

**Notice of Meeting:**

I hereby give notice that an ordinary Meeting of the Council will be held on:

**Date:** Thursday 29 June 2023  
**Time:** 9.30am  
**Meeting Room:** Council Chamber and Audio Visual Link  
**Venue:** Municipal Building, Garden Place, Hamilton

Lance Vervoort  
Chief Executive

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**Council**  
***Kaunihera***  
**OPEN LATE AGENDA**

(Item 9: Water Services Entities Report Amendment Bill - Submission Report)

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**Membership**

**Chairperson** Mayor Paula Southgate  
***Heamana***

**Deputy Chairperson** Deputy Mayor Angela O'Leary  
***Heamana Tuarua***

<b>Members</b>	Cr Ryan Hamilton	Cr Geoff Taylor
	Cr Maxine van Oosten	Cr Sarah Thomson
	Cr Moko Tauariki	Cr Emma Pike
	Cr Ewan Wilson	Cr Melaina Huaki
	Cr Mark Donovan	Cr Anna Casey-Cox
	Cr Louise Hutt	Cr Kesh Naidoo-Rauf
	Cr Andrew Bydder	

**Quorum:** A majority of members (including vacancies)

**Meeting Frequency:** Monthly – or as required

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Amy Viggers  
*Mana Whakahaere*  
Governance Lead

**26 June 2023**

Telephone: 07 838 6727  
Amy.Viggers@hcc.govt.nz  
www.hamilton.govt.nz

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# Council Report

Item 9

**Committee:** Council

**Date:** 29 June 2023

**Author:** Stephen Halliwell

**Authoriser:** Andrew Parsons

**Position:** Water Reform Financial  
Advisor

**Position:** Executive Director Strategic  
Infrastructure

**Report Name:** Water Services Entities Report Amendment Bill - Submission Report

<b>Report Status</b>	Open
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## Purpose - *Take*

1. To update the Council on the Water Services Entities Amendment Bill 2023.
2. To seek the Council's approval to make a submission to the Governance and Administration Select Committee on the Water Services Entities Amendment Bill 2023, prior to the submission close, midnight Wednesday 5 July.

## Staff Recommendation - *Tuutohu-aa-kaimahi*

3. That the Council:
  - a) receives the report;
  - b) delegates the Mayor and the Deputy Mayor, to work with staff to collect and collate Elected Member feedback and finalise the Council's submission (Attachment 1) to the Governance and Administration Select Committee on the Water Services Entities Amendment Bill;
  - c) notes a draft of the submission will be circulated to Elected Members for feedback;
  - d) approves the Mayor to authorise and sign the Council's final submissions in consultation with the Deputy Mayor; and
  - e) delegates the Mayor and Deputy Mayor as the Council representatives for any select committee hearing on the Bill.

## Executive Summary - *Whakaraapopototanga matua*

4. The **Water Services Entities Amendment Bill 2023** (the Bill) is part of a suite of legislation to reform water services regulation and service delivery in New Zealand. The Bill is an omnibus Bill that would amend 8 Acts, including the Waters Services Entities Act 2022, The Local Government Act 2002 and The Local Government (Rating) Act 2002.
5. "The single broad policy is to provide for, and adjust, the establishment, governance, functions, and accountability arrangements for 10 publicly owned water services entities that will deliver water services in New Zealand in place of local authorities, including transitional arrangements (such as local authority responsibilities for planning, reporting and rating) during an establishment period" (Extract of the explanatory note from the Bill).

6. Hamilton City and nine other councils would form the Waikato Water Services Entity. The establishment date for this entity is not defined, other than is it to be prior to 1 July 2026.
7. The **Governance and Administration Select Committee** (the Select Committee) is running the select committee process at pace with submissions closing on 5 July 2023. The Government has stated its intention to have all waters legislation assented before the election recess (30 August 2023).
8. Staff are preparing a draft submission to the Select Committee on the Bill. The submission will reinforce Council's previously stated positions on key themes and provide an opportunity for Council to express a view in any new matters of significance in the Bill.
9. Staff recommend Council make a submission (refer draft in **Attachment 1**).
10. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matters in this report have a low level of significance. The recommendations comply with Council's legal requirements.

### Background - *Koorero whaimaarama*

11. Late December 2022 the following legislation was before Parliament.
  - i. The **Waters Services Entities Act 2022 (the Act)** was assented on 14 December 2022. On assent many clauses came into force immediately while others come into force on 1 July 2023. ([link to Act](#))
  - ii. The **Water Services Legislation Bill** and the **Water Services Economic Efficiency and Consumer Protection Bill** had their first reading on 13 December 2022 and were then sent to the Finance and Expenditure Select Committee which called for submissions on 20 December 2022 closing on 17 February 2023.
  - iii. Council has made submissions at every opportunity.
12. The **Water Services Legislation Bill** and the **Water Services Economic Efficiency and Consumer Protection Bill** have been reported back to Parliament and await their second reading.
13. On 13 April 2023 the Prime Minister announced a reset which included replacing 4 entities with 10 entities and extended the timeline for establishment.
14. On 22 June 2022 the **Water Services Entities Amendment Bill** had its first reading and was recommended to the **Governance and Administration Select Committee** with a submission period of 26 June to 5 July 2023.
15. Council has around 240 staff directly impacted by this reform. Of all territorial authorities in New Zealand, Hamilton is the largest direct employer of three waters staff. Most staff will in some way be impacted by this change. Staff wellbeing through this reform remains a particular focus for Council and we have sought to maintain a high level of communication and engagement with affected staff throughout this process.
16. All transition costs are currently being met by the department.

### Discussion - *Matapaki*

#### Submission Process

17. This report has a draft submission attached (**Attachment 1**). Recognising the short space of time to consider matters, staff are recommending a feedback process with the Mayors and Deputy Mayor finalising the submission. Council has previously used a similar approach for submissions when timelines have been constrained.

18. This approach envisages all Elected Members will have the opportunity to provide feedback. The final drafting – taking account of Elected Member feedback – must be completed to allow submission to the Select Committee by midnight on 5 July 2023.

**Water Services Legislation Bill and Water Services Economic Efficiency and Consumer Protection Bill**

19. These Bills have been reported back to Parliament and await a second and third reading. The Bills have been modified by the Finance and Expenditure Select Committee, in parts significantly. Council has no role or direct influence on the next steps of these Bills.
20. Staff understand these Bills may be passed after the Waters Services Entities Amendment Bill.

**Water Service Entities Amendment Bill [link to Bill](#)**

21. The Bill that amends 8 Acts and would disestablish the four water services entities that were established on enactment of the Act and replace them with 10 water services entities which are more closely modelled on existing regions. The Bill would also:
- i. provide a longer period for the establishment of water services entities, between 1 July 2024 and 1 July 2026;
  - ii. provide for every territorial authority to be represented on the regional representative group of their entity, alongside an equal number of mana whenua representatives;
  - iii. give community groups with an interest in a water body an opportunity to make statements to their entity about their priorities for that body; and
  - iv. make changes to other Acts including the Local Government Act 2002 and the Local Government (Rating) Act 2002.
22. As part of the proposal to establish 10 water services entities and amend the establishment timeframes, the Bill would:
- i. introduce a process to enable locally-led, voluntary mergers of two or more entities;
  - ii. establish a Water Services Entities Funding Agency as a backstopping financing mechanism alongside Crown financial support;
  - iii. enable shared services arrangements, including Minister-directed arrangements where collaboration is required; and
  - iv. provide transitional arrangements for local government and water service entities to ensure the arrangements align with the establishment of 10 water services entities between 1 July 2024 and 1 July 2026.
23. Transitional arrangements modify the Local Government Act 2002 and the Local Government (Rating) Act 2002 and others, are intended to make allowance for “Long-term Planning” for waters which is currently forbidden in the Local Government Act 2002 after it was amended on December 2022 by the Water Services Entities Act 2023.

**Options**

24. Staff have assessed that there are two reasonable and viable options for the Council to consider. This assessment reflects the level of significance.
25. The options are to either make a submission or not make a submission on the Bill.
26. Staff recommend the Council make a submission so that Council’s views can be considered in the review of the Bill.

### Financial Considerations - *Whaiwhakaaro Puutea*

27. The cost of transition work is funded by the department under contract. Tranche 1 funding is \$1.46M. At 31 May 2023 funding was spent as follows.

Income	\$ (GST exclusive)
Payments 3 of 4 received	1,094,250
Expenditure	
Project management	\$488,882
Workforce	\$121,889
AMOS	\$184,327
Customer and community	\$0
Finance and commercial	\$101,775
Data and Digital	\$36,732
Other	\$8,756
<b>TOTAL EXPENDITURE</b>	<b>942,362</b>

### Legal and Policy Considerations - *Whaiwhakaaro-aa-ture*

28. Staff confirm that recommendations comply with the Council's legal and policy requirements.

### Climate Change Impact Statement

29. Staff have assessed this option and determined that no adaptation assessment is required.
30. Staff have assessed this option and determined that no change in greenhouse emissions will occur as a result of this report.

### Wellbeing Considerations - *Whaiwhakaaro-aa-oranga tonutanga*

31. The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental and cultural wellbeing of communities in the present and for the future ('the 4 wellbeings').
32. The subject matter of this report has been evaluated in terms of the 4 wellbeings during the process of developing this report as outlined below.
33. The recommendations set out in this report are consistent with that purpose.

### Risks - *Tuuraru*

34. There are no known risks associated with the decisions required for this matter.

### Significance & Engagement Policy - *Kaupapa here whakahira/anganui* Significance

35. Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the recommendation(s) in this report has/have a medium level of significance.

**Engagement**

36. Council's submission position is based on community views expressed through Council's engagement on the Water Services Entities Bill with some technical matters added.
37. Individuals have the opportunity to submit directly to the select committee by 5 July 2023.
38. Given the medium level of significance determined, the engagement level is medium. No engagement is required.

**Attachments - *Ngaa taapirihanga***

Attachment 1 - DRAFT ONLY - HCC submission to WSE Amendment Bill - June 2023.

To

## HAMILTON CITY COUNCIL SUBMISSION

### The Water Services Entities Legislation Amendment Bill

The Governance and Administration Select Committee



June 2023



**Hamilton  
City Council**  
Te kaunihera o Kirikiriroa



## Improving the wellbeing of Hamiltonians

Hamilton City Council is the territorial authority providing for the wellbeing of 180,000 residents in New Zealand's fourth-largest city. Kirikiriroa-Hamilton is unique in its youthful population, highly diverse society and highly qualified workforce. With a strong research and education sector, we are one of New Zealand's fastest-growing cities and home to around 40,000 tertiary students.

Our city has the environment at its heart. Kirikiriroa-Hamilton has more than 1,000 hectares of open space and is built on our connection to the Waikato awa, which runs for 16km through the city. Maaori comprise around 20 percent of Hamilton's residents and around 40 percent of those identifying as Maaori are from hapuu with close ties to the Hamilton area. Hamilton has one of the fastest growing urban Maaori populations.

The Waikato-Tainui Te Kauhanganui Incorporated is the principal constitutional and legally mandated local iwi authority, encompassing some 33 hapuu and 67 marae across several local authority boundaries.

Waikato-Tainui takes on the wider governance focus for its people, its tribal culture, education, and social responsibility. Hamilton City Council and Waikato-Tainui work together to give effect to Te Ture Whaimana o Te Awa o Waikato – the Strategy and Vision for the Waikato River.

Economically, Hamilton is one of the key drivers of the Waikato's economic success. Its proximity to two main seaports (Auckland and Tauranga), two international airports (Auckland and Hamilton), rail connections and distribution networks, south Auckland industrial base and state highways provide significant opportunities for trade.

Under the Local Government Act 2002, Hamilton City Council must fulfil its purpose to enable democratic local decision-making and action by, and on behalf of, communities; and to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

It is the lawful provider of water services to its community until services transition to any new entity and thereafter an owner of the entity of which Hamilton is a part.

It is in this context that Hamilton City Council provides its submission to this select committee on the Water Services Entities Amendment Bill, which effectively amends the Water Service Entities Act 2022.

## Council approval and reference

This submission was approved by Hamilton City Council at its meeting held on XXXXXX 2023.

Hamilton City Council Reference D-XXXXXXX - Submission # XXX

## Part 1: Executive summary

Hamilton City Council remains strongly opposed to the Government's model for water services reform.

Key issues for our Council are either unaddressed or made worse by the Water Services Entities Amendment Bill, and by the haste and lack of cohesion in this legislation.

This undue haste is illustrated in the constrained time for submissions and feedback on this Bill. Providing Councils with nine working days to consider and respond to significant, far-reaching legislation and complete a robust governance process to review submission points is disappointing. It further erodes any confidence the local government sector can have that this process understands the impacts on territorial authorities and undermines Government statements that it seeks to partner with councils in good faith.

Repeated changes, missed deadlines, a lack of clarity on establishment processes and potential ambiguity in the transfer of responsibility for stormwater management within this reform creates financial uncertainty and unwarranted risk for our ratepayers. This has been worsened by the removal (with no consultation) of Better Off funding, continued mixed messages about the availability or quantum of transition funding and no certainty or clarity for the No Worse Off funding.

Further risk and uncertainty is created through 'band-aid' interim arrangements to Council's long term planning. Removal of water services from part of Council's long term plan may impact Council's ability to transparently map Development Contributions charges for waters infrastructure. Certainty for developers is critical to cohesive growth management. A piecemeal approach risks time-consuming and costly legal challenges for Council as it meets the financial challenges of growth and ensures long-term wellbeing for Hamiltonians. As the Bill is currently drafted, Developer Contributions will significantly and inappropriately reduce given the proposed move from 10 years of projects in the long term plan to just two years of projects. This is without any legislative framework proposed to account for the Developer Contribution charges associated with projects in years 3-10 (and in some cases for Hamilton, years 3-15).

Staged transition presents multiple new issues for Hamilton City Council. We risk losing senior and experienced staff to entities which are established earlier and face additional complexity in rating and financial management of transition mid-way through a financial year. There are no signs that Government is prepared to financially support these very real costs.

Ministerial oversight provisions and interim measures in the establishment period are ambiguous and risk removing transparency from council decision making and removing the ability for our community to influence Council decisions-making. Council is placed in the invidious position of being unable to determine its own future, while also being unable to consult with its community on key decisions as Council is removed from the decision-making process.

Hamilton has aligned with Government's legislated timelines for this reform and has progressed critical infrastructure development to futureproof regional capacity for wastewater reform. Government's inability to meet its deadlines now means Hamilton ratepayers are carrying additional cost and risk.

The change in entity numbers from four to 10 places an undue burden on Hamilton as the highest-growth area, and the greatest contributor of three waters assets, in the new Entity B region, while removing any ability for Hamilton ratepayers to have a voice which reflects its very large contribution to this entity.

Council notes the Government's own statements on the scale of entities required to achieve projected efficiencies are at odds with the decision to move to ten, smaller, entities.

Our previous submissions already noted a shortfall of more than \$20 million in projected 'worse-off' funding. We raised concerns of a shortfall in transition funding in the original timeframe. Council is now losing the community wellbeing benefit of \$44 million in Tranche 2 funding and is forced to consider carrying the costs of funding regionally-focussed infrastructure for two more years due to delayed transition.

Government decisions to step away from previous commitments to this Council in recent months represent a combined negative impact on our community of \$64 million plus any cost due to delayed transition. Council no longer can have faith in Government's undertakings that Hamilton will be no worse off under this reform.

Hamilton's repeated concerns about this reform's lack of integration for strategic and sustainable urban growth are not addressed in this Bill.

Representation arrangements give insufficient weight to the unique needs of Tier 1 growth councils and mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.

In its present form, this Bill does not address the lack of equitable local voice in representation arrangements, and the removal of legal rights that come with asset ownership. Hamilton City Council reminds this committee of our previous submissions which strongly advocate for a CCO model, with true rights of ownership, as the way to deliver this reform.

Hamilton City Council must request Government withdraw the Water Services Entities Amendment Bill and revisit the Water Services Act to address the fundamental flaws within it.

We respectfully urge you heed our submission, and thus enable reform which can achieve the stated goals of improving environmental outcomes and public health, sustainability of services and long-term affordability for ratepayers.

## Part 2: Specific areas of concern

Hamilton City Council is not against water services reform. Hamilton has consistently acknowledged the need for reform in this sector to improve environmental outcomes and improve long term affordability for ratepayers.

### Ten entities lose the required economies of scale

Government's financial projections for the four-entity model claimed Hamilton's average water services charge by 2051 without reform would be \$2740. The reform projected this to reduce to \$1220. Announcing the Water Services Entities Amendment Bill, the Minister states the average water services charge for Waikato by 2054 without reform would be \$7660 per household and now estimates the average Waikato charge to be between \$2760 and \$3090.

It is bewildering that Government's own statements indicate 'improvements' to its plan mean the new costs for our ratepayers could be higher with the reform than without it.

We have strong concerns that Hamilton consumers, community and ratepayers will pay an unfair proportion of our entity's establishment costs and any other reform costs which are carried by the entities.

#### **Staged transition creates new issues**

Government's provision for our neighbouring local authorities to transition up to two years earlier than Hamilton creates commercial risk for our operations, which could result in risks to public health and management of critical infrastructure. There is already a shortage of experienced staff and contractual capacity in the waters sector and this Bill's staged timelines created an unequal landscape for employment and contractual matters for those councils which transition later.

As we have repeatedly said; a poor or fractured transition presents significant risk both to Council and to the wellbeing of our ratepayers. The risk to our community is through poor delivery of three waters services, water quality and critical response to adverse weather events.

Council faces financial risks in funding and managing an organisation without a third of our business, as well as maintaining the wellbeing of staff, whether they are transferring to the entity or remaining with Council.

#### **Waikato must remain as a whole**

Notwithstanding our previous concerns about the reduced financial capacity of the ten-entity model, we believe that the Waikato entity grouping should remain connected, either as a standalone entity or in any future merger with adjacent authorities. Splitting some councils from the Waikato grouping would further impact the projected efficiencies of scale, would place an undue burden on Hamilton ratepayers, and would be misaligned with long-term spatial planning connections and partnerships.

In addition, Council requests that provision be made in the Bill to allow the potential for regional entities to join at the outset should the relevant representative groups determine to do so.

#### **Community Priority Statements**

Council supports greater opportunities for our community to have meaningful input into decisions which impact them. However, the addition of 'community priority statements' does not appear to place any onus on the entity to take these statements into account in decision-making.

The Regional Representative Group is only required to send the statements to a 'consumer forum' and there is provision for reporting on any response by the entity to these statements in an annual consumer report.

With no detail on how these statements are to be reflected in decisions made by the entity, it is uncertain what value they add over already-legislated community representation via Council on the RRG and appear likely to simply create further administrative work for the entities and the RRG.

#### **Loss of local voice**

The introduction of community statements for consideration by the Regional Representative Group does not address the prospect of 'taxation without representation' under the proposed Water Services Entity structures and the creation of potential subsidiaries by the entities further removes transparency and local voice.



Governance and oversight arrangements through this reform are growing progressively distant from ratepayers and are eroding localism. The shape of the governance structures, and provisions within this Bill, represent a fundamental constitutional shift. Non-elected individuals and organisations with no direct accountability to ratepayers are given the powers to tax our community. Provision for subsidiaries of these organisations represents a further step away from one of the core tenets of our local government system – that our people have a say in decisions that affect them.

#### **Long-term planning processes and development contributions**

Council needs to understand more fully the impacts on amendments within this Bill that relate to inclusion or exclusion of water services in the LTP in the context of preparing a development contributions policy. Council is concerned its current legally-robust framework to levy development contributions for future capital works could be challenged if these costs must be excluded in later years of the LTP. These are complex matters and the truncated timeframe for submissions on this legislation provides insufficient time for Council to receive and consider appropriate legal advice and determine its position.

#### **Financial risk for Council**

We seek confirmation and clarity that Government will not distance itself from previous assurances that the reform will not leave Council worse off.

There remains insufficient information from Government on the immediate and subsequent financial impacts of reform, both for Hamilton City Council and its ratepayers. Despite repeated requests we have yet to be provided assurance that all our costs from this reform will be met by Government.

Removal of promised Tranche 2 Better Off funding – a key element of Government’s previous commitments to this reform – sadly reinforces our concerns over the continued ‘shifting of the goalposts’ as our Council has tried to respond in good faith to this reform process.

#### **Water as a commodity**

The Waters Services Entities Act 2022 states the objectives of the entities, which reflect key wellbeing outcomes for the community and, of particular importance for our Council, support and enable planning processes, growth, and housing and urban development growth. Many parts of this Bill fail to recognise these responsibilities and treat waters as a commodity only. Community wellbeing goes far beyond economic imperatives and includes social and environmental outcomes as well as ensuring climate change resilience. This Bill largely is disconnected with the outcomes as represented in the Water Services Entities objectives, which in turn means the Water Services Entity is not obligated to deliver on aspects that are fundamental to the entire rationale of the reform.

#### **Stormwater**

It is Council’s view that any reform of this sector must be a full three waters reform and not leave

any aspects of stormwater back with the Councils. A full three waters reform is essential to the integrated management of our finite water resources moving into the future.

#### **Overly prescriptive**

The Bill is overly prescriptive – creating a ‘one size fits all’ approach which removes the ability to innovate or respond to specific local needs and creating a cumbersome process at a time when we need agility to respond to a changing climate and a changing world. This is illustrated in the development of 20 functions of the entities, when the original two in the Waters Services Entities Act 2022 were clear.

#### **Rights of ownership in the entities**

Shares and asset transfer, as proposed, provide no key rights of ownership for Hamilton City Council. As stated in our previous submissions, we note our concerns about ownership rights would have been addressed through the well-established processes of a CCO model.

#### **Placemaking - Tier 1 growth concerns**

Council’s previous submissions sought changes to representation to provide a better link between the entities and Tier 1 growth councils. Our recommendations have not been supported in this Bill.

Governance and representation provisions still do not provide for the very different strategic imperatives between metro, provincial and rural Councils. A loss of connection between the Water Services Entity, regional partnerships and individual Councils will mean poor outcomes for national needs and policy, particularly in urban development, housing, and employment.

The Bill further exacerbates our concerns that the reform is falling short on providing the flexibility to support the entities objectives to enable planning, growth, housing, and urban development.

#### **Further information and opportunity to discuss our submission**

Should the Parliament’s Governance and Administration Select Committee require clarification of the submission from Hamilton City Council, or additional information, please contact Andrew Parsons (Executive Director – Strategic Infrastructure) on 07 838 6896 or 021 791 612, in the first instance, email [Andrew.parsons@hcc.govt.nz](mailto:Andrew.parsons@hcc.govt.nz)

Hamilton City Council does wish to speak to Parliament’s Finance and Expenditure Committee at the hearings in support of its submission on the Water Services Legislation Bill.

Yours faithfully

**Lance Vervoort**  
**CHIEF EXECUTIVE**