

SUBMISSION ON TAUMATA AROWAI—THE WATER SERVICES REGULATOR BILL

TO: THE HEALTH COMMITTEE

SUBMITTER: WATER NEW ZEALAND

INTRODUCTION AND OVERVIEW

1. Water New Zealand (**Water NZ**) appreciates an opportunity to provide a submission on Taumata Arowai- The Water Services Bill (**the Bill**).
2. Our submission is that we are in support of the general intent of the Bill in its entirety.
3. Water NZ is a national not-for-profit sector organisation comprising approximately 1900 corporate and individual members in New Zealand and overseas. Water New Zealand is the principal voice for the water sector, focusing on the sustainable management and promotion of the water environment and encompassing the three waters: drinking water, waste and storm waters.
4. Water NZ was consulted in the drafting of this Bill and understands that the Bill intends to implement the Government's decision to create a new regulatory body to oversee, administer, and enforce the drinking water regulatory system. The Bill would establish Taumata Arowai—the Water Services Regulator (Taumata Arowai) as a new Crown agent and provide for its objectives, functions, and operating principles. It would also provide for its governance arrangements, including the establishment of a board and Māori Advisory Group.
5. Water NZ understands that further details including more detailed and comprehensive definitions will be contained in the Water Services Bill due to be introduced in the coming months. Therefore, Water NZ will keep its comments on this Bill relatively short as much of the detail is to follow. Suffice to say here that Water NZ has read the submission of Watercare that sets out a number of matters it recommends for upcoming legislation and regulatory reform including:
 - (a) Obligations to manage risks in relation to source water
 - (b) Water treatment;
 - (c) Compliance with drinking water standards;
 - (d) Operator certification / registration.

COMMENTS ON SPECIFIC PROVISIONS

6. The specific provisions of the proposal that our submission relates to are:
 - (a) Clause 4 - Interpretation;
 - (b) Clause 5 – Maori interests;
 - (c) Clause 9 – Taumata as a Crown entity;
 - (d) Clauses 10 & 11 – Objectives and Functions of Taumata Arowai;
 - (e) Clause 12 – Board.

Clause 4 – Interpretation

7. The interpretation section contains terms that will also apply (it is understood) to the next phase of the legislative programme. It is therefore, conceivable that changes to definitions may continue to be refined and finalised as the legislative process develops.
8. At this stage the following points are noted:
 - (a) There is a definition of 'domestic self-supplier' which is only referred to in the Bill in the context of the definition of 'drinking water supplier'. The definition is followed by a list of examples that either are or are not domestic self-suppliers. It is considered that the use of examples needs to be reconsidered as it is likely to cause confusion as not every eventuality is covered. This is an area where the regulator is going to have to do some work providing guidance on what a domestic self-supplier is and is not. Water NZ consider that this is preferable to having examples
 - (b) The definition of 'drinking water supplier' refers to the phrase 'drinking water supply scheme'. However this phrase is not defined. While it is understood that this will be a term defined in the next round of legislation it is recommended that this phrase is defined to make it clear what is, and is not, a drinking water supply scheme.

Recommendation

9. That the examples under the definition of 'domestic self-supplier' are deleted and more work is done for the second phase of legislation and the matters of detail are left to the regulator to provide direction and guidance about;
10. That a definition of 'drinking water supply scheme' is included.

Clause 5 – Maori interests

11. Clause 5 and the clauses referred to in clause 5 and elsewhere in the Bill relating to the importance of considering and providing for Maori interests and the establishment and role of the Maori Advisory Group is strongly supported.
12. Maori interests and their role in the decision making framework in the water services space has been poor to date. Explicit inclusion of a proper framework to enable and provide for this engagement is essential.

Recommendation

13. That clause 5 and those clauses (sections) it refers to are retained unchanged.

Clause 9 – Taumata Arowai is a Crown entity

14. The establishment of Taumata Arowai as a Crown entity is strongly supported. It is important that the new agency has some independence from the Government of the day to avoid the inevitable political interference that exists in the water services space. Providing for Taumata Arowai as Crown agent that must give effect to government policy if directed by the responsible Minister is supported as it is appropriate that while arms-length some direction and over-sight it important for this new regulatory framework.

Recommendation

15. That the clause 9 is retained without change.

Clauses 10 and 11 – Objectives and Functions of Taumata Arowai

16. Generally, the objectives and functions of Taumata Arowai are supported. The full range of objectives and functions are essential to ensure that the outcomes of the reform are met.
17. In relation to clause 10 Water NZ considers that there is a missing objective in relation drinking water supply schemes. Objectives (e) and (f) relate to wastewater and stormwater but there is no specific reference to drinking water supply schemes. It is acknowledged that objectives around drinking water are implicit in objectives (a) to (c) but specific reference in (e) and (f) is recommended.
18. In relation to clause 11, similar to the submission on clause 10, it is recommended that there is an additional function added to specifically refer to drinking water supply schemes in the same way that wastewater and stormwater networks are noted in clause 11(a)(ii).
19. Also, in relation clause 11 there are additional functions that ought to be considered for inclusion such as:
 - (a) Oversight of the development and implementation of water safety plans for drinking water supply schemes;

- (b) Development and oversight of an independent auditing framework for water safety plans for drinking water supply schemes;
 - (c) The ability for Taumata Arowai to investigate and report on issues of non-compliance with drinking water quality regulations and standards, or incidents or issues that affect the quality of drinking water;
 - (d) A requirement to produce an annual report that details both the activities of Taumata Arowai and status of drinking water quality across New Zealand.
20. Finally, and as noted by Watercare, it is important that the legislation is nimble enough to enable Taumata Arowai to address emerging challenges, largely related to climate change, that New Zealand and New Zealanders are facing right now. The primary issue relates to sources of drinking water and the need for there to be a conversation around wastewater reuse and sea water desalination. The function should, therefore, be expanded to include these matters as set out in the recommendations section below.

Recommendation

21. That clauses 10(e) and (f) are amended to include the words 'drinking water supply schemes';
22. That an additional sub-clause is added to clause 11(a) as follows:
- the development, operation, and effectiveness of standards, regulations and other statutory requirements in relation to drinking water supply schemes, and oversight of compliance with, monitoring of, and enforcement of standards, regulations, and other statutory requirements affecting drinking water supply schemes and drinking water suppliers;
23. That the additional matters noted above are considered for inclusion in clause 11.
24. That the following matters be added to clause 11 after subclause (j):
- to provide oversight and leadership in relation to the impacts of climate change on three waters service delivery and infrastructure; and
- to identify opportunities and provide coordination in relation to the investigation and development of alternative drinking sources.

Clause 12

25. The board appointee process and numbers of board members are supported. It is noted that the requirements for board members include knowledge of and experience of and capability in (amongst other matters) 'public health, particularly in relation to the objectives and functions of Taumata Arowai'.

While this should cover those with experience in the governance and operation of water services it is desirable to make this explicit to ensure the board does have an in-depth knowledge of the water services sector.

26. In addition to the knowledge, skills and expertise of board members it is also fundamental that the regulator has the appropriate expertise to deliver on its regulatory functions. Rather than leaving this to the regulator to address via the normal employment processes Water NZ agrees with Watercare that mandating the inclusion of technical expertise in the form of technical advisory group is important. The water services sector has capability and capacity issues at the moment and this will only become more problematic as the new regulator and new regulations are bedded in. Providing a clause in the Bill which specifies that the board can appoint technical advisory committees will enhance the objectives of the legislation, the board and the regulator.

Recommendation

27. That an additional matter be included in clause 12(2) along the following lines:
- Governance and or operation of drinking water supply schemes, wastewater networks, or stormwater networks.
28. That an additional clause or clauses be added to provide for the board appointment of technical advisory committees.

Water NZ thanks the Committee for the opportunity to submit to it and it does wish to be heard in support of its submission.

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Water New Zealand

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