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WSB submission	WSB Submission 2025	

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Dear Madam / Sir

Waikato District Council's Submission on the Local Government (Water Services) Bill

Waikato District Council (WDC) welcomes the opportunity to submit on the Local Government (Waters Services) Bill. This is a crucial piece of legislation for the ongoing implementation of Local Water Done Well (LWDW) and WDC wants to ensure that LWDW is successfully implemented.

Building Liveable, Thriving and Connected Communities

WDC is the territorial authority providing for the wellbeing of nearly 90,000 residents in one of New Zealand's fastest-growing districts. We are the beating heart of the 'golden triangle' between Auckland, Hamilton and Tauranga with the Waikato Expressway, the North Island Main Trunk railway line and the Waikato River being spines of our district.

Whilst we are a tier 1 urban authority, our district covers more than 400,000 hectares, most of which is rural land used for farming and market gardens. Our key towns are Tuakau, Pookeno, Te Kauwhata, Huntly, Ngaaruawaahia and Raglan. Smaller settlements include Gordonton, Matangi, Tamahere, Meremere and Port Waikato. The challenge that our geography creates is that only about half of our ratepayers have access to our water services. The cost of these services is only charged to those who use them.

With the district being well positioned between Auckland and Hamilton, it is experiencing enormous growth pressures to the north (adjacent to Auckland) and to the south (around Hamilton). Additionally, Hamilton city is now the fastest growing city in New Zealand. This growth within our district and in Hamilton is both a challenge and an opportunity. To keep up with growth within the city and existing and potential demands from growth around it, Hamilton City Council (HCC) has invested significantly in three waters infrastructure to ensure that it can meet the needs of not only its ratepayers but also consider servicing growth in a cross-boundary manner. Further investments will be required to enable this over the coming years.

Through our contract with Watercare, WDC has invested significantly in improving the infrastructure across 17 water and wastewater plants within the district. However, rapid growth means significant investment is required to maintain and continue to upgrade this infrastructure.

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The journey is ongoing and our commitment to our community must be balanced between the need to meet affordability for our residents and our obligation to meet environmental outcomes. The continued health of the Waikato River is central to the wellbeing and prosperity of our region and is a key objective of both the Council and our Joint Management Agreement partner, Waikato-Tainui. As part of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, there is commitment and agreement to restoring and protecting te awa. WDC and Waikato-Tainui are committed to work together to give effect to Te Ture Whaimana o Te Awa o Waikato – the Strategy and Vision for the Waikato River.

It is in this context that Waikato District Council provides its submission to the Finance and Expenditure Select Committee on the Local Government (Water Services) Bill.

The WDC submission is structured into the following three sections:

- Key Messages
- Part A – General Comments
  - – Further Information and Hearings
- Part B – Detailed Considerations

Key Messages in WDC's submission

1. **Waikato District Council strongly supports reform of the national water services sector.** Reform is long overdue. The current model is unsustainable for councils and our communities, and the provision of safe, sustainable, and affordable water services is now a critical issue across New Zealand. The success of Local Water Done Well is critical to public health, economic growth, housing and environmental sustainability.

2. **The objectives of water service providers are aspirational, but must include responding to growth, and need to be refined to be realistic.** One of the key features of the Local Government (Water Services Preliminary Arrangements) Act 2024 is its focus on requiring water service providers to respond to and support growth. This is a critical issue for both Waikato district and Hamilton city and this requirement has been largely lost in the Bill. We also note that the objectives cast a higher standard of environmental performance than the RMA - operating water networks with no impact on the environment is not possible. These two issues need to be addressed.

3. **The intent of transition provisions is helpful, but a suite of additions is needed to make the transition of waters from council to a waters company as robust and straight forward as possible.** Councils need a more comprehensive framework that can streamline the establishment process and provide a statutory underpinning for the transfer and novation of contracts, services, and obligations – including the Council's obligations and entitlements under development agreements, and to expedite the transfer of land and documentation of title. This is not currently provided for in the Bill.

4. **New standards cannot undermine existing obligations, nor create additional burdens for Councils.** While we welcome the creation of National Standards (National Engineering Design Standards, National Wastewater Environmental Standards, and National Stormwater Environmental Standards), these standards cannot cut across Government's responsibilities under Treaty Settlements, nor Council's ability to fulfill existing obligations (for example obligations under the Waikato River Treaty Settlement, to Te Ture Whaimana o te Awa o Waikato.) Further, any standards must be achievable, affordable, fit for purpose, and there must be adequate time to transition to them. Changing complex long-life network systems to achieve new and higher standards is both expensive and time-consuming - the timetable for change is critical for our community and for their ability to pay.

5. **Transition to new ways of charging is required.** Waikato District Council utilises volumetric charging for water services and see the extension of this approach to encompass wastewater in the future. We see this as being integral to achieve financial sustainability, for the more efficient use of water, and to achieve better environmental outcomes. However, this transition will take time.

6. **Further work is required to streamline processes and ensure consistency with existing legislation.** Many councils are well advanced in their processes and decision-making, in line with the Local Government (Water Services Preliminary Arrangements) Act 2024, to deliver a Water Services Delivery Plan by 3 September 2025. In WDC's case a decision to establish a waters company will likely occur ahead of this Bill receiving Royal Assent. We urge the Government to ensure that this Bill does not cut across existing processes or require Council's to rework options, which could also create confusion for our communities.

Part A – General Comments

1. WDC welcomes the Local Government Water Services Bill. How councils deliver water services has been a focus of local and central government for years – with change long overdue. This Bill gives councils the flexibility and options to make local decisions on the future of water services delivery, something councils have strongly advocated for.
2. In December 2024, in line with Government direction, HCC and WDC agreed to consult our communities on a joint Council Controlled Organisation as our preferred option for future water services delivery.
3. We heard loud and clear from the then Minister for Local Government, Hon Simeon Brown, that councils should work together on water services to create scale. A joint HCC and WDC business case demonstrated the benefits of partnering to create real change, scale and boundaryless investment.
4. For our subregion, working together is a logical and attractive first step towards change. We are clear though, that we remain open to further aggregation with other partners over time.
5. Key outcomes for HCC and WDC through this reform include:
   a. **Better growth outcomes:** by investing in the right infrastructure to support development across the joint council boundary.
   b. **Better for the river:** a coordinated approach to support the quality and health of the awa in giving effect to Te Ture Whaimana.
   c. **Better for water users:** offers improved customer experience through a sole focus on waters across the joint area.
   d. **Better financially:** the cost of investment is spread fairly across generations to align with lifespan of assets.
6. Overall, we are positive about reform. The key issue is to ensure that this Bill enables a smooth transition for councils. Our feedback on this Bill is extensive, and we have worked with HCC on our shared challenges.
7. We hope this helps in setting New Zealand up for success by giving water providers the tools they require to create real change in line with the Government's direction; what is needed for water delivery; and ultimately what will the benefit our communities, environment and the economy.

How the Bill can help Waikato District Council and Hamilton City Council deliver on Local Water Done Well:

Better Growth Outcomes

8. In line with Government direction, a core focus for both councils is how we keep up with high growth across our sub-region. We note Government policy announcements made in August 2024 on growth, and the National Policy Statement on Urban Development, including a requirement to service zoned and serviced land able to accommodate 30 years of future growth. Sufficient investment in three waters infrastructure is key to this.

9. The Waikato district is one of the fastest growing districts in the country. This growth is fueled by the district's location between two major cities and in the heart of the 'golden triangle'. WDC entered a 29-year contract with Watercare in 2019 to manage and operate our 3 waters networks with a clear mandate to modernize, expand, and improve the quality of our systems, processes, environmental compliance, assets and networks. The Council has committed significant funds to this investment and is starting to reap the benefits particularly in terms of environmental outcomes.

10. Because of the Local Water Done Well reform, Watercare has exercised its right to terminate the contract on or before 30 June 2028. WDC wishes to build on the work done by Watercare and have found a willing partner in HCC. The councils already work across boundaries on many land use, infrastructure planning and servicing initiatives which provide benefits to our collective ratepayers. Working together through a CCO construct will deliver good outcomes for both councils and their communities.

11. Over the next 9 years, WDC has budgeted around $1.4 billion for operational and capital expenditure on 3 waters.

12. A joint HCC and WDC waters company will unlock the ability to deliver the right infrastructure to service growth, in the right way irrespective of local authority boundaries. This includes large waters infrastructure that serves communities within Hamilton city, growth areas immediately adjacent to Hamilton city, and the rest of the Waikato district.

13. In this context, we would welcome the Select Committee strengthening provisions related to growth in the Bill. We recommend the Bill explicitly states as an objective of water providers **the requirement to support housing and urban development and to support economic development (cl15).** This makes clear to the water organisation from the outset, the role they play in growth – and is consistent with the policy intent the Government has set out.

14. We note the lack of recognition of existing spatial planning frameworks in the Bill. Future Proof (a partnership between councils (HCC, WDC, Waikato Regional Council and Matamata-Piako District Council), Government and Iwi) sets the strategic direction for growth across our subregion. This omission could compromise cohesive infrastructure planning, and lead to poor outcomes in urban development, housing, and employment. **This is an easy but important addition.**

15. As a high-growth Council, we note the need to reapply for consents and upgrade five (5) wastewater plants within the next 5 years, some of which are currently in design and have long consenting and construction lead in times. While we broadly welcome the National Engineering Standards set out, there must be time to transition to these. The impact would be paralyzing, not to mention hugely costly to ratepayers and developers, if these standards cut across capital projects currently being delivered by both Council and developers. **A phased approach to compliance is needed to ensure continued delivery of infrastructure that enables growth.**

16. On a more technical note, but essential, are the transfer arrangements of existing development contributions and development agreements to a water provider. This is not currently provided for in the Bill, creating significant risk for existing agreements. For example, WDC has developer agreements under the Infrastructure Acceleration Fund. **We need the ability to seamlessly transfer these arrangements to a new waters company, to**

avoid delivery risk created through this process. This point, along with other transition requirements is picked up on again in the "transitions" section of the submission.

Better for the River and the Environment

17. We welcome the Bill's intent that seeks to minimise the environmental impact that water service providers have. We expect the actual wording that water providers "do not have adverse effects on the environment" needs further consideration to ensure it is achievable. **We would recommend consistency with the Purpose and Principles set out in Part 2 of the Resource Management Act 1991.**
18. The future prosperity of the Waikato Region and the wellbeing of our people relies on a healthy river/awa. Under the River Settlement, there is a common commitment and agreement to restoring and protecting te awa. Te Ture Whaimana sets the vision for te awa and everything we do must give effect to this. As part of the River Settlement Te Ture Whaimana has the standing of a National Policy Statement under the RMA and where there is inconsistency with any other National Policy Statement it takes precedence.
19. We note that the Bill creates three new National Standards – National Engineering Design Standards, National Wastewater Environmental Standards, and National Stormwater Environmental Standards. As they currently stand in the Bill, each of the new standards take precedence over Te Ture Whaimana which is problematic. **WDC cannot support the diminution of the mana, standing, and operation of the Waikato River Settlement and Te Ture Whaimana**.
20. We are also concerned that the consultation requirements relating to the development of the new standards does not recognise the mana and role of Waikato-Tainui in relation to the awa. For Waikato-Tainui, the Waikato River is tupuna which has mana and in turn represents the mana and mauri of Waikato-Tainui. The relationship of Waikato-Tainui with the Waikato River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture. This is captured in Schedule One of the Kiingitanga Accord which is a feature of the Waikato River settlement.
21. **We recommend that the Select Committee rework the proposed National Standards framework so that it appropriately recognises the commitment that the Crown has made through Treaty Settlements and does not undermine the Waikato River Settlement and the standing of Te Ture Whaimana.**
22. **We recommend that the framework for any new standards requires the decision-makers to develop, recommend or approve the standards to ensure that they are proportionate, practical, and affordable, and the benefits of the new standards exceed the costs of implementing them.**

Better for Water Users

23. WDC uses volumetric charging for water services (all properties are metered) and believes moving to the same method for wastewater services is logical as it better reflects where costs lie and enables the community to understand and adjust consumption as needed.
24. Evidence shows that councils that have meters have better efficiency in water usage. This means leaks are more readily discovered, very expensive assets like treatment plants can do

the job for longer or, lower peak demand, results in improved resilience and less stressed infrastructure.

25. While HCC is working at pace to roll out universal meters, we need charging mechanisms that works for our customers in the meantime. HCC's analysis shows that if using a fixed charge per rating unit, 80 percent of customers would be worse off, with the most significant impact on lower value properties.

26. We support the intent of the framework to transition from charges based on capital value to other forms of charge. Our technical submission suggests some further refinement of the transition framework that are needed to make it work as is intended.

Part B picks up on our detailed considerations, seeking clarifications to charging provisions.

Better Financially: Establishment Process and Transition

27. HCC and WDC have been working at pace to develop a long-term solution that works best for ratepayers, for businesses, that also allows other water providers to join in the future. In doing so the councils have had detailed discussions on establishment and transfer arrangements.

28. While we welcome transition provisions in the Bill, **there is a large suite of other transfer provisions that still need to be addressed.** This is picked up in detail in the technical submission. Issues range from contracts for service and procurement to development contributions and developer agreements to insurance, land, and assets.

29. The outcome that we are seeking is a statutory provision that underpins the transfer or novation of obligations, agreements, and contracts that supports the operation of a new CCO as if it was the council without triggering termination or renegotiation. This is important for any supply agreement but is particularly critical for the water-related aspects of development agreements.

30. While we are well advanced in our work to consult with and confirm decisions with the community, we note this Bill introduces additional and conflicting consultation requirements compared to the Preliminary Arrangements Act.

31. We urge the Government to ensure that this Bill does not cut across existing processes or require Council's to rework options, which could also create confusion for our communities.

32. Our current CCO planning is based on stormwater services, remaining the responsibility of the councils but delivered by the CCO. In the future we may wish to move the stormwater activity to the CCO. If this does happen, there is no method allowed in the Bill for the water organization to charge and recover its costs.

33. We would also recommend that the requirement for an auditor's opinion on consequential amendments to the long-term plans in these circumstances be waived - or as a minimum, drastically reduced in line with the Government's intent to streamline processes.

34. We recommend that clause 60(5) and clause 63 be amended to allow water organisations that provide stormwater services to collect all or part of the charge for these services based on property value.

Concluding Remarks

As a country, we must address the decades of under investment in maintaining, renewing, and building water assets – which have led to critical issues seen over the past decades.

But as a Council, we cannot simply keep putting rates up. Local Water Done Well must work for Councils, businesses, developers and the community. This Bill, alongside the supporting legislation, enables fundamental change to the delivery of water services, and is much welcome.

WDC, working with HCC, is well placed to deliver on the needed change to deliver water services in a way that is better for growth, better for the river, better for waters users, and better financially. We welcome the select committee's consideration of these issues to ensure that this reform is indeed a success.

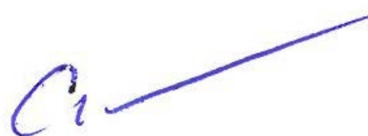
Further Information and Finance and Expenditure Select Committee Hearings

Should Parliament's Finance and Expenditure Select Committee require clarification of the submission from WDC, or additional information, please contact Gavin Ion (Strategic Advisor - Waters) on 027 227 4273 or email gavin.ion@waidc.govt.nz in the first instance.

WDC wishes to speak to Parliament's Finance and Expenditure Select Committee at the hearings in support of its submission to the Local Government (Water Services) Bill.

We would also welcome the opportunity to have further discussions around the key areas of this submission with Parliament's Finance and Expenditure Select Committee.

Yours faithfully,



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Jacqui Church	**Craig Hobbs**
MAYOR	**CHIEF EXECUTIVE**

Part B Detailed Considerations

This table provides the detail of WDC's technical interests in the Bill. It is organised by clause, according to the order set out in the Bill. In addition to the specific matters addressed below WDC requests that the Select Committee introduces amendments to the Bill to ensure an effective transition between current bylaws and controls and the operation of new water service providers and water organisations. This is critical because much of the control framework proposed in the Bill relies on bylaw making by territorial authorities, but bylaw making takes time. Until new bylaws can be put in place existing controls must be effective and enable water service providers to have effective control over their water networks.

General

Part 1

Part 1		**Preliminary Provisions** (Purpose, definitions)	
4		**Watercourse** is defined twice – a single definition is required in this context	**Amend** – the Bill to provide for a single definition of watercourse.

Part 2

Part 2		**Structural Arrangements for providing water services**	
Part 2 – Subpart 1		**Responsibility for providing water services**	
11 Schedule 1 Schedule 2	**Transfer Agreement**	We broadly support the framework that the Bill provides to support the establishment of a water organisation through a transfer agreement. We welcome and support the provisions in Schedule 1 that provide for the transfer of staff to a water organisation. This will aid in the retention of qualified and experienced staff at a time of uncertainty. This is critical. We are concerned however that the framework for the transfer of responsibilities and assets is not complete. The creation of water organisations will be complex and could be costly. We are anxious to ensure that the Bill removes any obstacle to a smooth, efficient and cost-effective establishment process. Given the complexity of the transfer of waters related functions, WDC requests a more comprehensive framework that can streamline the establishment process and provide a statutory underpinning for the transfer and novation of contracts, services, and obligations – including the Council's obligations and entitlements under development agreements, Housing Infrastructure Fund (HIF), Infrastructure Acceleration Fund (IAF), and Infrastructure Funding and Financing Act (IFF), and to expedite the transfer of land and the documentation of title. We request that the transfer framework includes things such as: any contract for service to be transferred in whole or part to a CCO and the revenue and expenditure obligations attached to that; the ability to transfer land; and the transfer of development agreements and related obligations. We are anxious to avoid the costs and risks of having to renegotiate supply arrangements or development agreements.	**Amend** – S11 and Schedule 2 to provide a statutory transfer function that comprehensively supports the transfer or novation (in whole or in part as relevant) of the following from a territorial authority to a water organisation as part of the transfer process through agreement: • Any contract for products or services provided to the Council that relates to the delivery of waters services or is ancillary to the delivery of waters services. • Any service delivery contract relating to the delivery of water services by the Council to a third party. • Any council shared service contracts that relate to the delivery of water services or any associated support functions, particularly where not all councils are moving into a CCO. • An existing insurance policy that relates to waters services and assets, and any rights, interests, or obligations relating to an existing insurance policy • Any rights, obligations, or security arising from a development agreement that has been entered into by the Council prior to the date of transfer – such that any obligations that a developer may have under the agreement relating to water services, waters assets, capital contributions, and the timing of physical works must be performed for the water organisation as if it was the Council, and any obligations that the Council may have to the developer with respect to water services, waters assets, capital contributions, and the timing

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<td>WDC is concerned that once a council reaches the point where it can longer reasonably expect to deliver future waters capital works it may only be able to charge development contributions relating to waters capital works that would be undertaken or commenced prior to the establishment of the CCO. Waters related development contributions would not then be able to be charged until a new development contributions policy is developed, consulted on and adopted. This gap may result in significant financial hardship for the Council and considerable uncertainty for developers.

We understand that for a Council that is developing a Long Term Plan in the current year for whom the preferred water services delivery model is a new water organisation the base case for its LTP consultation would need to be a set of financials (including a revenue and financing policy) that exclude water related capital expenditure and development contributions from the date of the transfer of assets to the CCO. These financials will need to be audited. We understand that this means that once the Council adopts its LTP it will be unable to charge development contributions for waters capital expenditure that occurs after the transfer of assets and responsibilities to the CCO. A new development contributions policy would need to be developed, consulted on, and adopted before waters related development contributions could be charged. This may result in significant financial hardship for the Council and considerable uncertainty for developers.

The Bill provides for a water organisation to establish a development contributions policy and for a Territorial Authority to administer development contributions on behalf of a water organisation – but in both cases there must be public consultation on the development contributions policy. The development contributions policy must also be linked to the capital works programme that is set out in the water services strategy. We are concerned that these provisions may effectively mean that no waters related development contributions could be charged from the point at which a Council decides to establish a water organisation until a new development contributions policy is established following public consultation.

Given the likely timing of the passage of the Bill and the decision making required to complete a Long Term Plan and to complete a water services delivery plan, it is unlikely that the Bill will provide a solution to the problems identified – unless it does so retrospectively. Such an approach would be very difficult given the requirement to audit both Long Term Plans and consequential amendments to Long Term Plans.</td>
<td>of physical works must be performed by or the water organisation as if it was the Council (i.e. the creation of the water organisation should not provide an opportunity to review or re-negotiate or change the terms or obligations under a development agreement).
• Any land, easements, assets, or security as set out in the Transfer Agreement – including a requirement for LINZ to expeditiously change the name of the owner of the land in its registers.
• Any government funding agreements with a council that relates to the provision of water infrastructure (e.g. HIF, IAF, IFF).
Provide an immediate legislative solution (i.e. before the Bill is enacted) that amends the Preliminary Arrangements Act and/or the Local Government Act 2002 to provide for a transition such that:

• where a Council is preparing a Long-Term Plan where the draft Long Term Plan proposes the establishment of a Water Organisation and the transfer of waters assets and responsibilities, the Council can establish development contributions that relate to waters capital expenditure as if it was continuing to be responsible for waters capital expenditure and that such development contributions would continue to be in effect, and enforceable until such time as the Water Organisation establishes its own Development Contributions policy – this situation would apply despite any the adoption of a LTP that reflects the establishment of the water organisation and the transfer of waters assets and responsibilities;
• where a Council with an existing Long-Term Plan is proposing to establish a water organisation and consulting on that proposal using the alternative consultation process provided for in the Preliminary Arrangements Act, the Council may continue to charge development contributions relating to waters capital works as set out in its existing Long Term Plan and Development Contributions Policy until such time as the Water Organisation establishes its own Development Contributions policy – this situation would apply despite any other change or consequential amendment to the LTP to reflect the establishment of the water organisation and the transfer of waters assets and responsibilities;
• any development contributions collected between the time of the decision to establish a water organisation and the point at which the Water Organisation establishes its own development contributions policy shall be treated in the manner anticipated by s82 of the Bill (for the purpose for which they were intended).

This could be resolved by an amendment to the Local Government Act 2002 which makes the calculation step in clause (1)(a) of Schedule 13 to the LGA subject to a new clause (4) which reads: If a territorial authority is requiring development</td>
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			contributions on behalf of a Water Services Council-Controlled Organisation as defined in the Local Government (Water Services Preliminary Arrangements) Act 2024 it may, for the purposes of clause 1(a) include capital expenditure expected to be incurred by the Water Organisation
Column 1 36Clumn15 Schedule 3	**Establishment** Objectives	WDC is a Tier 1 local authority under the National Policy Statement for Urban Development and is a partner in Future Proof. The Future Proof Urban Development Strategy sets up success for spatial planning in the region, including recent fast track consenting provisions, and how this drives cross boundary servicing. A key feature of earlier government policy announcements and the Water Services (Preliminary Arrangements) Act (PAA) was its focus on recognising and responding to growth and development. This focus has been lost in the Bill. Responding to growth is both a critical challenge for water services providers and a key responsibility. This should be reflected in the water services providers in s15 of the Bill. Section 15(1)(a)(ii) requires a water services provider to provide water services that "do not have adverse effects on the environment". This sets a higher test than the requirement of the Resource Management Act 1991 (RMA) to "avoid, remedy or mitigate" environmental effects. The provision of water services will always have some adverse environmental effects. We recommend this objective be made consistent with obligations under the RMA. The objectives as stated in the Bill do not recognise that for many parts of the country the provision of water services does not currently meet the objectives as set out in s15 or that it will take some time and considerable investment to do so. The objectives might be better framed to reflect the intent to do so "over time".	**Amend** – the Bill to include responding to and provide for growth and development as one of the objectives of a water services provider (s15). **Amend** – Schedule 3 to ensure that the contents of a Water Services Strategy also identify how the water organisation or water services provider will respond to and provide for growth and development. **Amend** – S15(1)(a)(ii) to be consistent with obligation under the RMA. **Review** – objectives where they set a high standard and might be better framed as "over time" given the significant investment that will be required in existing networks to achieve the standards required in a financially sustainable way.
18 & 19	**Establishment** Public Ownership	We support the provisions designed to ensure continued public ownership of waters infrastructure – including support for the prohibition on concession or franchise agreements.	**Note support** for these provisions.
		Consultation process / need for a third reasonably practicable consultation option	
26 – 29	**Establishment**	The PAA sets out a process for identifying and deciding on a council's proposed water services delivery model, including requirements for consultation. This process is inconsistent with the process in the Bill: for example, the Act permits the identification of only two options (rather than the three anticipated under the Bill),	**Amend** – the Bill to ensure that the process and requirements relating to consultation in relation to the creation of a water organisation are consistent with those established by the PAA.

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	Identification and assessment of options	when the council is considering and then consulting on its proposed option. Further, the process set out in the Bill suggests that despite meeting the obligations of the PAA a council may need to consult again on the proposal to establish a CCO. This will not be possible if we are to meet the PAA requirements with respect to the timing of a Water Services Delivery Plan. We note that there are also differences in the information that is required to support consultation on the establishment of a water organisation as set out in the PAA and in the Bill. At time of writing, both WDC and HCC have prepared consultation material on our preferred water services delivery model in March - April. Our CCO is expected to be established prior to this Bill receiving Royal Assent, but the transfer of waters assets and functions will not take place until 1 July 2026. We are seeking clarity so that we can rely on the provisions of the PAA to consult once, and once only on the creation of a water organisation. The PAA streamlined several key consultation and decision-making requirements but did not remove obligations under Section 94 (2) of the LGA. This means that having used the alternative consultation method in the PAA councils will still be required to have consequential amendments to the LTP audited. We believe that this was unintended and counter to government's policy intent. We seek an amendment to complete the simplification process and remove the need for audit associated with consequential amendments to an LTP.	**Clarify** – that where a Council has made decisions on a preferred delivery model consistent with the consultation and decision-making arrangements set out in the Preliminary Arrangements Act, no further consultation will be required to implement those decisions, including completing and implementing a Water Services Delivery Plan, and establishing a water organisation. **Amend** – the PAA to ensure that consequential amendments to an LTP are not required to be audited.
36	**Establishment of Water Organisation**	Section 36 and the standing of a Water Organisation before the transfer of assets and responsibilities. Section 36 provides the framework for establishing a Water Organisation and the relevant tests with respect to ownership and the nature of governance, etc. The preferred water service delivery model that both HCC and WDC is consulting on is a joint water organisation. Our proposal is to establish the CCO in July 2025 but not to transfer water and wastewater assets and responsibilities until 1 July 2026. This approach is intended to enable the CCO to complete the establishment process and amongst other critical things to complete a Water Services Strategy, a Development Contributions Policy, and to set water related fees and charges for the 2026/27 financial year. It is not clear from the definitions provided for in the Bill that during the period before the transfer of assets and responsibilities the CCO would have standing as a water organisation and would be able to complete a Water Services Strategy, a Development Contributions Policy, and to set water related fees and charges for the 2026/27 financial year.	Ensure that a CCO established for the purpose of providing water services has the necessary standing to complete and adopt a Water Services Strategy, a Development Contributions Policy, to set water related fees and charges for the 2026/27 financial year and any other actions necessary to support the establishment process prior to the transfer of water assets and responsibilities.

Part B Detailed Considerations

Part 2 – Subpart 3		**Water Organisations**	
S41	**Partnerships** Objectives	S41 of the Bill requires water service providers to act in a manner which is consistent with Treaty Settlement Obligations. For Waikato-Tainui, the Waikato River is tupuna which has mana and in turn represents the mana and mauri of Waikato-Tainui. The relationship of Waikato-Tainui with the Waikato River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture. This is captured in Schedule One of the Kiingitanga Accord which is a feature of the Waikato River Settlement. We submit that in the context of the Waikato-Tainui River Settlement Act and the Kiingitanga Accord this obligation in s41 of the Bill is insufficient where the water services provider is a water organisation. The Waikato-Tainui River Settlement relies in part on the successful operation of joint management agreements between local authorities and Waikato-Tainui. Where a local authority transfers waters responsibilities to a water organisation both it and Waikato-Tainui will need to be confident that the intent of the Settlement is maintained, and the operation of the water organisation will become part of the implementation of the Settlement arrangements. We recommend that a water organisation be required to give effect to any waters related Treaty Settlement obligations that a local authority has that relates to the provision of water services transferred to the water organisation.	**Amend** – s41 to ensure that a water organisation must give effect to any waters related Treaty Settlement obligation that a local authority has that relates to the provision of water services transferred to the water organisation.

Part 3

Part 3		**Operational matters**	
Part 3 - Subpart 1		**Charges for water services**	
60 - 63	**Cost Recovery** Charging	The ability for a water organisation to efficiently and effectively recover the cost of providing services is integral to achieving the legislative requirement to be financially sustainable. We welcome the broad and enabling charging provisions provided for in the Bill. There are, however, several additional refinements sought. **<u>Transitional Charging</u>** We welcome the provision of a 5-year period transitional period for charging. This is critical for the HCC and WDC CCO as it will take about that long to complete the commissioning and installation of universal water meters across Hamilton city. It will also allow the CCO time to consider volumetric changing for wastewater once the	**Amend** – s60(6)(b) to start with "*except to the extent that s63 applies …*" **Amend** – to provide great clarity over the unit of supply and provide for more nuanced property scenarios.

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		combined Hamilton city and Waikato district area is fully metered. Transition is also important to avoid wholesale changes in the incidence and impact of waters charges. However, we believe that this interplay between s60 and s63 in the Bill as introduced is flawed. The wording of s60(6)(b) effectively precludes the use of any of the charging tools set out in the rest of s60 if the provisions of s63 are being used during the transition period. This is very problematic when, like HCC, a council is already using a range of the charging tools set out in s60 – including the use of volumetric charges for major water users. We do not believe that the transitional provisions and the general provisions of s60 were intended to be mutually exclusive. We recommend that s60(6)(b) be amended to start with 'except to the extent that s63 applies …" **Unit of supply** The Bill appears to make the broad assumption that a property owner is the customer receiving waters services. This may provide an inconsistent view as to who the customer is. The use of the property as a unit of supply is broad and may not reflect the range of property configurations (nuanced), or the point of liability. Examples of property types which are problematic under the framework of the Bill as introduced include: • Residential properties where there is more than one dwelling, each of which add to the demand for waters services. In Hamilton city and Waikato district these properties have been identified as having a "Separately Used or Inhabited Part of a Rating Unit" (SUIP) with meters and a fixed targeted rate rates applied. • Mixed use properties where there may be a combination of residential and commercial activities with a single point of connection. • A property where a lease applies to part of the property. • Retirement villages. We seek clarity with respect to the unit of supply and the ability to tailor charges to ensure that customers are charged fairly and liability to pay the charges is clear. We note that a change from charging based on a SUIP, to charging per property will itself have a significant impact on the incidence of waters charges.	
Part 3 - Subpart 2		**Development Contributions**	
76-109	**Cost Recovery**	We support the development contributions regime as provided for in the Bill. We note the Government's broader review of Development Contribution mechanisms. In that context we encourage continued collaboration with territorial authorities. A	**Note** – support for the development contributions regime.

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	Development contributions	simplified and streamlined but aligned process for Development Contributions is supported in the context of both Territorial Authorities and Water Organisations. The Bill does not consider or provide for the transfer of Development Agreement obligations to a waters organisation, nor restrict the opportunity for either party to renegotiate, terminate, or renege on such an agreement as a result of transfer or the establishment of a waters organisation. It is essential that the Bill provide a framework for transferring development agreement obligations as part of the establishment of a waters organisation. This is addressed in our submission in relation to s11 of the Bill.	**Amend** – s11 and Schedule to enable the transfer of development agreement provisions and obligations on the creation of a water organisation as set out above.
Part 3 - Sub part 3		**Water Service Network: Connections**	
111 - 113	**Connections** Approval	The Bill provides for Bylaws to manage water service connections. The management of water service connections is of critical importance to water service providers for meeting levels of service and avoiding consumer complaints and prosecution. Section 139(2) of the Water Services Act 2021 also requires that a wastewater operator has a network management plan that identifies hazards, how risks will be managed, controlled, monitored, or eliminated; and, how Taumata Arowai standards, or targets, will be met. There are 5 key issues with the proposed provisions. Who makes decisions For a water organisation to effectively manage water networks that it owns and is responsible for in a way that is consistent with its consent obligations and operate prudently within its financial circumstances a water organisation will need to be able to control and manage connections to its networks. The Bill empowers a territorial authority to make bylaws to control connections. It is not clear what ability a water organisation will have, or indeed whether a bylaw can provide a water organisation with the ability to control connections. This is a critical issue for the effective operation of a water organisation. Limited Scope If a Bylaw is made, the Bill's provisions require a 3-step process involving approval of concept plans, engineering plans, and signoff for network capacity. The processes listed are key logical processes, however, the scope does not provide adequately for other important considerations such as water security issues, the finite volume of municipal water supply against forecasted needs, and wastewater treatment capacity. Water allocation, and wastewater treatment are important considerations for network consent compliance and need to be treated in an equivalent manner to network capacity. Also, they need to be considered concurrently with connection approvals.	**Amend –** the Bill ensure that water organisations can effectively manage connections to the water networks that they own and manage. **Amend** – the Bill to ensure that the finite volume of municipal water supply against forecasted needs, and wastewater treatment capacity are considered as part of any framework used to control connections. **Amend** – the Bill to provide for a connection policy or bylaw to provide a time limit within an approved connection must be completed. **Amend** – the Bill to provide for a clear basis on which a connection can be declined, including if in a Water Service Providers reasonable opinion there is: • Insufficient network capacity or treatment capacity to accommodate the connection • A compromise or risk to levels of service or consent compliance • Inefficient or unsustainable use of water.

		Land banking / (or meeting housing reform objectives) Land banking can be an issue for ensuring adequate housing supply. The same can be true for network capacity banking. Network capacity banking leads to inefficient use of three waters networks, and therefore cost recovery, as well as obstructing other housing policies. To avoid or limit network capacity banking it would be very important to provide a way to limit the period within which an approved connection must be made. This is similar to the requirements under the RMA to exercise a resource consent within a specific period. Grounds for declining a connection. The Bill does not provide grounds for a water service provider to decline a connection application. While this could be outlined in a Bylaw, these are not mandatory instruments. It would be useful to provide, in legislation, the power for a water service provider to approve or decline connection applications, especially given that a bylaw is not a certainty. For example, if in a Water Service Providers reasonable opinion there is: • Insufficient network capacity or treatment capacity to accommodate the connection • A compromise or risk to levels of service or consent compliance • Inefficient or unsustainable use of water.	
Part 3 – subpart 4		**Accessing land to carry out water services infrastructure work**	
115 – 122	Accessing private land	A significant portion of three waters infrastructure is on private property, making it crucial for water service providers to access and work on this infrastructure to meet their obligations and respond to emergencies, and issues such as overflows, blockages, breaks, and leaks that need timely rectification. A significant amount of the work on waters infrastructure on private land is and will be undertaken by agents acting on behalf of a water services provider. For the avoidance of doubt, it is recommended that the power to enter private land set out in s116 is amended to include an authorised agent acting on behalf of a water service provider. 30 day notice period The Bill's requirement for a 30-working day notice period before accessing land, along with written notification for any changes, poses challenges for efficient infrastructure management. While planned works should have reasonable notice, reactive works needing immediate attention should have a reduced notice period. The Local Government Act 2002 requires only 'reasonable' notice, which is more flexible than the Bill's stipulations and aligns better with other legislation and codes.	**Amend** – s116(1) to read "A water service provider *or an authorised agent acting on behalf of a water service provider* may enter …" **Amend** – replace s117(b) with "provide reasonable notice before the proposed work is to start; and" **or** **Amend** the framework of s117 to provide a different approach to urgent or emergency works. **Amend** the Bill to provide Water Service Providers with the powers to remove redundant infrastructure from private land. **Amend** the Bill to clarify the ability of Water Service Providers to enter private land to deal with emergencies, such as the stabilisation of erosion posing a threat to waters assets.

		Waikato District Council seeks a simplified process that only requires 'reasonable notice', or have variable notification periods that differentiate between emergency, urgent, minor, and major works. Proactive access There are also no provisions in the Bill to enable 'proactive' access to sites for mitigation of emergencies (such as stabilisation of erosion posing a threat to three waters assets) or the "removal" of infrastructure that has become redundant and or could pose a future risk to the public or to the environment. Process is consent declined The proposed process where consent has been declined by a landowner is largely supported except where it does not align with the existing provisions under the Local Government Act 2002. Schedule 12 of the Local Government Act currently sets out that one month (in effect 4 weeks) is provided to a landowner to respond to a notice to carry out work, if they have not been located previously. The Bill requires 30 working days (in effect 6 weeks). This jeopardises the ability to ensure that works are carried out as efficiently and effectively as possible. The Bill should only require one month or 20 working days. It would also be beneficial if the clause gave direction on when works could start should the decision be in the Water Service Providers favour. This would ensure that seasonal conditions were optimal, resources could be planned, and costs could be minimised.	**Amend** – to provide Water Service Providers the power to carry out proactive (pre-emptive) protection works on private property, such as erosion control to protect infrastructure. **Amend** – s119(1)(b) to align with LGA 2002 Schedule 12 to allow one month for a landowner to respond.
137	Urgent work permitted	WDC supports the ability to undertake urgent works but suggests that the Select Committee consider this section in the context of the suggested amendment to s117 set out above.	**Consider** – the framework for urgent work in the context of the suggested amendment to s117 set out above.
Subpart 5		**Drinking water catchment management plans**	
143 - 145	Water catchment management plans	The Bill requires the preparation of a drinking water catchment management plan within two years of enactment. This is accompanied by the ability to make a bylaw which relates to the controlled drinking water catchment area. WDC questions the value and meaning of such a plan in the Waikato district context. HCC also submits that due to the nature of the drinking water catchment from which WDC draws drinking water the proposed bylaw making power is meaningless. Waikato district's drinking water is sourced from the Waikato River. The catchment for the river is large, including all the area from the head waters of Lake Taupo and the headwaters of the numerous tributaries of the awa between Taupo and Hamilton. WDC has no ability to manage the activities that take place within this catchment and no ability to make a bylaw that applies to the catchment outside of the district boundary.	**Amend** the Bill to remove or amend the requirement for a water catchment management plan in circumstances like Waikato district's where the water services provider has no ability to exercise control over the catchment for the water supply. **Amend** – s143(1) to 3 years, or provide for extension, or both.

		A Source Water Risk Management Plan has been developed, complying with the Water Services Act 2021. This plan identifies risks within the catchment and identifies controls within the remit of a water services provider to mitigate those risks. It is unclear what additional benefit the proposed requirement for an additional Drinking Water Catchment Plan would be and how compliance could be met where the catchment is broad, far reaching, and not within the jurisdiction of a territorial authority. The new requirement for a Drinking Water Catchment Plan also appears to overlap with the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 – which requires Regional Councils to protect drinking water catchments. WDC also submits that the requirement to produce a drinking water catchment plan within two years from enactment is too onerous given the scale of the reform, the number and complexity of new regulatory requirements, and the transition time needed for setting up new organisations. Either the period should be extended to 3 years, or provision made for extensions, or both.	
Subpart 6		**Trade waste**	
150	Trade waste Plan	Under the Water Services Act 2021 Water Service providers are required to develop Wastewater Network Risk Management Plans. These documents include the holistic management of all discharges of wastewater into the network (including trade waste). It is unclear what additional benefit or outcomes are sought with the proposed requirement for an additional Trade Waste Plan under the Bill (other than to provide a basis for bylaw issues and options assessment). It is suggested that amendments to the Water Services Act 2021 are made with the view to streamlining the wastewater risk management requirements into a single planning requirement. Section 150(1) makes the preparation of the trade waste plan primarily the responsibility of a territorial authority. To have meaning the plan should be prepared by the water organisation or water services provider with responsibility for the provision of wastewater services. We suggest that s 159(1) be amended to reflect this. WDC also submits that the requirement to produce a trade waste plan within two years from enactment is too onerous given the scale of the reform, the number and complexity of new regulatory requirements, and the transition time needed for setting up new organisations. Either the period should be extended to 3 years, or provision made for extensions, or both.	**Amend** – s150 (1) and s150(3) references to territorial authority and replace with water service provider or water organisation, and delete clause 150(2), and 150(4)(a). **Amend** – s150 (7) to include both the Territorial Authority and Taumata Arowai. **Amend** – s150(1) to 3 years, or provide for extension, or both.
152	Trade waste Plan & Bylaw	Section 152 does not provide, at a high level, the ability to review, vary, transfer, or revoke trade waste permits. This needs to be provided for within the context of a bylaw.	**Amend** – s152 (2)(g) to include the ability to review, vary, transfer, or revoke trade waste permits.

		Section 152 implies that the territorial authority that makes a trade waste by law will issue trade waste permits and undertake all the relevant steps relating to trade waste permits. This is contrary to s155. This section needs to be amended to reflect the intent that a water services provider can make decisions relating to trade waste permits.	**Amend** – s152 to match the intent of s155 that a water organisation may make decisions in relation to trade waste permits under a trade waste bylaw where wastewater responsibilities have been transferred to it by the territorial authority.
153	Consult on a Bylaw	The reference in clause 153 to clause 144 and 145 (relating to drinking water catchment plans) should be references to 150 and 151 (relating to Trade waste Plans).	**Amend –** s153(1) to correct the incorrect reference to s144 and s145
155	Bylaw may authorise making trade waste permits	The Bill specifies that a trade waste permit may specify requirements and conditions only if: (a) They are consistent with this Act and the trade waste plan; and (b) They are necessary to: I. Protect the wastewater network; or II. Enable a water service provider in the territorial authority's district to meet its reporting obligations. WDC believes the scope of these permits is too narrow and should be expanded to allow territorial authorities to manage trade waste for reasons additional to protecting the wastewater network and reporting obligations. For example, within WDC's Trade Waste Bylaw, WDC has included clauses requiring mortuary waste (a trade waste) to be separated from the wastewater system. While these clauses are not yet in force, WDC has plans to work with mana whenua and stakeholders to develop a practical approach to separate mortuary waste from the wastewater system. In 2022, WDC chose to include this requirement to respect principles of Te Ao Maaori. One of the principles of Te Ao Maaori is that people should be returned to land when deceased (including by-products associated with preparation of bodies), instead of in the wastewater system for treatment and through to the Waikato River. Separation of mortuary waste from the wastewater system is considered by mana whenua a positive step towards restoring the mauri (life force) of waterways. This aligns with the principles of Te Mana o te Wai and the National Policy Statement for Fresh Water Management 2020 and upholds the importance of mana (power) over the water. Four other Councils (Gisborne, Wairoa, Napier and Hastings) have included similar clauses requiring mortuary waste to be separated or that no trade waste, which could be culturally offensive to Maaori if discharged into waterways, may be released into the wastewater system.	**Amend –** Amend s155 to allow trade permits to include requirements and conditions that respect cultural beliefs, particularly Te Ao Maaori.
156 - 159	Internal review	The Bill provides for an applicant to apply to the Territorial Authority for an internal review of a declined trade waste application. This makes little sense if the decision was made by a water service provider consistent with s155. Given that an application relates to impacts on the network and treatment processes, and not land use, and risk sits with the Water Service provider, these	**Amend** – s156 to ensure that a water service provider is the decision maker on any review where wastewater responsibilities have been transferred to it by the territorial authority.

		decisions should sit with a water service provider where wastewater responsibilities have been transferred to it.	
160	Trade waste and appeals on decisions	The Bill provides a process for an applicant for a trade waste permit to appeal to the District Court. The nature of trade waste, its fluctuations in quality and therefore potential risks cannot be underestimated. A decision to decline a trade waste applicant would not have been made lightly. District Court proceedings can be expensive and time consuming and distract from running three waters services efficiently and effectively. HCC submits that all avenues should be exhausted by the applicant before an appeal to the District Court can proceed.	**Amend** – s160 (1) to require that all avenues are exhausted prior to appealing to a District Court.
Part 2 - Subpart 7		**Management of Stormwater networks**	
165 - 166	Risk Management Plans	A Water Service Provider (with delegated responsibility for a stormwater network) is required to develop a stormwater network risk management plan within 2 years of act commencement. The requirement to develop this, and other plans 2 years after enactment is too onerous given the transition time needed for setting up organisations, especially when key decisions are yet to be made, and the complexity of stormwater management and roles and responsibilities. Either the period should be extended to 3 years, or provision made for extensions.	**Amend** – clause 165 to 3 years or provide for extension. **Amend** the Bill to clarify expectations and a framework for addressing for cross-boundary stormwater matters.
167	Content of a Plan	There is a clear risk that the nature and content of the new stormwater risk management plan duplicates requirements for stormwater management plans that are part of the consent requirements for regional council comprehensive stormwater network discharge consents under the Resource Management Act. This additional extra layer of regulation is unwelcome and needs to be justified. The terms “stormwater network risk management plan” and “stormwater infrastructure risk management plan” are both used to refer to the same thing. This error needs to be corrected.	**Amend** – clause 167 to clarify provide for a reduced scope of plan where it is managed elsewhere via existing RMA consenting mechanisms. Delete the requirement for plans under 165 and 167 if no additional benefit and purpose identified. **Amend** – clause 167 to resolve mixed use of both the “term stormwater network risk management plan” and “stormwater infrastructure risk management plan”.
170	**Bylaw**	Under the stormwater network bylaw making requirements the matters of control appear to be limited to conveyance of stormwater (flow). WDC holds comprehensive stormwater discharge consents which requires quality aspects to be managed. Examples of where quality-based rules may be required includes prohibiting the discharge of any other substances than stormwater into the network, or to require onsite treatment to meet quality thresholds prior to discharge to ensure the best practicable approach to stormwater quality management within the catchment. These sorts of controls must be able to be addressed through a stormwater bylaw. It’s not clear how the provisions of a stormwater bylaw would relate to requirements established through District or Regional Plans under the RMA. It would not be desirable to duplicate controls over land use through both mechanisms.	**Amend** the Bill to ensure that a stormwater bylaw can include effective measures necessary to control the quality of stormwater entering a stormwater network as well as the quantity. **Amend** clause 170 to acknowledge that where rules are already provided for under the RMA 1991, that a Bylaw may refer to those planning instruments for their rules.

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171	**Bylaws** Scope	This clause excludes transport corridors from the scope of a bylaw. WDC understands the intention of limiting the ability of a stormwater service provider to influence the nature and operation of transport corridors but is concerned that the Bill goes too far by overly restricting the influence a water service provider needs to have over the holistic management of stormwater within an urban area. Without influence over all activities that discharge or assist in the conveyance of stormwater, the water services provider may not be able to achieve the performance outcomes required of it. Examples of where this may be an issue are: • The existing overland flow path within a transportation corridor is modified which causes flooding of a residential property. • Where holistic catchment management planning for stormwater identifies the opportunity to optimise infrastructure, and reduce costs, by incorporating transport and stormwater requirements into a single treatment system. • Where modification of the transportation corridor would mitigate a stormwater risk, such as upgrading a culvert to manage upstream flood risks. Transport corridor infrastructure can be used to collect, treat, drain, reuse or discharge stormwater. Transport corridor stormwater infrastructure frequently connects to stormwater infrastructure that will be owned and operated by a Water Services Provider. The Water Services provider will have a consent to discharge from its stormwater network into water bodies, and that consent will have conditions relating to both the quality and quantity of stormwater discharged. New Stormwater Environmental Standards will also impact on the ability of a Water Services Provider to discharge stormwater. The exclusion of transport corridors from the scope of bylaws or other controls must not result in a water services provider being put in breach of its discharge consent conditions or stormwater environmental standards because of the performance of a road network operator and its road corridor stormwater infrastructure.	**Amend** the Bill to ensure that a water services provider responsible for stormwater has the means necessary to ensure that it cannot be put in breach of its discharge consent conditions or stormwater environmental standards because of the performance of a road network operator and its road corridor stormwater infrastructure. **Amend** 171 to remove the limitation on stormwater network bylaws including transport corridors.
174	Overland flow path	A landowner is required to remedy an impaired overland flow path if they have impaired it or have costs of remedy recovered. WDC strongly supports this provision.	**Support** provisions requiring remedy or cost recovery for impeded overland flow paths
175	Notification	There is no requirement to notify a water service provider who may have had stormwater functions delegated to them.	**Amend** the Bill to ensure that where stormwater functions are delegated to a Water Organisation that relevant powers are also transferred.

Part 4

Part 4		**Planning, reporting and financial arrangements**	

Part B Detailed Considerations

Part 4 - Subpart 1		**Planning**	
190	**Strategic Planning Frameworks** Water Services Strategy	According to Clause 190(2) of the draft Local Government (Water Services) Bill a water services provider must adopt its water services strategy before the start of the first financial year to which the strategy relates. Clause 191(4) allows the long-term plan of each territorial authority that is a shareholder of a new water organisation to apply until the water services strategy comes into force. A new water organisation is defined as one that is set up after clause 191 comes into force. WDC supports these provisions, they are critical to the transition process.	**Note -** Support for the provisions in clause 190

Part 5

Part 5		**Amendments to other legislation**	
Part 5 – **Subpart 2**		The Bill's proposed amendments to the Commerce Act 1986 are significant and introduce profound changes to the regulation of waters services. This additional regulation sits alongside the significant regulatory role of Taumata Arowai. WDC is concerned over the potential impact and cost of regulation, overlap and duplication as well as for conflicting regulatory requirements. It is critical in this complex change and legislative process that we not only avoid duplication, but that we also avoid the situation where compliance with one set of regulatory requirements would result in non-compliance with another set of regulatory requirements. WDC is concerned that the provisions empowering the Commerce Commission do not include the key requirements of scope of the inquiry provisions set out in S52I of the Commerce Act – which include the need for an assessment of the impact of the proposed regulation. This is critical. Any new regulation must be subject to sound regulatory impact assessment and the benefits of any new regulation proposed by the Commission must exceed the costs to the sector and consumers. The proposed framework for the Commerce Commission relating to waters avoids the two-stage engagement process that is a feature of other sectors. We submit that while this may be expediently faster it also introduces considerably more risk in the regulatory process. We therefore submit that the Bill should be amended to require that when developing waters related regulation the Commerce Commission must consult on a specific proposal, and if as a result of consultation, the proposal changes materially the Commission must consult on the revised proposal. In order to avoid duplication or conflict between regulation that may be put in place by the Commerce Commission and Taumata Arowai (or from other legislation) – and in particular in reaction to Consumer Protection and Service Quality Codes (S226) we seek a provision that any requirements relating to consumer protection do not duplicate requirements imposed by Taumata Arowai relating to water standards or	**Amend** – the Bill to give effect to the submission points.

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		requirements, and do not conflict with consent obligations under the Resource Management Act, or the Local Government (Rating) Act (relating to billing).	
Part 5 – subpart 7		**Amendments to Resource Management Act 1991 and related Amendments to the Water Services Act**	
267-286 Part 5 Subpart 9 298 - 343	**Performance Standards** Resource Management Act amendment Water Services Act	WDC supports the intent of national planning regulation (Stormwater Environmental Performance Standards, Wastewater Environmental Performance Standards, and Infrastructure Design Standards) that would help to drive standardisation and consistency and make the consenting process less time-consuming and more certain. However, WDC cannot support provisions that cut across the intent and the letter of Treaty Settlements. The proposed primacy of the new Stormwater Environmental Performance Standards, Wastewater Environmental Performance Standards, and Infrastructure Design Solutions over other planning instruments (including National Policy Statements) cuts directly across the Waikato-Tainui River Settlement and Kiingitanga Accord. A key feature of the Settlement is that Te Ture Whaimana – the Vision and Strategy for the Waikato River has the standing of a National Policy Statement and where there is any inconsistency with any other National Policy Statement Te Ture Whaimana prevails. WDC urges the Government and the Select Committee to protect the integrity of the Waikato-Tainui River Settlement and amend the Bill to reflect the commitments that Parliament made in reaching that settlement. The amendments to the Water Services Act empower the Governor General to make regulations on the recommendation of the Minister following consultation by the Water Services Authority. The amendments also set out the requirements and considerations of the Water Services Authority when developing environmental standards. Critically, while these standards have standing under the Resource Management Act, there is no link or connection between these standards and the critical matters of national importance set out in Part II of the Resource Management Act, or indeed to the purpose of that Act. Waikato District Council does not support this significant departure from the framework of the Resource Management Act. The processes for consultation by the Water Services Authority in developing a proposed Stormwater or Wastewater Environmental Standard also mark a significant departure from the processes established under the Resource Management Act for the creation of national standards or policies. Critically, the consultation requirements are limited to just “each stormwater [or wastewater] operator, regional council, and any other person the Authority considers appropriate”. Quite apart from the exclusion of the public, this approach ignores the specific interest and standing	**Amend** the Bill to ensure that the intent and letter of the Waikato-Tainui River Settlement is honoured and the primacy of Te Ture Whaimana is preserved. **Amend** the Bill to ensure that the provisions of Part II of the Resource Management Act are reflected in the considerations required of the Water Services Authority as it prepares, consults on and recommends and new environmental performance standard or engineering standard. **Amend** the Bill to ensure that when consulting on an environmental or engineering standard that affects or relates to the Waikato River, the Authority must consult with Waikato-Tainui and all other river iwi and give effect to their Treaty Settlements. **Amend** the Bill to ensure that when making decisions or recommending an environmental or engineering standard the Authority and the Minister must ensure that the proposed standard is achievable, affordable, fit for purpose, that the standard provides an adequate time for transition, and that the benefits of introducing the standard exceed the cost of compliance

		that iwi have in relation to rivers that has been recognised through Treaty Settlements. WDC submits that consultation of any proposed Stormwater or Wastewater Environmental Standard that relates to the Waikato River must reflect the commitments made in Treaty Settlements and must include Waikato-Tainui and other river iwi. The Bill provides for the Water Services Authority to establish time periods in which infrastructure must be upgraded to meet a standard. However, in developing a new standard neither the Water Services Authority nor the Minister is required to consider the cost of compliance, or the relative benefits and costs of the standard and the investment necessary to comply with it. This is poor public policy and creates a poor public policy decision-making framework. Changing long-life network systems to achieve new and higher standards is both expensive and time-consuming. WDC submits that any standard must be achievable, affordable, fit for purpose, there must be an adequate time to transition to them, and the benefits of introducing the standard must exceed the cost of compliance.	
268		The Bill addresses the impact of a new environmental performance standard on designations. Waikato District Council submits that the Bill also needs to address what happens with respect to consents under the Resource Management Act, and in particular consent applications that have been made but not yet approved at the time that the standard comes into effect.	**Amend** – the Bill to be clear as to what happens with respect to consent applications that have been accepted but not yet approved when a new environmental standard comes into effect.
Part 5 – Subpart 9		**Amendments to the Water Services Act 2021**	
310	Design Standards	The Bill directs that the Water Services Act is amended to require Taumata Arowai to consult on regulations setting environmental performance standards. Infrastructure Design Solutions should also be included within existing clause 53(1) of the Water Services Act, as Infrastructure Design Solutions also set planning regulations that should be consulted on.	**Amend** – add s139B to the list for this clause.
319	Amendments to Taumata Arowai – Water Services Regulator Act	This section sets out a minimum 10-year review period. Having very short review is inefficient and unwarranted; however, 10 years may be too long to remove standards that are inappropriate, miss opportunities for innovative technology and practices, have approved products that do not meet asset life requirements and resilience requirements, or have unintended consequences for other activities in transport corridors or reserves, or the customer. WDC submits that in addition to the 10 year review period a water service provider should be able to trigger an earlier review by requesting with clearly stated the reasons. The scope should include those matters listed in 97 D 2a and include approved products. This will allow the Water Service Authority to gather information on issues arising from the application of standards and products. This could	**Amend** – to include the following new Clauses: After 97H: *“A Water Service Provider or Territorial Authority may request a review of NEDS with reasons for the request. “* *“The Water Services Authority will register the request for review and reasons, and at their discretion, determine if a review should be initiated.”*

		potentially trigger a review at their discretion using provisions of 97H(1)(a) where the Water Services Authority may review and update NEDS at any time. Product Approval Provisions related to Product Approval processes are largely supported, however, it is noted that the ability for an asset owner (who is liable for consent compliance) to have a say on new products that will be installed and vested is diminished in the Bill as proposed. The asset owner should have an ability to have input or be able to identify issues with newly proposed products. It is recommended that there is a new clause which requires either the Water Service Authority or Product Approver to consult with the affected Water Service Provider on the requirement for product approval. Review Bodies Given that the water service regulator is required to develop and manage these standards, there will be significant skill sets required to do so e.g. scientific, construction, asset management, and civil and green engineering professionals. It will be important to mirror this in review bodies and have Local Authority and water service provider representatives as part of the review body makeup. This should be in addition to being consulted to ensure that the standards have rigour and can be implemented efficiently and with support. A new clause is recommended. Asset information and data standards The scope of NEDS appears to be very broad. The Waikato Regional Infrastructure Technical Specifications incorporate asset information requirements. If these requirements were to change, or be omitted, there would be a flow on impact to asset information systems and processing. The development of national data standards could enable improved resilience and efficiencies at a national level and will be important to measure the success of NEDS. WDC recommends that the Bill provide for the creation of National Data Standards, but that this be done in conjunction with the Commerce Commission to ensure that there is no duplication or misalignment on key data definitions and standards.	*"The Water Service Provider shall carry out a Best Practice review at a period not exceeding 5 years. "* After 97R: *"Before an Approved product is registered, the Water Services Authority must consult affected Water Service Providers. "* **Amend** – to include the following new clause as part of 97E: *"The Water Service Authority must ensure a review body has the appropriate technical expertise and may also include representatives of Territorial Authorities and Water Service Providers. "* **Amend** – the Bill in this Part to allow the Water Service Authority to develop National Data Standards.

Part 6

Part 6		**Miscellaneous** (Bylaws, Compliance and Enforcement, Infringements, Offences)	

Part B Detailed Considerations

Part 6 – Subpart 1		Water Services Bylaws	
347	**Bylaws** Bylaw making powers	Provisions specify powers and decision-making for Bylaw making. Many of these provisions are supported, however, there are several matters that require further clarification, and more decision-making provided to water service providers (despite provisions stated in clause 350): <u>Bylaw must give effect to a standard</u> It may be difficult for a bylaw to have accurate rules, provisions, and numerical standards that will have enough certainty of giving effect. <u>Recognition of other matters</u> Clause 347 does not give direct recognition to protection of infrastructure, sustainability, and public health and safety. This is more clearly stated in previous legislation and is an important message (the 'why') for the public. <u>Decision making</u> Throughout the provisions, the Territorial Authority is the 'decision-maker'. A Water Service Provider can only propose making, amending, or revoking bylaws. If a Water Service Provider needed to strengthen bylaw provisions for matters such as cost recovery, and compliance management, the Water Service Provider is beholden to the Territorial Authority to make good decisions for matters that relate to operations, maintenance, and network renewals. The Bill needs further assessment to determine how Water Service Providers and their water organisation can have more decision-making power.	**Amend** – the provisions to require that a water organisation must be consulted or involved should a territorial authority seek to create rules associated with three waters activities. **Clarify** – what 'the consultation' is. **Clarify** – the process for making Bylaws proposed by a water organisation.
351 and 352	**Bylaws** Bylaw Review	Clause 351 requires a review of its water service bylaws after the section comes into force and within two years. Associated with this, clause 150 also requires a territorial authority to make a trade waste plan no later than 2 years after the Bill becomes an Act. There are several issues with these requirements: <u>Transition period.</u> If a water service provider will be transitioning to a Water Organisation and where a Water Organisation consists of more than one territorial area, there will be challenges to resourcing as systems are set up. Some key formalised decisions on water services management will not be made until part way into the 2-year period provided to deliver on plans and bylaw reviews. It would be pragmatic to firstly prepare plans, and then once adopted, review bylaws to give effect to plans. To	**Amend** – the Bill to improve sequencing of plan making and bylaw making and extend period to 3 years for review of Bylaws. **Amend** – the Bill to be clearer on the process for bylaw making to align with the clarity provided in the LGA 2002. **Amend** – The Bill should clarify if territorial authorities can choose to make no changes to a water services Bylaw under s351(4)(a) if the Bylaw is consistent with the Act. **Amend** – Remove the unnecessary step of requiring territorial authorities to invite a water service provider to propose a new Bylaw or Amendment, under s351(4)(c).

		address these issues, it is recommended that a Territorial Authority and water service provider be able to request an extension to the 2 years, by up to one year, and that review of bylaws be initiated within 1 year of plans being adopted (trade waste, drinking water-controlled catchment, and stormwater network risk). <u>Process</u> A water service provider must undertake 'the consultation' prior to proposing a bylaw. Clause 347 (2). Determination of whether a bylaw is the most appropriate way of addressing an issue (clause 352 (2)) needs to be carried out as part of an ongoing review of water services bylaws. There is no clarity on where the process of bylaw making starts and stops. For example, the following process is typical: identify issues and analyse management methods. If a bylaw is needed, get a formal determination, analyse and prepare Statement of Proposal, get endorsement for consultation on the proposal, consult, analyse responses, deliberations, and then bylaw adoption. The Bill could be clearer on the process. <u>Clarity on review process</u> Clause 352 says the ongoing review of bylaws needs to consider various things (which is the same under the LGA, like the bill of rights etc). Clause 352 says this is done "as part of the review" of those bylaws. There is a need to define what the actual "review" is – is it making the determinations (bill of rights etc) or the actual making of the bylaw? This is important as it impacts on the timing of the "review". Under the LGA, usually the legal determinations cover the formal "review" with public consultation to follow, but the legal timing is met when the determinations are made by Council. So, if timing is tight, this information becomes important. <u>Clarity on options available to territorial authorities</u> Section 351 specify that Council must review the Bylaw, and decided with to: a) Amend the Bylaw b) Revoke the Bylaw c) Revoke and replace the Bylaw This does not provide Council with the option to maintain the Bylaw as status quo, if the Bylaw is consistent with the Act. It will be preferable for some Councils to maintain their current bylaws (if suitable), avoiding unnecessary revisions and costly processes. <u>Invitation to invite</u> Given the responsibility to create and amend Bylaw is retained by territorial authorities, WDC believes it is unnecessary step to be required to invite water services provided to propose a new Bylaw or amendment. This responsibility should	

		sit with the territorial authority, with the Water Services entity participating in the process.	
Part 6 - Sub part 2		**Compliance and enforcement**	
356- 392	Compliance and Enforcement	Water Service Providers need clear and robust enforcement mechanisms to effectively manage water services and ensure compliance. New provisions including the use of infringement fees and making it an offence to build over infrastructure without approval are welcomed. There are some matters however where Waikato District Council seeks changes to the Bill. <u>Infringement fee adjustment and liability sums</u> Over time the value of infringement fees will be eroded by the impact of inflation. WDC seeks a mechanism for the regular adjustment of infringement fees to maintain their real value. <u>Enforcement Process</u> Compliance officer powers are supported noting that there is a need for the Bill to provide a high-level process for executing an enforcement activity. Further powers, such as the ability to question a person, read rights and escalate if required, should be outlined. Given that a 'Compliance order' is a key document, a definition of what these are would also be beneficial.	**Support** – Support provision for infringement notices. **Amend** – the Bill to provide for the regular adjustment of infringement fees over time to maintain their real value.
369, 296	Definition	The term 'compliance order' is referenced, however, this is not defined. Further clarity on what this order is and how it applies is needed.	**Amend** – the Bill to define Compliance Order
372	Powers	A compliance officer also needs the ability to ask for a person's date of birth as it is required so that the identity of a person can be confirmed. This is required if the Courts are to be used to collect infringement notices.	**Amend** – the Bill using the wording in section 22 of the RMA
373	Process	If a compliance officer has the power to question, then the person needs to know what their rights are i.e. a caution. It may be helpful to replicate powers available to other enforcement agencies, such as the NZ Police. The Bill needs to reference a process at a high level to provide for enforcement.	**Amend** – the Bill to reference a high-level enforcement process
374 & 375 & 377		If a water service provider is investigating an event / breach, then contacting the owner could mean evidence is removed or destroyed. In the RMA there is a way to escalate this with the assistance of the Police, this needs to be added here also. The Police require a very clear section of an Act naming them before they will act.	**Amend** – the Bill to reference a high-level enforcement process
Part 6 - Sub part 3		**Offences**	

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Part B Detailed Considerations

393-424	Offences	Water Service Providers need clear and robust enforcement mechanisms to effectively manage water services and ensure compliance. WDC welcomes the definition of offences and the new offences that have been reflected in the Bill. WDC is concerned that over time the value of fines set out in this sub-part will be eroded by the impact of inflation. WDC seeks a mechanism for the regular adjustment of fines to maintain their real value.	**Amend** – the Bill to provide for the regular adjustment of fines over time to maintain their real value
393	Offences	The Bill makes it an offence to carry out building work over or near water services without approval. This, as an offence, is strongly supported. The liability of $20,000 for a person who is convicted of an offence is inadequate unless there was a cost recovery component that could be applied. The sum to remediate such an offense could exceed well in advance of this sum, as well as court costs. This liability should be increased to the order of $50,000. It may be helpful, for bylaw making purposes, to provide a specification such as the power for a water service provider to require approval if within 0.5 metre of the location of services and be able to nominate in writing any restrictions on work to protect the integrity of the three waters system.	**Amend** – clause 393 to increase liability for a person to $50,000. **Suggest** – that a power is provided to manage works within 0.5metres of the network.
393, 394	**O**ffences	WDC submits that there are some offences that have not been captured in the Bill. WDC requests that these omissions be considered by the Select Committee. A significant issue in the way that offences are framed is reference to 'Intentional' or 'reckless' conduct that causes specified serious risk. Proof of intention and recklessness could be very problematic in a court of law and weakens a Water Service Providers ability to manage three waters infrastructure and services and recover costs. WDC submits that these words need to be removed. An alternative could be the use of words about 'conduct relating to the network, causing an actual or potential adverse effects to the network or service.	**Support** – existing offences. **Recommend** – that the following offences are added to each relevant section as relevant, or expand the scope of proposed offences: • Tampering with a water restrictor or the network system either directly or indirectly. • Access and withdrawal of water from a fire hydrant without approval. • Fraudulent or incorrect application which affects the conditions of supply. • Wasting water, or allowing leaks to continue, or diluting trade waste. • Failure to comply with a defect notice. • Failure to pay fees. • Failure to supply and review pollution control plans. • Failure to maintain private infrastructure. • Cross connections. • Modification of drains, and failure to maintain watercourses running through private property. • Opening manholes, chambers. • Hazardous material management (i.e.) storage and transport. • Failure to monitor or provide data on request and tampering with data.

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			• Failure to meet conditions of a consent or agreement and failure to vary a consent when an activity has changed. **Amend** – the Bill to lower the high burden of proof using words similar to 'conduct relating to the network, causes, in the opinion of the water service provider, an actual or potential adverse effects to the network or service'.
408-410	Other Offences	A minor structural issue in clauses 408 and 409 are specific to water supply network offences but are not included in the "offences relating to the water supply network" part. Offences re connections to the water supply network are included in the "other offences" section, but offences re connections to wastewater network are included in the "offences to the wastewater network" section. This is inconsistent and creates confusion.	**Amend** – Restructure so that offences specific to the water supply network (including connections) are under that relevant part and not under the "other offences" part
408(2), 409	Discharging into water supply network without authorisation	Discharging into the water supply network or connecting to the water supply network without authorisation would present a serious risk to the water supply network, and consumers, and should be viewed as intentional, reckless or negligent. Therefore, the magnitude of the liability on conviction should be at least the same as that under clause 394/395.	**Amend** – clause 408(2) and 409(2) liabilities to be the same or more than as clause 394 to reflect the serious risk associated with discharging to a water supply network.
412, 413,414(1), 415(1), 416	Failure to notify	Clause 414(1)b states that a person commits an offence only if they knowingly fail to complete with that duty and that non-compliance causes a specified risk. This term "knowingly" is also included in other offence sections including 415 and 416. This implies that ignorance or negligence is a defence against this offence, which should not be the case given the potentially very serious risks.	**Amend** - Delete the word "knowingly" from all offence sections including clauses 412, 413, 414, 415 and 416.
415(1)B	Water use restriction or limit	A person commits an offence if they knowingly fail to comply with the restriction or limit and that non-compliance causes a specified serious risk. This appears to be a very high bar for an offence. It would be very difficult for a water service provider to prove an individual meets this bar, even though the cumulative effect of multiple failures to comply is significant	**Amend** – clause 415(1)b to "fail to comply with that restriction or limit and that non-compliance causes or has the potential to cause a serious risk to the water supply catchment or water supply network".
Part 6 – Subpart 5		**Consequential amendments**	
Schedule 7	Local Government Act 2002 – Reorganisation	One of the key features of the way in which Future Proof has provided for the urban growth and development of the wider Hamilton metro area is by planning for the future adjustment of the local authority boundaries between Hamilton city and both Waikato and Waipaa districts. HCC has agreements in place with both adjacent councils to extend the city boundary in the future and at that time to transfer the ownership of relevant infrastructure. These agreements reflect the joint work that has established that it is more cost effective and efficient to provide waters servicing	**Amend** – the Local Government Act (2002) to ensure that within a reorganisation investigation, a reorganisation plan, the establishment of transitional bodies, and a reorganisation scheme it is possible to address the reallocation of shares in a water organisation as well as the transfer of assets, liabilities, staff, functions, and consents between water organisations in which the affected local authorities have shares and/or between a water organisation and a local authority water services provider.

		for growth in areas adjacent to Hamilton from Hamilton, or jointly than by each local authority acting alone. Part 3, Subpart 2 of the Local Government Act 2002 (LGA 02) enables the reorganisation of Local Authorities, including boundary adjustments. These provisions are supported by the comprehensive provisions of Schedule 3 of the LGA 02. The Bill does not introduce any changes to the LGA02 that would ensure that the consideration of local government also addressed any relevant changes to the provision of water services. This is, we submit, a significant shortcoming. We submit that it would be very problematic if, as part of any local government reorganisation, a water organisation in which a territorial authority has no shareholding (and therefore no ability to set expectations) ended up providing water services within that authority's district. Equally, if as part of a local government reorganisation one local authority that was a water services provider was to be merged with one that was not, the provisions of a reorganisation scheme would have to be able to consider the best way to deliver water services and make the necessary changes. The Bill lacks any framework which would enable these consequential changes to be made where a reorganisation is undertaken. WDC is not suggesting that the local government reorganisation process be amended to provides a way to only address the delivery of water services. Rather, it is seeking legislation that ensures that broader local government reorganisation process (and in particular a boundary adjustment process) can include changes to the delivery of water services, the alignment of the area of operation of a water services provider to any new local authority boundaries or responsibilities, and the transfer of assets and responsibilities between water organisations or between water organisations and water services providers as may be needed to give effect to the reorganisation.	**Amend** – the provisions of the Bill as necessary to provide for the transfer of waters related functions, assets, liabilities, relevant proportional water and wastewater consent allocations, staff, obligations, and shareholdings (as required) between local authorities and/or relevant water services providers to give effect to a reorganisation implementation scheme.