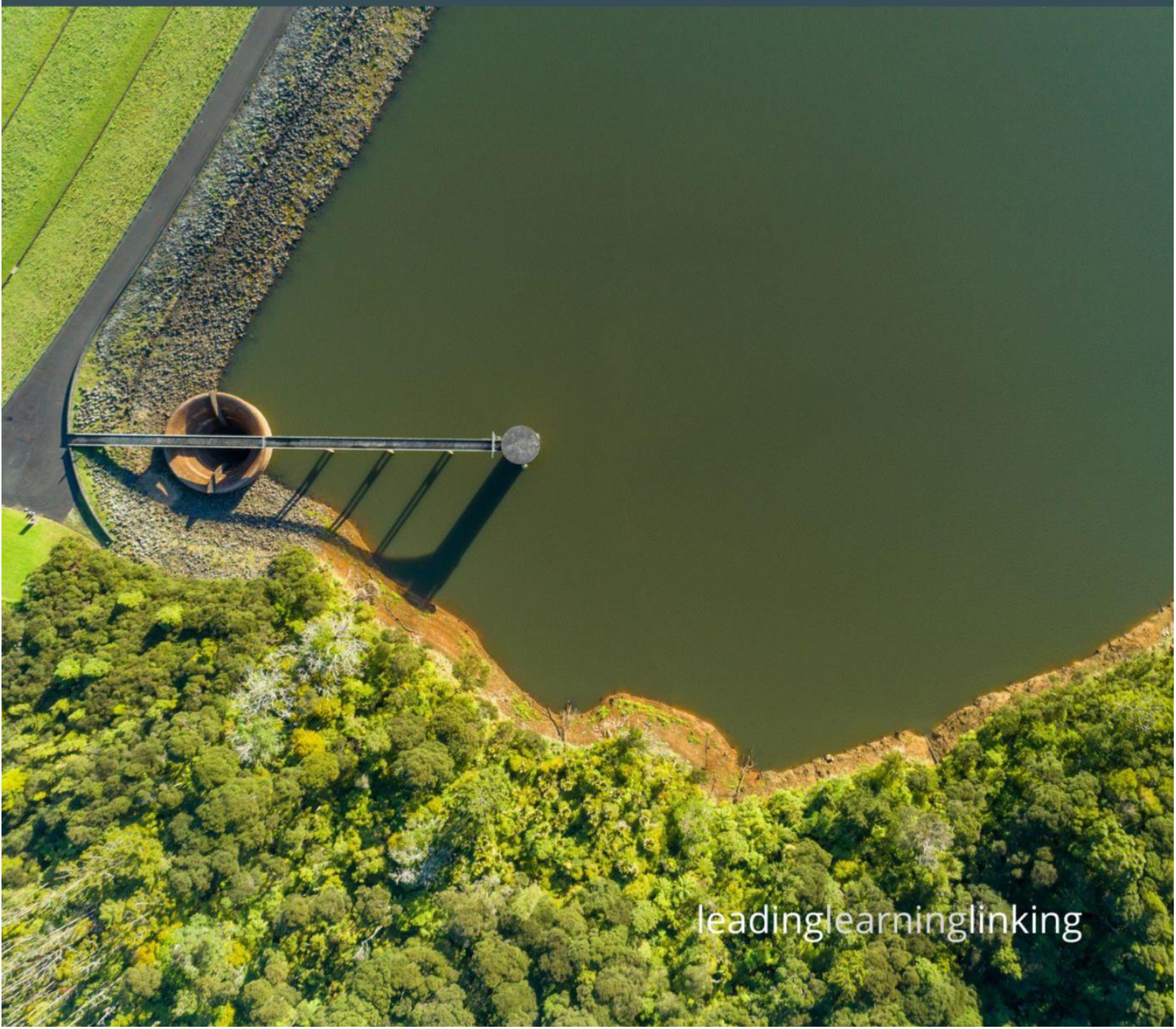
Taituarā
Local Government Professionals Aotearoa

# Local Government (Water Services Preliminary Arrangements) Bill

## Submission to the Finance and Expenditure Select Committee

June 2024



# List of Recommendations

Due date for service delivery plans

1. That the Committee work with the local government sector to identify a realistic maximum timeframe for development of the service delivery plans.

Service delivery plan purpose and planning horizon.

2. That clause 8(1)(iv) be amended to read "…. future development strategy, district plan and long-term plan."

3. That clause 13(1) be amended to require service delivery plans to cover a period of at least 30 consecutive financial years.

4. That clause 13(2) be deleted.

Content of service delivery plans

5. That clause 11(1)(a) be deleted as duplicating information in the rest of clause 11(1).

6. That clause 11(1)(d) be amended to read *(i) whether water services comply with current regulatory standards and will comply with anticipated future standards and (ii) where standards are not being or will not be complied with, a description of the nature of the non-compliance and how the plan will bring water services into compliance."*

7. That clause 11(1)(h) be amended by deleting the words "asset management approach" and requiring that local authorities include a summary disclosure about capital and operating programmes with appropriate links to asset plans on the internet.

8. That clause 11 be amended to add a requirement that service delivery plans include a disclosure of the significant forecasting assumptions used to develop the plan including, but not limited to: changes in population, changes in demand, levels of service and the timing and amount of third-party revenues.

9. That clause 11 be amended to require local authorities to state how the proposed water services providers will engage with customers and the community as a whole.

10. That clause 11 be amended to require that the financial information in service delivery plans be subject to generally accepted accounting practice, where there is an applicable standard.

Alternative Arrangements

11. That the wording of Clause 50 be reviewed to clarify alignment with s82 of the Local Government Act 2002.

12. That the definitions of joint arrangement, joint service area, joint water services CCO, and joint WSDP in clause 5 be amended to allow for regional council participation within these arrangements.

13. That Part Three be amended to give regional councils, as well as territorial authorities, access to the alternative consultation and decision-making requirements when proposing to establish or join a WSCCO, including a joint WSCCO.

14. That Clause 54 be amended to require that the information made available during the consultation process include information about potential charges made by a WSCCO.

Timeframe for the service delivery plan rules

15. That clause 14 be amended by requirement that the Secretary notify any rules governing service delivery plans within 90 days of the legislation coming into force.

Acceptance of a service delivery plan

16. That clause 18 be amended to require the Secretary to advise the territorial authority or joint arrangement of a decision to accept a plan or to direct amendments within two months of receipt.

17. That clause 18 be amended to require the Secretary to publish the methodology to be used to review plans within three months of the legislation coming into effect.

Purpose of foundational disclosures

18. That the words 'and to ensure long-term sustaianable delivery of water services be added to clause 32(1).

19. That clause 32(2)(a)(iii) be amended to read "... reflect compliance with regulatory standards and consumer demands ..."

20. That subclause 32(2)(c) be deleted as unnecessary given that water providers are prohibited from distributing any profits to owners.

Content of foundational disclosures

21. That the Committee seek clarification of the intended scope of disclosures around contracts currently empowered by sublcause 37(3)(d).

Stormwater

22. That the Committee authorise officials to undertake further engagement with Water New Zealand and Taituarā to develop a workable definition of stormwater.

Public Notice

23. That a definition of make publicly available be added to clause 5. The definition should be modelled on that in the Local Government Act 2002 and the term should be used for any requirement on local authorities to provide information to the public.

## What is Taituarā?

Taituarā-Local Government Professionals Aotearoa ('Taituarā) thanks the Finance and Expenditure Select Committee ('the Committee') for the opportunity to submit to its consideration of the Local Government (Water Services Preliminary Arrangements) Bill ('the Bill'), albeit on a greatly truncated timeframe.

***Taituarā is New Zealand's leading network for local government professionals.***

A few words about us. We are Aotearoa New Zealand's leading membership network for professionals working in, and for, local government. We have a thriving membership base of 1,010 members drawn from local authority Chief Executives, managers, and staff across all 78 local authorities.

What unites Taituarā members is our commintment to be our own professional best, supporting local government excellence through connection, collaboration and care for the wellbeing of our communities.

Taituarā strengthens the local government sector as a whole by using our members' insight and experience to influence the public policy debate. We submit on legislation such as this to provide perspectives on what works and how to make policy works from those will need to make the legislation work.

As with our earlier work in this area, our submission takes the perspective of a 'critical adviser' in the reform process – supportive of the need for affordable, sustainable three waters services, while aiming to ensure the legislative end result works effectively.

In preparing this submission we collaborated closely with our colleagues in Local Government New Zealand, and generally agree with what they have said in their submission.

***This Bill represents the less complex portion of Local Water Done Well. There is a great deal more to do.***

This is a straightforward piece of legislation. This Bill essentially:

- places local authorities under an obligation to prepare service delivery plans within a year of the legislation coming into force (probably a date in early August 2025)
- provides the Minister with powers to aid, or intervene in the preparation of service delivery plans
- empowers the Commerce Commission to collect base information to inform its role as an economic regulator (referred to as the 'foundational disclosure') and

- provides a bespoke solution for Auckland.

There are some equally important matters that this Bill does not traverse, and which are held over for a Bill later in the year.

In particular, it is not clear how the Government intends to give effect to its commitments to establish a separate class of financially separate, yet council owned Council Controlled Organisation ('CCO') and whether there are any differences in the powers and accountabilities of these. Accountability of water providers in general is also missing from this Bill – economic regulation not least (although the foundational disclosure provisions give some steer).

The Bill is also silent on the detailed powers that non-council water providers will have. To take an example, will the financially separate CCO have powers to enter property and to set bylaws and under what conditions? These 'bread and butter' issues go to way the public will experience water services on a daily basis and will make for successful reforms (or otherwise).

***The Watercare provisions are outside the scope of our submission.***

We will not be commenting on Part Four of the Bill This a matter for Auckland Council to advise the Committee on. It has (correctly) been presented to the country as a bespoke solution for Auckland. Auckland's operating environment has a number of distinguishing features.

First and most obvious is size in the sense of financial capacity. There are some 700,000 connections currently served by Watercare, with a total current operating revenue of just over $1 billion. Size also matters in terms of the ability to lobby decision-makers in Wellington.

Second is governance capacity, or at least a greater ability to access it. As the home of many of our larger corporates and other organisations the pool of people available to be independent directors 'on tap' is far greater than in many other places.

And third, Auckland has an advantage that no other council body approaching its size will have. Watercare has but a single parent/shareholder – thus greatly reducing the potential for conflict amongst shareholders. Swings in direction are less likely.

## Service Delivery Plans

This section discusses the service delivery planning requirements and Ministerial powers set out in subparts one and two of the second part of the Bill.

***Twelve months may be an insufficient period of time to properly consider and consult on any options that involve collaboration between councils.***

Preparing a service delivery plan will be a challenging task. This is especially true where collaborations between local authorities are under serious consideration (as the Government intends).

The challenge is in part a technical one. Local authorities should have an up-to-date collection of underpinning information, asset management plans and the associated financial projections from the 2024/5 long-term plans (LTP) recently completed.

The twelve local authorities that took the option of deferring their LTP by 12 months will be working to complete this information by September or October. For them working on an LTP and doing these plans will be particularly challenging.

Other local authorities are preparing or have to complete their Future Development Strategies as required under the National Policy Statement on Urben Development.

Under the affordable waters reforms the National Transition Unit (NTU) worked to support local authorities and the establishment board for water services entities implement a single option. We understand approximately 400 staff were involved in NTU at 'peak strength'.

The Bill allows for the appointment of an individual facilitator (or panel of facilitators and/or an individual water specialist (or panel). While this support is welcomed local authorities will need to work through these processes from within their own resources and any that they are able to acquire.

The Department has committed to producing guidance – but at this point we have not seen any timetable for the production of this guidance. We are not currently expecting to see this much before mid-August – we cannot imagine the Department issuing guidance before the legislation completes Committee of the House stage.

The nature of the reform process works against the deadline set in clause 16. Auckland Council apart, councils still have relatively little information to proceed with any certainty.

At this time local authorities know very little about the financially separate CCOs and their relationships with the local authorities (for example, would the same prohibition on 'financial support' apply as with Watercare). While we expect policy decisions at some point in July, the legislation giving effect to these decisions will not be enacted until the end of the year. Do not forget that detailed powers such as the revenue raising powers will not be known until this legislation is introduced.

Local authorities also know very little about the financial sustainability rules that are referred to in the legislation, and the detail of the regimes for economic regulation. The former is especially critical to the analysis of different service delivery options.

We observe that the most successful collaborations between multiple agencies of any type are voluntary and come from mutual agreement rather than being forced to take up a particular option. Where multiple local authorities are involved the accountability arrangements, levels of service across the service area, charging policies and the like will need agreement in substance before submission of a service delivery plan.

The most significant and complex of the challenges that local authorities will face will lie in getting community acceptance. As the previous reform process show these are matters that the community cares deeply about.

The decisions that local authorities make are likely to have significant impacts on lands and waters. These decisions could give rise to a breach of the Crown's Treaty of Waitangi obligations. Neither this legislation nor the Government's public announcement give any clear guidance as to the role that Māori are to play in the future of water services. It appears to be left for local authorities and their communities to come to an agreement with Māori. We are unconvinced that genuine processes can be run 'against a clock.'

We submit that any reform process for three waters must result in arrangements that are enduring. In that spirit surely Parliament would want these processes to be 'done right' rather than 'done quickly.'

There is an ability for the Minister to grant exemptions – though the majority of grounds are applicable only to those local authorities that are forming or are considering forming a WSCCO. The exercise of this power is at the Minister's sole discretion and on such terms and conditions as the Minister thinks fit.

We join with LGNZ in suggesting that setting a realistic timeframe would allow a for more sustainable outcome in the long term. Of course, any move in the deadline should be empowering – those local authorities or groups that wish to move more quickly would be free to do so.

**Recommendation: Due date for service delivery plans**

1. **That the Committee work with the local government sector to identify a realistic maximum timeframe for development of the service delivery plans.**

***The ten-year minimum period for service delivery plans is too short to allow for an informed assessment of financial sustainability.***

Clause 13(1) requires that a service delivery plan must cover a period of at least ten consecutive years, borrowing from the equivalent provision for a long-term plan (LTP) under the Local Government Act 2002.

Clause 8 establishes that the plan must show how water services will meet the applicable regulatory and quality standards in a financially sustainable way. Water services assets have long service lives – even reticulation can last 40-50 years if properly maintained.

We submit that a ten-year outlook is far too short a period to make informed judgements about what is and is not financially sustainable. Although long-term plans have a minimum planning horizon of ten years, they are also subject to a test of financial prudence[1] that applies across the useful life of assets (and audit scrutiny for prudence).

We invite the Committee to consider matters such as climate change. While temperatures have risen, adverse weather events are more frequent and more severe. Issues such as asset resilience (e.g., need for relocation of assets) and water security will generally only manifest 20-30 years away. Meeting future resource consent conditions is an issue in some local authorities now, even more local authorities will face this towards the end of, and just outside the ten-year period.

Clause 8 requires that service delivery plans support the local authority's housing growth and urban development objectives as specified in the long-term plan. But the long-term plan is actually a document for delivering upon the objectives in a future development strategy (for those who need to do them) and district plan. In future that may also include a spatial plan. Each of those documents has a statutory timeframe of thirty years.

[1] There are no references to financial sustainability in the Local Government Act 2002 – broadly speaking prudence is the equivalent test.

Local authorities are required to prepare 30-year infrastructure strategies for their water services (and other network infrastructure) as part of their LTPs. Local authorities should have 30 years' information on the key service issues, asset consequences and asset management programmes from their 2024/34 LTP (or be developing it in those local authorities that deferred their LTPs).

While we will be advising local authorities not to limit their plans to ten years, we consider that Parliament should be prepared to take the lead and legislation for a minimum timeframe of thirty years.

As an aside, clause 13(1) provides that local authorities cover the relevant content matters in detail for the first three years, and in outline for the remainder of the plan. This echoes the provisions that govern an LTP. In honesty, the sector has always struggled to translate this into any practical approach – and indeed the LTP audit process generally encourages us to show more rather than less information.

A service delivery plan should present the long-term challenges to the community in a transparent and honest way. Any incentive to treat the next three years as being the priority or primary concern undermines the purpose of a service delivery plan.

Unless the Department has some very clear guidance to support what 'in outline' means in a practicable way, we suggest deleting clause 13(2).

**Recommendations: Service delivery plan purpose and planning horizon**

2. **That clause 8(1)(iv) be amended to read "…. future development strategy, district plan and long-term plan."**

3. **That clause 13(1) be amended to require service delivery plans to cover a period of at least 30 consecutive financial years.**

4. **That clause 13(2) be deleted.**

***The content requirements for service delivery plans need clarification.***

Water services and delivery options are a matter of significant public interest. The decisions and actions that local authorities take in the next fourteen months will receive intense public scrutiny. The content requirements for a service delivery plan should be clearly specified to minimise the opportunity for challenge.

The contents of clause 11(1) are quite detailed, covering matters such as the financial projections, capital and operating expenditure, asset conditions and values and so on. Clause 11(1)(a) requires local authorities to include information about the state of water services. It is not clear what policymakers expect would be disclosed here that is not covered elsewhere in clause 11(1).

Item 11(1)(d) requires the local authority to discuss whether and to what extent services comply with regulatory standards. This is important as regulatory standards (or the stricter enforcement of them) are a major driver of current and future expenditure. It seems to us that the phrase "and to what extent" is really asking local authorities to set out which standards are being complied with and how the plan intends to resolve that. We observe that it is not just current, but anticipated or known changes in these standards that are important.

We have a question about clause 11(1)(g). This requires local authorities to disclose the values of assets. Will the asset values used in the last annual report suffice? We ask because the valuation of infrastructure assets is a highly specialised skill and can be quite costly. We accept that there may be a necessity to revalue where the plan calls for a transfer to a CCO. Otherwise, we would not want to duplicate this work.

Clause 11(1)(h) requires a description of *"the asset management approach being used including capital, maintenance and operational programmes for delivering water services."* The term asset management approach is not one in common usage in the local government sector (or, as far as we know, in the infrastructure sector). We suspect that the intent is well captured in disclosures of the programmes.

Disclosure of capital and operating programmes could add significantly to the length of a plan, while not adding much to the overall transparency. For example, we don't expect that the Government intends every renewal of every component on every scheme. We suggest that what is required is:

a) a description of the significant capital projects, their cost and when they are expected to occur.
b) a projection of capital expenditure for each year in the plan classified by primary driver (levels of service improvements, changes in demand, and renewals)
c) a projection of operating expenditure on maintenance, salaries, and other costs.
d) a link to the relevant asset management plans for drinking water, wastewater and treatment disposal, and stormwater disposal on a website owned or maintained by the local authority.

Any plan is only as good as the forecasting assumptions that have been used to develop the plan. As it stands there is little or no direct requirement to disclose any information about forecasting assumptions other than the useful lives of assets.

Some examples of assumptions that should be included are changes in population, changes in demand, changes in levels of service, and the timing and availability of third-party revenues.

Clause 11 requires that local authorities include a summary of the engagement that has been undertaken in preparing the plan. But an aspect that is missing from section 11 is any requirement to include information about how the water service provider(s) will engage with the public to determine needs and preferences. For example, the previous legislation required the establishment of customer panels, establishment of an independent complaints process, and an annual stock take of customer engagement. Some of the public will view this as the most important aspect of the plan.

One final matter of detail. It is not clear whether or not there is an expectation that the financial information in service delivery plans would be subject to generally accepted accounting practice (GAAP). We suspect that this is simply an oversight. Local authorities are subject to such an obligation in documents prepared under the Local Government Act – we observe that this is a stand-alone requirement in a stand-alone piece of legislation.

**Recommendations: Content of service delivery plans**

5. **That clause 11(1)(a) be deleted as duplicating information in the rest of clause 11(1).**

6. **That clause 11(1)(d) be amended to read *(i) whether water services comply with current regulatory standards and will comply with anticipated future standards and (ii) where standards are not being or will not be complied with, a description of the nature of the non-compliance and how the plan will bring water services into compliance."***

7. **That clause 11(1)(h) be amended by deleting the words "asset management approach" and requiring that local authorities include a summary disclosure about capital and operating programmes with appropriate links to asset plans on the internet.**

8. **That clause 11 be amended to add a requirement that service delivery plans include a disclosure of the significant forecasting assumptions used to develop the plan including, but not limited to: changes in population, changes in demand, levels of service and the timing and amount of third-party revenues.**

9. **That clause 11 be amended to require local authorities to state how the proposed water services providers will engage with customers and the community as a whole.**

10. **That clause 11 be amended to require that the financial information in service delivery plans be subject to generally accepted accounting practice, where there is an applicable standard.**

***The 'alternative arrangements' clause needs clarification.***

There are several aspects of these clauses that are unclear and would benefit from redrafting.[2] We note:

- Clause 50 of the Bill says that specified "alternative requirements" may be complied with instead of the LGA consultation and decision-making requirements that would otherwise apply. However, where there is no "alternative requirement," LGA provisions continue to apply. As currently worded, it is unclear whether the principles of consultation in s82 of the LGA will continue to apply.

- Simplified consultation and decision-making requirements under this Part of the Bill apply only to territorial authorities. However, a WSCCO (defined in clause 7) is a CCO that delivers water services, including through assets and operations currently owned by regional councils. Part 3 does not recognise that regional councils with water services assets and functions will also have to decide whether they stay with their existing approach to delivering water services, or instead form a WSCCO. In Wellington, Greater Wellington Regional Council owns bulk water supply assets including four water treatment plants, reservoirs, pumping stations, and over 180km of large diameter pipelines. Bulk water services are still water services. To allow for vertical integration of water services delivery across New Zealand in the same way as has been achieved in Auckland through Watercare, regional councils need to be included in WSCCOs.

- Clause 54 sets out the alternative arrangements for consultation and the information requirements to support consultation. These are mostly modelled on the Local Government Act requirements. One aspect that is missing is any obligation to show the impact of any proposed change of provider of water

[2] Authors Note: We are gratefuil to the Wellington collective for drawing the first two matters in thsi section to our attention.

services to the charges people can expect to pay. Failure to include this information is likely to be misleading to the public.

**Recommendations: Alternative Arrangements**

**15. That the wording of Clause 50 be reviewed to clarify alignment with s82 of the Local Government Act 2002.**

**16. That the definitions of joint arrangement, joint service area, joint water services CCO, and joint WSDP in clause 5 be amended to allow for regional council participation within these arrangements.**

**17. That Part Three be amended to give regional councils, as well as territorial authorities, access to the alternative consultation and decision-making requirements when proposing to establish or join a WSCCO, including a joint WSCCO.**

**18. That Clause 54 be amended to require that the information made available during the consultation process include information about potential charges made by a WSCCO.**

***The rule-making power needs a timeframe.***

Clause 14 provides the Secretary of Local Government with the power to make binding rules regarding the content of service delivery plans and the manner and form of presentation of the information.

We suspect that this power is likely to be used for matters such as requiring electronic copies, specific rules around performance metrics (i.e., a plan must have metrics a, b, and c rather than setting amounts for each of those), and detail around the presentation of asset condition and valuation.

These powers might add considerably to the information needs required in a plan and/or require rework. Too late a notification of the rules is likely to create additional cost and place an already 'tight' timeframe at risk. Parliament should be requiring the Secretary to complete the rule-making process expeditiously – we therefore recommend a deadline be added to the Bill. We have suggested 90 days after commencement but frankly the Secretary needs to notify the rules 'soon as.

**Recommendation: Timeframe for the service delivery plan rules**

15. **That clause 14 be amended by requirement that the Secretary notify any rules governing service delivery plans within 90 days of the legislation coming into force.**

***There is no timetable on the Secretary's consideration and acceptance of service delivery plans.***

Clause 16 requires that service delivery plans be submitted to the Secretary of Local for review and acceptance. Clause 18 sets out requirements if the Secretary accepts the plan and alternatively if the Secretary wishes to direct amendments to the plan.

There is no statutory obligation on the Secretary to carry out a review in a timely way. We accept that the plans will arrive quite close together – however local authorities and communities require certainty as soon as possible. We submit that the Department should be able to return plans within two months of receipt and should resource itself accordingly.

In a similar vein, there is no appeal on decisions that the Secretary makes in this phase, and no requirements to enter into any dialogue with local authorities prior to issuing his decision and any directions. There should be some certainty as to expectations and the methodology that the Secretary will use to review service delivery plans.

**Recommendation: Acceptance of a service delivery plan**

16. **That clause 18 be amended to require the Secretary to advise the territorial authority or joint arrangement of a decision to accept a plan or to direct amendments within two months of receipt.**

17. **That clause 18 be amended to require the Secretary to publish the methodology to be used to review plans within 90 days of the legislation coming into effect.**

## Foundational Disclosure

In this section we discuss the requirements to make the foundational disclosures as set out in Subpart Three of Part Two of the Bill.

***Economic regulation is essential to the success of any reform of water services. The foundational disclosure represents the first step in the regime.***

This part sets the framework for the Commerce Commission to start its role as an economic regulator.

To establish our bona fides in this area we refer the Committee to a recent Taituarā conversation starter *A Practical Approach to the Economic Regulation of Water Services*.[3] The paper provides an outline of the key features of the regulatory system and more detailed discussion about the basket of measures and other information an economic regulator would ask providers for.

Water services are an example of a natural monopoly in that each is a service where there are high barriers or start-up costs that prevent others from readily entering the sector. Water services require an infrastructure of treatment, distribution or disposal facilities that come with substantial initial capital costs and ongoing life cycle costs.

Any reform of water services is likely to founder if there is any suggestion that water users are being 'overcharged' for this service, or that the funds raised are not being spent 'appropriately.' Taituarā has therefore been an active supporter of the need for economic regulation of water services.

The purpose of economic regulation is "to protect consumers from the problems that can occur in markets with little or no competition." These problems are described as the three evils of monopoly: higher prices or excess profits; lower quantities than economically efficient; or lower/deficient quality of service.

We have developed *A Practical Approach* with the following design features in mind:

- economic regulation would apply regardless of the actual model of service delivery that local authorities and their communities select. (That is to say economic regulation will apply equally to council provided services and those provided on behalf of councils. We therefore support clause 33 in its entirety.)
- economic regulation will apply to all water services i.e. no exclusions for stormwater
- a regulatory regime must provide for the sustainable delivery of water services over the long-term

[3] Available at https://taituara.org.nz/Attachment?Action=Download&Attachment_id=3022 .

- the likely policy settings for water services point to a less intrusive regulatory approach that has transparency as its main objectives and
- the economic regulator should, in the first instance, seek to re-use or re-purpose existing information collected by other agencies (for example, Taumata Arowai).

***The purpose of the foundational disclosure could be better defined.***

Clause 32 sets out the purpose of the foundational disclosure. It is modelled on the Telecommunications Act 2001 and provisions in the (repealed) Water Services (Economic Efficiency and Consumer Protection) Act 2023. Taituarā considers that this could be further improved.

We are concerned that the above clause 32 does not specifically recognise the need for long-term sustainability of services. This is critical to counteracting the understandable, but undesirable, tendency to short-termism, and is critical to promoting long-term management of the assets. Arguably, sustainability of service might be captured by the phrase 'long-term benefit of consumers'. This intent should be clearer.

The purpose statement refers to service quality that reflects consumer demands. In many services that is appropriate. However, three waters services are subject to a higher level of regulation of quality standards than consumers might set in a free market, especially safety and environmental standards. The purpose statement should be expanded to include regulatory requirements.

As we understand it, there is no intent that water providers distribute profits to their owners. That is based on the Bill continuing the historic prohibition on Watercare making such a distribution. We also observe that a distribution of profit may also undermine the Government's policy intent that revenues be ring-fenced (and which is reflected in clause 11 of this Bill) That being the case, there is little incentive for the water services entities to price in a manner that would generate excess profits. We are not convinced that there is any need for subclause 32(2)(c).

**<u>Recommendations: Purpose of foundational disclosures</u>**

18. **That the words 'and to ensure long-term sustaianable delivery of water services be added to clause 32(1).**

19. **That clause 32(2)(a)(iii) be amended to read "… reflect compliance with regulatory standards and consumer demands …"**

**20. That subclause 32(2)(c) be deleted as unnecessary given that water providers are prohibited from distributing any profits to owners.**

***Allowing the regulator to require contract infromation is unduly intrusive.***

Clause 37(3) sets out the kinds of information that the Commerce Commission may collect in the foundational disclosure. Having given some thought to these matters in advance of the Bill (see attached) we consider that these powers are generally appropriate.

One matter we do query is the inclusion of subclause 37(3)(d) which allows the Commission to collect information about "contracts" with no further limitation. On the face of it that appears to allow the Commission to ask for literally any piece of information about individual contracts, including copies of the contracts themselves. We could see value in the Commission collecting information on the value and expiry dates of major/significant contracts but see little value in anything else.

The Committee should invite officials to clarify what the intended scope of this provision is and word accrodingly.

**<u>Recommendations: Content of foundational disclosures</u>**

**21. That the Committee seek clarification of the intended scope of disclosures around contracts currently empowered by sublcause 37(3)(d).**

## Technical Amendments

**Stormwater**

Our members have raised concerns about the definition of stormwater. In fairness this was something of a vexed issue in the previous reforms. Piped stormwater networks fit squarely within the definition in the Bill. Other assets are more difficult to neatly capture.

To quote Hamilton City Council
*"Council's parks and reserves are key parts of our communities' open space and recreation facilities; they also perform critical stormwater management functions. Roads are critical both in terms of their impact on generating stormwater runoff and it the connections that they provide to both the piped and un-piped flow of stormwater. Are they part of the stormwater network under the Bill's definitions?*

*Most modern urban developments include significant stormwater detention facilities, wetlands, tanks, and dams. Some of these become Council property when the development is complete, others remain in private ownership. Functionally these are critical to the effective management of stormwater and flooding risks, but these are excluded from the definition of stormwater in the Bill."*

**Recommendation 22: Stormwater**

**22. That the Committee authorise officials to undertake further engagement with Water New Zealand and Taituarā to develop a workable definition of stormwater.**

**Timeframe**

A technical question for the officials. The Bill requires that service delivery plans cover at least ten years beginning with the 2024/5 financial year. But these plans will not be due until (at earliest) the end of July 2025. Was the intent that information on the 2024/5 financial year would serve as a basis for comparison (i.e. here is the situation before and after the plan) or is this simply a drafting error?

**Publicly notify**

There are a number of requirements to publicly disclose or make certain information publicly available. Neither of these terms are actually defined in the Bill. It is arguable whether either term falls within the ambit of the definition of public notice in the

Legislation 2019. We submit that local authorities should be placing a copy of the notice or information on their websites as is required when they make something publicly available under the Local Government Act 2002.

**Recommendation: Public Notice**

**23. That a definition of make publicly available be added to clause 5. The definition should be modelled on that in the Local Government Act 2002 and the term should be used for any requirement on local authorities to provide information to the public.**

Taituarā
Local Government Professionals Aotearoa

Taituarā - Local Government Professionals Aotearoa
Level 9, 85 The Terrace, Wellington
PO Box 10373, Wellington 6143

T 04 978 1280
W taituara.org.nz
E info@taituara.org.nz