

22 July 2022

Secretariat
Finance and Expenditure Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6160

Dear Finance and Expenditure Committee,

SUBMISSION ON THE WATER SERVICES ENTITIES BILL

1. Thank you for the opportunity to submit on the Water Services Entities Bill. Kāpiti Coast District Council acknowledges that how we deliver water services across New Zealand needs to change and is supportive of the need for reform. However, we still have concerns around the proposed approach and remain unconvinced about how the Three Waters Reform will generate benefits for Kāpiti.
2. Council is committed to achieving positive three waters outcomes for the Kāpiti Coast community and we want to ensure that our community's needs continue to be prioritised and met in the face of climate change and unprecedented growth.
3. Council acknowledges that the Water Services Entities Bill is the first legislative step in the Government's reform process. While this first step addresses some of the key concerns raised to date by Councils, we also note the ability to comment fully and comprehensively is limited without the details of the second Bill, which focuses on linkages to other core areas of Council's responsibility.
4. Notwithstanding, we have identified a number of recommendations for the select committee to further strengthen the relationship for WSEs alongside the remaining role and responsibilities of local authorities.

Background

5. The Kāpiti Coast has been recognised for its strategic approach to water over many years and continues to deliver quality three water (drinking water, wastewater, and stormwater) outcomes. Our approach to demand management and long-term sustainable provision of potable water has been acknowledged by the Office of the Auditor General. We've focused on spending money on our core infrastructure and putting in place the many elements that contribute to managing our water efficiently, such as water meters, a river recharge system, grey water tanks, and upgrades to our water treatment plants. We're currently advancing significant projects in both wastewater and stormwater to deliver improved environmental outcomes.
6. While we support the need for change, we have real concerns about the planned approach to Three Waters Reform, which we see as one-size-fits-all, overly complex

and difficult to implement. We're also concerned about funding, affordability, governance, and ownership aspects of the proposed model.

Governance, ownership, and representation

7. We have previously expressed our concerns around governance and ownership¹, and how to ensure our priorities are acknowledged and delivered under the proposed structure.
8. Council supports the features of the Bill that reflect the changes made as a result of the Governance, Representation and Accountability Working Group recommendations, including:
 - Protections against privatisation, which has been a key area of concern for Councils and communities.
 - Regional Advisory Panels - we agree this is a useful mechanism for feeding advice on local needs/preferences, views and concerns into the RRG.
 - WSE Boards' composition and accountability – we agree that the Boards should be competency-based, but we would like to expand the knowledge and expertise requirements to include experience in local government, broader placemaking, customer service and engagement, environment specific competencies which are transferable into delivery of infrastructure, and an understanding of social impacts including affordability.
9. Whilst the changes alleviate some of our concerns, we still feel that not all Councils are directly represented on the Regional Representation Group (RRG); the WSEs are large, bureaucratic, complex entities involving multiple layers; we're unsure of how communities will engage with large-scale entities; and we question the absence of conventional accountability mechanisms under the Local Government Act 2002 (LGA).

Kāpiti Coast District Council supports the features of the Bill that reflect the changes made in response to the Governance, Representation and Accountability Working Group recommendations, although we still have concerns around representation on the RRGs; the large, bureaucratic, complex nature of WSEs; how communities will engage with large-scale entities; and the absence of conventional accountability mechanisms under the LGA.

We also recommend that the skill sets in clauses 38(2) and 57(2) be expanded to include experience in local government, broader placemaking, customer service and engagement, environment specific competencies, and an understanding of social impacts including affordability.

¹ Kāpiti Coast District Council submission to the government on the *Three Waters Reform proposal* on 1 October 2021 available at [Submissions we've made - Kāpiti Coast District Council \(kapiticoast.govt.nz\)](https://www.kapiticoast.govt.nz/submissions-weve-made).

Te Mana o te Wai and Te Tiriti o Waitangi

10. Council supports the focus on Te Mana o te Wai, as the health of water is fundamental to all New Zealanders and their communities, and the development of Te Mana o te Wai statements.
11. We also support the requirement for WSEs to give effect to the principles of Te Tiriti o Waitangi.
12. Capacity and capability building for mana whenua is essential to enable meaningful participation and will need funding support from central government. We do not think WSEs should bear this cost alone to later be passed onto ratepayers. Funding could be in the form of a 50/50 type arrangement like Waka Kotahi. If costs increase, then additional government funding should be put into this.

Kāpiti Coast District Council recommends that building capacity and capability for mana whenua is essential for meaningful participation, and the cost of this should be funded by central government.

Community wellbeing

13. Council is concerned by the absence of reference to community wellbeing in the Bill. Promoting the wellbeing of communities is a critical role for Councils - the three waters services are fundamental to a thriving environment and vibrant economy. Healthy waterways are therefore integral in supporting community wellbeing and growing strong and resilient communities.

Kāpiti Coast District Council recommends that the Bill expressly references community wellbeing in its objectives and operating principles.

Retaining and capturing the local voice

14. One of the key issues in the three waters debate is the need to retain our 'local voice'. There is a long-standing principle of "no taxation without representation", and this reform would break that link. Elected representatives currently have the challenge of making balanced decisions between all of a Council's competing needs – for example water, roads, libraries and parks. The community has direct access to their mayor and councillors and can express their views on how well those decisions are being made.
15. Whilst the Bill goes some way to address this issue of capturing the 'local voice' through representation and establishment of Regional Advisory Panels, we need more clarity and assurances around two key aspects about local voice: strategic prioritisation and service response.

Strategic Prioritisation

16. All Councils want assurance that their priority investments, such as infrastructure to enable growth, will be delivered. There is concern that a WSE, when faced with the competing demands of 22 Councils, will prioritise work in ways that will hold back some

- districts. We've already seen this play out with some Regional Land Transport Committee decisions, where smaller Councils feel their voice is lost at times.
17. For Kāpiti, the way in which WSEs prioritise investment is a very real concern as we could find ourselves in a situation where, as a result of doing a good job in maintaining our assets over the years, we are pushed well down the pecking order so others can effectively 'catch up' at the expense of residents across the Kapiti Coast district.
 18. It is unclear how WSE decision-making and prioritisation processes will operate, and how those processes will incorporate local priorities and plan. There needs to be transparency around the investment decision-making and prioritisation processes of the WSEs. These should be made available to the public on the WSEs' websites.
 19. Also, existing mechanisms capturing local voice must feed into the WSEs. We recommend that the various WSEs' planning and accountability documents take into account Councils' existing strategic documents and plans which have been developed in consultation with their communities (eg LTPs, AMPs, infrastructure strategies, regional policy statements and district plans etc).

Kāpiti Coast District Council recommends that there is transparency around the investment decision-making and prioritisation processes of the WSEs, and how these processes incorporate local priorities and plans.

Service Response

20. On the other end of the spectrum is concern that local service levels could deteriorate to an entity 'average'. As an example, in the 2019/20 year, the average resolution time for urgent water faults in Kāpiti was 1 hour, but for a nearby Council it was 5 hours. Our non-urgent average resolution time was 22 hours, for the comparator Council it was seven days. It is unlikely that WSEs will look favourably at differing levels of service, as this would have an impact on cost efficiency. The risk is that local service response deteriorates towards a WSE average.
21. Our communities need assurance of service in the event of failures in the infrastructure network and emergencies, and this response needs to be local and quick. We still need certainty around the on-the-ground presence of delivery and maintenance teams in different locations, who will respond to community needs.
22. Communities have existing connections and relationships with Councils, and it is likely that residents will continue to contact Councils in the first instance regarding faults etc. This could result in delays, additional costs, and inefficiencies from duplication of efforts. WSEs need to consider how they can tap into Council's existing connections or replicate them, when engaging with local communities and they must be clear on their role versus Councils'.

Kāpiti Coast District Council recommends that there is clarity regarding WSE intended service response model and standards.

Engagement with the community

23. Council supports the community engagement provisions set out in the Bill, and the establishment of consumer forums. However, we are concerned that access to WSEs' democratic processes and meetings for our community will be difficult, given Kāpiti's location and demographic.
24. Communities must have their say on things that matter to them, and the right level of influence over decisions that affect them; but adding extra administrative layers may create a system that is more complex and bureaucratic. The aggregated approach of the WSEs should not leave communities worse off than they are under the current system.
25. We would also like to raise the issue of lack of central government funding support for Councils to engage with their communities on the Three Waters reform. Councils and their communities to date have had to bear this as an additional cost to be funded through rates. We believe that central government should fund the costs associated with central policy direction.

Kāpiti Coast District Council recommends that:

- there are clear and available channels for the community to engage with WSEs, and consideration is given to accessibility concerns; and
- central government should contribute towards the cost of engaging with the community on the reform.

Role of WSEs in stormwater

26. There needs to be more clarity around the role WSEs will play regarding stormwater, in relation to growth and development planning, development control, asset management and maintenance particularly of green and sensitive water assets.
27. Due to the complexity around the legislative, policy and planning framework around stormwater, the proposals in this area are not fully developed, which makes the scope and impacts of the reform uncertain. There is concern that stormwater represents a source of material risk for WSEs and Councils that is hard to quantify.
28. Stormwater is linked to placemaking and closely connects with other Council roles and functions. Many of these involve material overlaps; they serve different functions at different times, meaning the WSEs will need to work in partnership with territorial authorities, regional Councils, and road controlling authorities to ensure continued delivery of all the multiple outcomes. This overlap in functions also makes it difficult to immediately identify stormwater assets and transfer them to the WSEs.
29. Council therefore supports LGNZ's recommendation to a staged approach to transitioning stormwater, to allow time to address its complex nature and consider the impacts of the resource management reform.

Kāpiti Coast District Council recommends that the select committee consider a staged approach to stormwater transition, which recognises the complexity in this area.

Integration with spatial and local planning processes and growth

Planning and growth

30. Water services are intrinsically linked to other Council assets and infrastructure – and to growth. Although there will be a need for WSEs to address deficits with existing infrastructure, this shouldn't be at the expense of stifling growth and development where it's needed.
31. The WSEs need to work closely with Council to ensure that their planning processes for new or upgraded infrastructure are aligned with Council's spatial development priorities, other planning processes, and give effect to our Long-Term Plans and District Growth Strategy. This alignment will allow WSEs to plan, obtain consent and construct three waters infrastructure efficiently to enable Council's growth requirements.
32. Kāpiti Coast's population has increased by 1.5 percent per year on average over recent years and this same rate is expected to continue in future. This would mean our population will grow by about 32,000 people over the next 30 years – the current population of Paraparaumu and Raumati combined.
33. Our growth strategy gives us a framework for where, when, how, and how dense, we want growth to be in our district. It helps us shape land development and manage activities across our town centres and urban, rural and business areas, to support our district's needs now, and in the future. It is also a key tool in how we respond to climate change impacts while working within the physical constraints of the district.
34. Council is also publicly notifying a District Plan change in August 2022 to enable denser growth in its centres, in walkable catchments around centres and rapid transit stops, and across all residential zoned land in the district. This intensification plan change (Plan Change 2) is also expected to include some areas of new residential zone land and more enabling papakāinga provisions, as well as new design guides, an updated set of engineering standards, and amendments to financial contributions provisions. A range of qualifying matters will also be identified.
35. Council needs to plan carefully to make sure we're 'growing well' with a thriving environment, vibrant economy and strong communities. It will also ensure that we avoid increased pressure on housing and rental stock and costs, our infrastructure, and our environment. We need to make sure our growth protects the things we value, and creates opportunities like housing choices, jobs, skills training, transport choices, and new and improved open spaces.
36. Therefore, WSEs need to operate in a way that recognises Councils' broader leadership role in placemaking and community wellbeing. This includes respect for decisions already made by Councils and communities and where possible, the WSEs' documents should adopt and give effect to Council planning and strategic documents.

Timing of response to growth

37. WSEs also need to provide timely and accurate information to support our Councils' land development and growth work. They need to provide three waters infrastructure plans for identified growth areas to support Councils' decision-making processes and help inform where growth should occur and how that growth would best be

accommodated. Once growth decisions have been made by Councils, we want WSEs to invest in the necessary three waters networks ahead of that growth.

38. Council is concerned that delays in information sharing or deferred decision-making on the part of WSEs may stall development projects. We need WSEs to be agile and timely when responding to change or development/growth opportunities in the district.
39. We also need clarity on how Councils can work with WSEs to bring forward planned infrastructure works (in a timely manner) in order to unlock potential in an area or progress the work there. How would we advance projects like the Infrastructure Acceleration Fund (IAF), which involved accelerating the work programme for multiple three waters and roading infrastructure projects in order to deliver on housing outcomes in Kāpiti, with the WSEs? Putting together the infrastructure delivery plans for the IAF process for example, required Council and developers to respond very quickly and with flexibility to Kāinga Ora's information requests and tight timeframes.

Kāpiti Coast District Council recommends that:

- the Bill's objectives and operating principles are amended to require WSEs to recognise, support and enable Councils' role in placemaking and community wellbeing, so that the vision for growth and development can be achieved; and
- more clarity is given on how WSEs will work with Councils to respond to local need to unlock growth and development in the face of changing circumstances and priorities.

Affordability, funding and pricing

Affordability

40. Kāpiti Coast is simultaneously home to some of the most affluent and some of the most deprived communities in New Zealand. While areas such as Peka Peka and Kaitawa are in the 10% that are most affluent in New Zealand, other areas such as Ōtaki and Ōtaki Beach are in the 10-20% that are most deprived². Consequently, Council must think carefully about affordability and communities' ability to pay for different services in the district.
41. We are concerned that there is currently an absence of reference to affordability in the objectives and operating principles of the Bill, considering this is one of the main issues underpinning the reform. We are unsure whether this will be addressed in the second Bill through the economic regulator, or other performance monitoring mechanisms available to the RRGs etc.
42. The WSEs need to balance increased investment and service level needs with affordability for its communities/customers. The WSE Board and RRG need to understand the different communities it represents and deprivation levels, and have the appropriate competencies to assess affordability. There also needs to be awareness of social impacts at the decision-making level.
43. Our communities need assurance and clarity around how affordability and affordability concerns will be assessed/addressed under the new entities – this includes

² Environmental Health Intelligence New Zealand (EHINZ) work on socioeconomic deprivation profile, using the New Zealand Index of Deprivation (NZDep).

considering the full impost on ratepayers after all WSE charges, local and regional Council rates, and other applicable levies have been taken into account.

Kāpiti Coast District Council recommends that:

- the Bill expressly references affordability in its objectives and operating principles; and
- WSEs refer to affordability work Councils have carried on with their communities, and that WSE boards and RRGs have appropriate skillsets and performance measures in place to ensure affordability is adequately considered.

Funding and pricing

44. Councils need more detail on how funding and pricing decisions will be made and the timing of these decisions. Although we recognise that this information will form part of the second Bill, we are concerned that the timing is a bit tight for WSEs to make their pricing and funding decisions, and for Councils to then assess the impact of these on Council's long-term planning processes and amend our funding and financing policies in response (including Revenue and Financing Policy, Rating policies, Development and Financial Contributions policies, Treasury Management Policy etc).
45. Councils are required under the LGA to make necessary amendments to our financing and funding policies and consult on these with the community. This work is significant and needs to start at least 10-12 months before the 1 July 2024 go-live date of the new entities to meet legislative timelines and ensure a smooth transition. This means the WSEs need to confirm the pricing and funding mechanisms they will use by at least 1 July 2023, to give Councils enough time to reflect the impact of changes on our next LTP. At this stage, we are unsure whether this is achievable considering the amount of work that needs to be done.
46. We are also concerned about the potential impact of the reform on Council's Development Contributions (DCs). Our current DC charges are calculated based on the planned infrastructure work programme over the period of the LTP. If the WSEs decide not to provide the network infrastructure for which DCs were previously required, Council is required under the LGA to refund the contributions we have collected from developers for that infrastructure. This is a significant financial risk to Councils and may also affect our charges linked to debt. We would like consideration given to this issue when addressing linkages to the LGA as part of the second Bill.

Kāpiti Coast District Council recommends that consideration is given to:

- the timing of the WSEs' funding and pricing decisions and ensure these are available to Councils by 1 July 2023 to allow orderly integration into the 2024 LTP process; and
- potential financial consequences for Councils related to development contributions refunds, when addressing linkages to the LGA.

Integration with other local government processes and legislation

47. Council supports the points raised by LGNZ regarding the need for the government to ensure that all the current reform programmes are integrated to form a coherent system.
48. We also echo the issues raised by Taituarā's around the need to address linkages to other legislation such as the Local Government Act 2002: Rates Rebate Scheme; the Public Works Act 1981; the Resource Management Act 1991 and successor legislation; the Land Drainage Act; the Kāinga Ora – Homes and Communities Act 2019 and the Infrastructure Funding and Financing Act 2020.

We thank the Committee for its time and effort in considering our submission, and we would appreciate the opportunity to speak to our submission at the hearings.

Yours sincerely



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Te Tumuaki Rangatira