the Water Services Legislation Bill and the Water Service Entities Amendment Bill may leave GWRC with no ability to provide bulk drinking water to Wellington Water Limited (WWL) from 1 July 2024.
28. Introduction of new s. 6A(2) and (3) in the Water Service Entities Amendment Bill (page 6) requires local government organisations to provide water services before the establishment date, however the Water Services Legislation Bill is repealing (cl 203 (p and q) – see page 243) the powers given to GWRC to operate the collection, treatment and bulk delivery of water to the metro Wellington Councils.

29. That is, GWRC will have no power to provide water services after its enabling legislation is revoked. As a result, with the passing of the WSL Bill, the GWRC contract with WWL will effectively be invalid, and GWRC will have no power to collect bulk water charges (levies) from the metro Wellington Councils.
30. UHCC recommends that the repeal of legislation enabling GWRC to provide water services is NOT given force until the new entity takes over operation of water services.

Land access powers

31. UHCC would like to express our support for submissions outlining concern with the limited land access powers contained in the provisions of the Water Services Legislation.
32. The proposed land access powers would inhibit the WSEs from performing their functions effectively due to the large number of properties that are often impacted by works and the significant number of landowners a WSE would have to engage with.
33. The land access powers, as contained in the current Bill, enhance the rights of property owners, which we agree is good, however, this will impact on the WSE's ability to get work done for the common good and meet the objectives of the reform, which is to address the infrastructure deficit and reduce the cost of water services.
34. UHCC recommends you give more consideration to implementing the advice provided by Wellington Water Limited (WWL) on this matter as they have the experience in providing water services.

Closing statement

35. In conclusion, Upper Hutt City Council maintains that central government should reconsider provisions in this and other associated bills, and that the reform allows more time for a "right first time" solution to be rolled out, rather than rushing through what will be a major, generational change for all New Zealanders.
36. UHCC entered the Three Waters Reform Programme in good faith and hopes that central government will continue in the same vein to explore what is best for people in all of the four community well-beings and not just for the economics and ideology of the case.
37. UHCC is one of 30 councils participating in the action group [Communities 4 Local Democracy - He hapori mō te Manapori \(C4LD\)](#). The group's key disagreement with the proposed water reform is the centralising of all water assets and decision making around their operation. We strongly recommend that the Government explores and considers the options proposed by C4LD, rather than the 'one size fits all' approach currently being followed and proposed through this and other Bills.

Yours sincerely,



Wayne Guppy
Mayor, Upper Hutt City Council