



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL



Submission on the Water Services Entities Bill

19 July 2022

Central Hawke's Bay District Council

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Executive Summary

1. We do not support the Water Services Entities Bill in its current format, despite being broadly supportive of the outcomes the Government seeks to achieve through the Three Waters Reforms.
2. We agree that the status-quo for the long-term sustainable management of three waters services is not an option. In our own community, we have and will continue to face significant intergenerational challenges across our three waters activities, achieving ever increasing regulatory and health standards, while managing the impacts of affordability and community wellbeing.
3. We do not support the current number of Entities the Bill establishes, with there being no reflection of regional communities of interest such as Hawke's Bay.
4. We believe the Bill in its current format seriously jeopardises the voice of community, threatens local democracy, accountability and representation, and that the Bill as a minimum should at least retain or strengthen this aspect for communities.
5. We believe that the current balance of authority and local decision-making between local community and the Water Services Entities in the Bill is distorted. We believe the proposed entities should be servants to local resource management and planning at a community and local level, not the other way around.
6. We support the submissions made by Taituarā, Local Government New Zealand and Communities 4 Local Democracy and our Hawke's Bay Councils submission¹.
7. We do not support and are seriously concerned about the pace of implementation of this Bill, its further legislation that is yet to be drafted and the impact that this will have on our community and communities like ours. There is considerable detail unavailable to our Council, which makes it hard to support the Bill, when the things that really mattered to communities are not covered.
8. This reform is a once in a generation transformational change that is being rushed at the cost of community outcomes and wellbeing.
9. As a Council, we make this decision fully informed and with a very clear understanding of the significant and confronting investment that is required across our three waters activities, as identified in our Long Term Plan 2021 – 2031 'Facing the Facts'². This has required our Financial Strategy³ to exceed our rates affordability benchmark, our Quantified Limit on Borrowings and also impacted our ability to achieve a Balanced Budget for nine of the ten years of the 2021 – 2031 Long Term Plan.
10. We have a credible alternative to the proposed model in the Bill. Central Hawke's Bay as part of the wider Hawke's Bay Water Services Model⁴ made a compelling case to Government that a Hawke's Bay Water model could achieve the outcomes sought from the Water Services Entities Bill. The Hawke's Bay model remains Central Hawke's Bay's preferred model of future water services delivery,

¹ <http://hb3waters-22.napier.govt.nz/assets/Uploads/HB-Councils-Submission-on-WSEB-July-2022-.pdf>

² <https://www.chbdc.govt.nz/assets/Links/002923-Full-LTP-2021-2031-aSCN.pdf>

³ See pages 107 – 112 of the CHBDC Long Term Plan 2021 – 2031 – 'Facing the Facts'

⁴ <https://www.hb3waters.nz/hb-three-waters-review/full-report-and-cases/>

11. We are not convinced and are seriously concerned that the Bill does not successfully capture or reflect the essential need for and role of local representation, we were able to achieve in the development of the Hawke's Bay Water Services Model.
12. We also have serious concerns about how the proposed operating model in its current format in the Bill will achieve true accountability to communities and Manawhenua when things go wrong.
13. We are also unconvinced that the Bill goes far enough to secure and maintain the local democratic voice and the role of Local Government and Manawhenua as community leaders through the establishment of the Regional Representation Groups or Regional Advisory Panels.
14. We do not have confidence that the future outcomes from the Review into the future of Local Government have been considered in the drafting of this legislation.
15. We do not support that there is currently no legislative link in the Bill to how either Water Service Entities, Regional Representative Groups or Regional Advisory Panels have to acknowledge and incorporate local community wellbeing outcomes set at a local government level or wider planning outcomes (such as Community Plans⁵ or place-making Plans).
16. We believe that any suggestion that the use Consumer Panels as described in the Bill (Cl. 203) as a means of engaging with community, is ineffectual and flawed in comparison to the role and benefits that Local Government currently provide.
17. The delivery of a 'minimum viable product' approach in the Bills implementation gives no confidence that communities or our environment will be better off in the short to medium term (at least 5 – 10 years) from this Bill. A phased approach to transition should be adopted.
18. In summary, we do not support the Bill in its current format, despite broadly supporting the outcomes the Governments Water reforms seek to achieve. In particular, we are seriously concerned that the Bill does not ensure local voice, representation and ultimately accountability for the communities the Entity will serve, while also ensuring the standards delivered to communities today are not eroded.
19. This submission has been approved by the Elected Council of Central Hawke's Bay District Council and the Chief Executive.

Who is Central Hawke's Bay?

20. Central Hawke's Bay District Council is a small, largely rural Council servicing the communities of Tamatea – Central Hawke's Bay. Like many Councils of our size, we face increasing challenges to serve the needs of our communities, while balancing the constraints of affordability and resource limitations. This balance and pressure are exemplified in Council's delivery of three waters services, as well as many other activities.
21. Central Hawke's Bay District Council has a long history of challenges with three waters services and their delivery. Council has invested significantly, in both people and plant to continue to deliver against the expectations of our community and key stakeholders (including Regulators).
22. Councils 2021 – 2031 Long Term Plan – 'Facing the Facts', built upon work that commenced in 2016 to 'face the facts' of aging, failing and underperforming infrastructure in the District. Enhanced asset management sophistication, built upon improved asset condition, performance and community requirements has resulted in a radically different investment programme that those Council was considering in only 2018. These investment programmes take Council to the edge of our financial and resourcing limits, and will test community affordability long term.

⁵ Takapau Community Plan as an example <https://www.chbdc.govt.nz/assets/Uploads/Takapau-Comm-Plan-2020-FINAL5-0.pdf>

23. Central Hawke's Bay is experiencing a surge of optimism and positivity not seen since the 1960's, with unprecedented growth and development, buoyed by a clear values based strategic vision, Project Thrive⁶, that clearly articulates our Districts vision for the future.
24. Based on current demographic projections⁷ Central Hawke's Bay's population will double inside the next 20 years, placing further strain on an already aged infrastructure network that is already at capacity. In response, Council has pulled every financial lever available to it, including increasing development contributions over 1200% in the last two years, ensuring that those creating the cost of development are paying their fair share. Council have also ambitiously sought external funding to support growth from agencies and funds such as Kainga Ora's Infrastructure Acceleration Fund to support development and heavily leveraged the use of development agreements where possible.
25. The brutal financial reality of the significant investment required in the districts three waters assets and outlined through the 2021 – 2031 Long Term Plan 'Facing the facts', is nothing short of confronting. Councils Financial Strategy⁸ through the Long Term Plan, will see debt grow to \$98 million by year 10 of the 2021 – 2031 Long Term Plan, to deliver some \$285 million of capital expenditure and require average rates increases through the life of the plan of 7.8% over the ten years.
26. Such is the extent of borrowing required for three waters service upgrades that by Year 4 of the 2021 – 2031 Long Term Plan, Council will breach its current Treasury Policy and will need to adjust its debt to operating revenue cap of 150% to align with the Local Government Funding Authority's 175% cap. However, by year five even this cap will be breached. Therefore, Council has assumed in its prospective financial statement modelling that Council becomes a Tier One Council with the Local Government Funding Agency (LGFA) and revises its Treasury Policy to allow Council to borrow to 200% of its revenue. To allow this to occur, Council would need to obtain a credit rating from a credit agency such as Standards and Poors. Once this is obtained, the LGFA would allow borrowings of up to 250% of revenue
27. For Council, in the event the Hawke's Bay Water Services Model was implemented, the new Regional Council Controlled Organisation would have sufficient balance sheet capacity to resolve Councils balance sheet capacity issues locally, without requiring any formal balance sheet separation from Councils across the region.
28. Other options Council considered in its Financial Strategy but discounted due to the undesirable outcomes on the community, or the uncertainty were:
 - Require a capital contribution towards the construction of the new wastewater treatment plants from every connected property. This would be in addition to the ongoing annual rates each property pays. This capital contribution would be utilised to complete the capital programme without incurring further debt.
 - Rely on intervention from Central Government through the Three Waters Reform Programme that would alleviate Councils three waters debt.
 - Halt the infrastructure upgrades it proposes and seek an alternative funding avenue before continuing with the upgrades.
29. While considered at the time, the Hawke's Bay Water Services Model was identified also as an alternative to the Three Waters Reform Programme. The Programme would have allowed the regionalisation of charges within seven years to occur, thereby significantly reducing the rates increases required.

⁶ <https://www.chbdc.govt.nz/our-council/about/project-thrive/>

⁷ <https://www.chbdc.govt.nz/assets/Document-Library/Responding-to-Growth/Demographic-and-Economic-Growth-Projections-CHBDC-2022-Update.pdf>

⁸ See Pages 134 – 157 [Central Hawke's Bay District Council - 2021 - 2031 Long Term Plan 'Facing the Facts'](#)

30. Councils Financial Disclosure Statements for the 2021 – 2031 Long Term Plan⁹ paints a further picture of the challenge the District faces in adequately investing in its three water services. Over the life of the 2021 – 2031 Long Term Plan, Council proposes to:

- Exceed its Rates Affordability for seven of the ten years of the Plan,
- Exceed its Quantified Limit on Borrowing for six of the ten years of the plan
- Not achieve a balanced budget over the life of the Plan

Despite significant asset management improvements, it is likely that further capital and operating expenditure will be required as further environmental and regulatory standards continue to increase.

31. In making this submission, Central Hawke's Bay District Council is critically aware of the challenges ahead and is a well-informed Council.

32. Having been a leader in the development of the Hawke's Bay Three Waters Service Model, we also clearly understands the trade-offs and opportunity of what could be achieved through reformed three waters activities.

The Hawke's Bay Water Services Model

33. Beginning in 2019, Central Hawke's Bay District Council, Hastings District Council, Hawke's Bay Regional Council, Napier City Council and Wairoa District Council, worked together to review the current and potential three waters (drinking water, wastewater and stormwater) service delivery options for Hawke's Bay, Te Matau-a-Māui. Guiding our review and assessment of the options were a set of agreed objectives and principles.

34. The Hawke's Bay Water Services Model was a Hawke's Bay regional entity, with a legal basis as a Council Controlled Organisation, with a joint committee oversight by Councils and Manawhenua, and an independent skills-based board. The scale of ownership, management and implementation could provide balance sheet expansion, regional cross subsidisation and professionalisation of workforce and an approach to procurement, consenting and delivery that could be achieved across 4 councils, not the 20+ Councils of Entity C.

35. Supported, both in principle and through funding from this Government, the key findings and recommendations of the Hawke's Bay Three waters review report confirmed:

- Making no changes to the way our three waters services are delivered is not affordable or sustainable
- Meeting the new regulations under current service delivery arrangements poses significant affordability challenges for our region and particular our smaller councils
- The Review's forecast investment in three waters infrastructure across the region to meet new drinking and waste waters standards is estimated to at least double since councils' 2018-2028 Long Term Plans from \$313m to \$605m
- Five service delivery options were shortlisted and considered against regional objectives and cultural principles
- An asset owning council controlled organisation was the preferred service delivery model as it best met Councils' investment objectives and the cultural principles developed collaboratively with Councils' Māori Standing Committees. In particular, the model:
 - Addresses regional affordability challenge associated with new standards and regulations
 - Is able to concentrate its investment on three waters priorities
 - Delivers the scale required to create strategic capacity and capability
 - Enables a meaningful role for Māori (including co-design and governance)

⁹ See Pages 108 -113 [Central Hawke's Bay District Council - 2021 - 2031 Long Term Plan 'Facing the Facts'](#)

- Enables improved operations (risk management, asset management, ability to meet compliance requirements)
 - Produces the greatest savings
36. In June 2021, the Government released its proposal to establish four regional water entities, where Hawke’s Bay three waters services would transfer to a regional entity comprising of 21 councils from the East Coast of the North Island to the top of the South Island and the Chatham Islands.
37. To help inform our assessment of the Government’s three waters reform proposal, the financial analysis completed for our review was updated, and the Government’s own modelling (completed by the Water Industry Commission for Scotland (WICS) was analysed. The Financial Analysis¹⁰ Update and the Review of the WICS Data for Hawke’s Bay ¹¹, both completed in mid-2021, both confirmed that despite there being differences in the analysis of the data, both sets of data were directionally consistent. This analysis conducted in 2021, also showed that even with a doubling of forecast capital investment in Hawke’s Bay, the new Hawke’s Bay Regional Water Services Entity would still not require balance sheet separation, and therefore still achieve the governments primary objectives of balance sheet capacity without requiring the scale of Entity C.
38. Despite the Government’s decision to mandate the Three Waters reform proposal in October 2021, the Hawke’s Bay Water Services Model has remained the preferred model of Central Hawke’s Bay District Council, with regional support from our Hawke’s Bay Councils.
39. While we remain committed and supportive of the Hawke’s Bay model, it is important to note the Water Services Entities Bill has many of key aspects that are achieved by the Hawke’s Bay Model. Where we substantially differ are on the following points.

Local Representation and accountability to Communities

40. We are not convinced that the proposed Entity and Governance structures outlined in the Bill will sufficiently enable local representation of and accountability to communities to occur.
41. We do not support the establishment of the four entities outlined in Schedule 2 of the Bill, which have limited or no resemblance to natural groupings, regional communities of interest or localities in which communities operate. Our preferred model remains that of the Hawke’s Bay Water Services Model, where representation and accountability is delivered at a Regional Level through communities of regional interest.
42. We do not support and or agree that a centralised four-entity model will benefit our community. Centralised Government service delivery models to date have only exacerbated the rural and urban community divide in our district. Examples include reduced investment in land transport infrastructure investment from Waka Kotahi on rural roads from a centralised policy model, and we have seen the dramatic decline in rural services such as healthcare services, which have further widened the inequity gap, particularly for rural Māori in our community. The current representation and accountability model set out in the Water Services Bill only further perpetuates and reinforces this inequity and divide for communities and rural Māori in particular.
43. We do not support the proposed ownership and shareholding structures of the new Water Services Entities in Cl. 15 and 16 of the Bill. Our preferred model remains a Council Controlled Organisation (CCO) as outlined in the Hawke’s Bay Water Services Model, where representation can be led through regional communities of interest, still providing for aggregation at a National Level. The current ownership and shareholding structures in Cl. 15 and 16 of the Bill provides the basis for the dismantling of the democratic structures that provide representation, a voice for

¹⁰ <https://www.hb3waters.nz/assets/Uploads/2021-Financial-Analysis-Update.pdf>

¹¹ <https://www.hb3waters.nz/assets/Uploads/Review-of-WICS-Data-for-Hawkes-Bay.pdf>

democracy and accountability to local communities that government (both Central and Local) serve.

44. To this end, we also do not support the representation structures outlined in the Bill through Regional Representative Group and Regional Advisory Panels in Subpart 4 – Regional Representative Groups and Subpart 5 – Regional Advisory Panels. Based on the current shareholding to provide one vote as a shareholder across an entire entity, gives no confidence a region, let alone a district has any ability to have fair presentation or a regional voice for their community through this structure. Further, the current Bill is weak in setting down any minimum standards for representation, other than the establishment of one (1) regional advisory panel per water services entity (Cl. 45 (1)). Even with the establishment of a proposed Consumer Forum (Cl.203) by the Water Service Entity, the Bill provides little confidence that community voice will be at least retained or strengthened. Again, we strongly urge the Committee to consider what a more regionalised community of interest model could be, that could still be aggregated nationally, however would address the fundamental issues relating to shareholding, ownership and representation issues that will result from the Bill in its current format.
45. We implore that the Bill gives a specific focus to ensuring Water Service Entities remain servants to local community voice and outcomes. A fundamental ideology shift is required in the Bill to ensure that proposed governance and management structures remain servants to the vision, aspirations and outcomes sought by Local Communities – not the other way around. The ideology that local community voice and identity must comply or be lost as a result of government service centralisation, has been a fundamental failure of previous government agency centralisations, and will be a further failure of this Bill if not amended.
46. Implying that Water Service Entities remain servants to local community voice and outcomes also recognises the important role of local Government as local placemakers and leaders, not currently recognised in the Bill. Local Government is best placed to play a key role in providing representation and accountability mechanisms in local communities to the Water Service Entities. Local Government already plays an important role in collating and supporting a sense of community and wellbeing, across our communities. Reflected in community values-based strategy such as our own Project Thrive¹² and Community Plans¹³, Local Government takes nationally directed guidance such as the Four Wellbeings, and right sizes and fits this aspiration to a local community context. Further supported with elected members where representation is democratically elected every three years and also reviewed in its make-up and form every three years, Local Government provides an opportunity for local democracy, voice and accountability to an extent much greater than that proposed in the Bill.
47. As a District we have worked hard to establish our strategic contexts¹⁴ to achieve a thriving future for Central Hawke’s Bay with community, in a united way in partnership with Central Government agencies, Manawhenua and Community. The Bill gives no certainty or confidence to the interface between the Regional Representation Groups and the Regional Advisory Panels and Councils - who remain best placed to strategically plan, advocate for and liaise on behalf of their communities with Regional Advisory Panels.
48. We have significant concerns about the lack of connection and cross-over to the current Resource Management Planning Environment and further the Resource Management Act Reform in the Bill. The Bill currently provides no legislative mechanism for local communities to shape or direct where growth happens or how it best aligns to community aspirations. Further, the Bill makes no direct legislative link or directive to Water Services Entities to consider the current legislative environment for Environmental Planning that Councils currently operate in. To this end, the Bill pre-empts the work yet to be completed and formally consulted on through the Resource Management Act Reform process.

¹² <https://www.chbdc.govt.nz/our-council/about/project-thrive/>

¹³ <https://www.chbdc.govt.nz/assets/Uploads/Takapau-Comm-Plan-2020-FINAL5-0.pdf>

¹⁴ <https://www.chbdc.govt.nz/assets/Document-Library/Strategies/Community-Wellbeing-Strategy-2021-2031.pdf>

49. We also do not support the establishment of consumer forums as a suitable and adequate method of meaningful community engagement as set out in Cl. 203 of the Bill. The standard of engagement included in the Bill is substantially less than the standard currently required of Local Government for meaningful engagement with communities or that in which communities currently receive. The Bill should set the same or better standard for engagement the community currently receive. Recognising the complex, inter-related and locality specific way in which Local Government currently engages with Communities, any suggestion that this function can be replaced as outlined in the current Bill to result in improved engagement, communication and feedback with and from communities is flawed. This is a fundamental role of Local Government and any suggestion Water service Entities are the best organisation to deliver this, is ineffectual and flawed in comparison to the role and benefits that Local Government currently provide.

Partnership with Manawhenua

50. Consistent with our Hawke's Bay model, we support the recognition and respect of Te Tiriti o Waitangi/the Treaty of Waitangi and the genuine partnership with Manawhenua as a true partner as described in the Bill.
51. We do not support however that the same representation structures in the Bill that provide for wider community representation, through Regional Representative Group and Regional Advisory Panels in Subpart 4 – Regional Representative Groups and Subpart 5 – Regional Advisory Panels will provide sufficient representation or accountability to Manawhenua either.
52. Tamatea – Central Hawke's Bay - while still in its infancy, has made solid progress in our relationships with Manawhenua in the establishment of our Māori Engagement Strategy Tuhono Mai Tuhono Atu¹⁵, particularly on addressing long-standing issues relating to wastewater consenting and treatment. This has been achieved through a uniquely 'Tamatea-Way'¹⁶ and approach, that has focussed on Governance to Governance korero and hui, achieved kanohi ki te kanohi – face to face. The Bill does not speak to how this same level of manaakitanga will be reciprocated with Manawhenua, with the proposed Governance structures in place. Again, a regionalised community of interest model, providing for local voice and democracy could address this issue.
53. We also do not support that the Bill treats Manawhenua, as a homogenous grouping that can be engaged through a Regional Advisory Panel. Already limiting the role of Manawhenua in this capacity, limits the potential for further partnership for Manawhenua as part of the wider opportunities for the future of Local Government, particularly when considered in the wider context of delegation and devolved decision making that could occur through a widened Mana Whakahono a rohe agreement for example.

Pace of Implementation

54. We are seriously concerned that the proposed pace of implementation of the Bill, with further legislation yet to be drafted and many areas of the Bill yet to be fully scoped, puts at jeopardy the wellbeing of our community. This transformational opportunity is a once in a generation opportunity to achieve the intergenerational step-change in services and investment required across not just our District, but the wider sector.
55. We have concerns and very limited confidence that our communities will be better off in the short to medium term as a result of the Bills implementation, with no clarity on what services and

¹⁵ <https://www.chbdc.govt.nz/assets/Uploads/20200827-Tuhono-mai-Tuhono-atu-Maori-Engagement-Strategy-adopted-27-August-2020.pdf>

¹⁶ See pages 26 – 29 of the [Central Hawke's Bay District Council - 2021 - 2031 Long Term Plan 'Facing the Facts'](#)

outcomes communities can expect to see on day one of the Water Service Entities new operation.

56. The proposed delivery of a “Minimum Viable Product” in the short to medium term gives no confidence that communities or our environment will be better off in the short to medium term (at least 5 – 10 years) from this Bills implementation. Already with a multitude of inter-related and complex reform programmes underway, resource and material shortages and unprecedented growth, the risks to wellbeing and health from a poorly executed implementation are too high.
57. We recommend that a phased approach to transition should be adopted. This phased approach would provide both the Water Service Entities and the Transition Units opportunities to share lessons learnt, and to pilot the implementation of the Bill.

Other matters

58. We remain disappointed at the Governments approach to not widely consult with the general community ahead of the introduction of this Bill. While there is no disagreement that something must change for the future of our communities three waters services, we disagree with Governments approach to formulating this legislation without the clear input and guidance of communities that they serve in advance.
59. We welcome the opportunity to speak to our submission to further reiterate and impart on the Committee, the significance of this Bill and its impacts on not only the future of Local Government, but the future of local democracy, accountability and representation.



Alex Walker
Mayor of Tamatea – Central Hawke’s Bay



Doug Tate
Chief Executive