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24 February 2023

Tēnā koutou,

Water Services Legislation Bill Submission

Hutt City Council welcomes the opportunity to provide comment on the Water Services Legislation Bill.

This Bill is critical in establishing the pivotal relationships between the WSEs, mana whenua and local government to ensure the success of the government's three waters reform to provide communities with safe, reliable drinking water, wastewater and stormwater services. We encourage the Government to continue to meaningfully engage with mana whenua to ensure an effective partnership exists under the new arrangements. We would also emphasise that local voice in investment for growth is critical to the success of these reforms.

This submission focuses on a few key issues that Council considers will better ensure the success of these relationships.

1. Our experience as part of Wellington Water Ltd and its predecessor

We are one of the six councils in the Wellington Region that is a shareholder in Wellington Water Limited (WWL), the council-controlled organisation specifically established to deliver three waters services for the majority of the Wellington region.

Before Wellington Water was setup, we were a founding shareholder (alongside Wellington City Council) in Wellington Water's predecessor 'Capacity' established in 2004.

From our involvement with Wellington Water and Capacity, we have a history of working collaboratively in the three waters sector to improve the efficient and effective delivery of services and ensuring we have access to a trusted body of expertise with a critical mass to provide the best possible advice and oversight of these essential assets.

2. We understand the need for change

We support the underlying intent of the Three Waters Reform Programme and these Bills, which is about making sure New Zealanders have safe, clean, and affordable water services.

We want to enable better outcomes for our people and have recognised for many years that a collaborative way of working is more likely to achieve this than continuing to provide services as an individual local authority. From our Wellington Water experience we need to go further than this and ensure that asset ownership sits with professional decision-makers who have a long-term view of the asset networks to ensure investment levels are able to adequately maintain and renew the networks over their life.

To ensure better outcomes for our people and the environment and to meet national freshwater policy objectives, it is essential that stormwater remains an integral part of the 3 Waters reform. The connectedness between the management of the stormwater and wastewater networks demands this.

The recent severe flooding in Auckland followed shortly by the effects of Cyclone Gabrielle on many parts of the North Island, are a stark reminder of the challenges we face with changing weather patterns due to carbon induced climate change. Stormwater networks designed for mid 20th century conditions are failing to adequately cope with heavy rain events, meaning that an integrated management and development of the 3 waters networks is imperative.

3. We have significant challenges with our three-water infrastructure

Our city faces significant challenges with the condition and age of the three waters assets, with a significant proportion of the infrastructure reaching or nearing the end of its life.

We have a growing population which is adding pressure on the ageing three waters infrastructure.

In supporting the government's reform of 3 Waters ownership and delivery, Hutt City Council finds itself in a position where renewal of an ageing network is rapidly moving beyond the City's means, both in terms of affordability and deliverability.

Much of the City was developed, including the 3 waters network, in the 1950's and 1960's, meaning that there is a large bow wave of renewals imminently coming. Hutt City also has a considerable backlog of renewals which is likely to take some years to implement. For stormwater much of the original design is considerably under capacity by current standards with an estimate in excess of \$0.8 billion required to address this problem.

Exacerbating this situation is the failure of certain types of pipe, which have not achieved their life expectancy when first recommended for use. Hutt City has a considerable amount of galvanised iron pipe and asbestos cement pipe within the 3 waters network that is failing and urgently needs renewal. This situation manifests itself in a high number of water leaks (as much as 40% of water is lost from the network through leaks) and contaminated land and waterways through wastewater leaks.

Renewal deliverability with a lack of available contracting and technical resources has been an issue across the Wellington Region. This is gradually being addressed with a stepped-up renewal programme over a three-year period, guaranteeing contractors a level of work for which they have been able to build up resources. In this regard Council has virtually tripled its investment in renewals to start addressing the backlog. The investment however to achieve this is daunting and with current debt limitations appears unachievable. Debt levels are currently just below statutory borrowing limits.

The following table is an assessment of the renewals profile based on age of the assets. A backlog estimated to be 230 kilometres, at an estimated cost of almost \$400M, is the most pressing concern. At current stepped-up levels of investment the backlog will take 15 years to complete without attending to those renewals that over that period will be coming due (An estimated further 375 kilometres of network).

HCC Summary

Renewal Year	WS		Local WW		HVJV WW		SW		All Three Waters	
	Pipe Length (m)	Replacement Cost (\$)	Pipe length (m)	Replacement Cost (\$)	Pipe length (m)	Replacement Cost (\$)	Pipe length (m)	Replacement Cost (\$)	Pipe Length (m)	Replacement Cost (\$)
Age based Backlog	175,506	236,310,279	39,752	86,247,412	6,872	36,978,110	11,391	38,224,007	233,521	397,759,808
From 2024-2053	261,927	398,488,215	319,296	702,900,147	49,551	357,574,575	117,869	375,306,379	748,644	1,834,269,317
After 2053	255,912	441,757,248	224,989	511,864,578	44,487	237,248,596	334,297	1,068,954,251	859,684	2,259,824,673
Total	693,345	1,076,555,742	584,036	1,301,012,137	100,911	631,801,282	463,556	1,482,484,637	1,841,849	4,491,853,797
Age based Backlog (%)	25.3%	22.0%	6.8%	6.6%	6.8%	5.9%	2.5%	2.6%	12.7%	8.9%
From 2024-2053 (%)	37.8%	37.0%	54.7%	54.0%	49.1%	56.6%	25.4%	25.3%	40.6%	40.8%
After 2053 (%)	36.9%	41.0%	38.5%	39.3%	44.1%	37.6%	72.1%	72.1%	46.7%	50.3%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

4. Water Services Legislation Bill

We have four key concerns on which we wish to submit.

A) Alignment of purpose of WSEs and Local Government

Under the Local Government Act 2002, councils are required to promote the social, economic, cultural, and environmental wellbeing of communities. WSEs do not share this purpose, and their governing legislation does not reflect the important role water services play in upholding the wellbeing of communities. What can be more fundamental to life and the wellbeing of communities than the provision of water services?

Council requests that the Bill be amended to include as one of the functions of a WSE, the need to promote social, environmental, and economic wellbeing in collaboration with local government.

B) Relationship Agreements

WSEs are required to enter into a relationship agreement with Councils, either singly or across multiple parties. The agreements are not legally binding and will be focused on how the parties intend to work together collaboratively and in good faith. In its current form the Bill appears to treat Council as simply another stakeholder, rather than the primary organisation undertaking growth planning and placemaking which is reliant on three water services. Communities need to be assured that a WSE and the local Council will work closely together for their benefit.

Council requests the Bill be amended to better capture this critical relationship, particularly with the WSE giving effect to growth and placemaking requirements of the Council's District and Spatial Plans through its 30-year infrastructure plans.

C) Collection of Water Charges

Hutt City Council opposes the requirement to collect revenue on behalf of the WSE, for up to 5 years following reform. This is likely to create customer confusion over accountability for the service provided by the WSE and will impose a considerable cost and burden on the Council to be in a position by July 2024 to have systems in place to reliably undertake this task.

An initial assessment suggests that it could take anywhere between 6 -12 months for Council to design and implement a solution to be able to collect a variety of charges for the WSE. Council would need to engage specialists to understand requirements, architect the

solution and integration requirements and procure additional software to enable the Council to collect charges on the WSE's behalf. It would be unlikely that existing Council systems would have the capability to implement the charges or if they were able to accommodate it would still require a significant change to do so. We would expect that this would be the same for all Councils and as such would be a grossly inefficient way to bill customers. Council considers that it should be a top priority for the WSEs to develop their billing systems over the next 16 months.

Council therefore requests that the clauses relating to the possible collection of water charges by Councils be removed from the Bill and entities be required to take responsibility for their own billing requirements.

D) Powers of Entry

Council supports a change to the legislation increasing access to water infrastructure for routine maintenance. Council submits that the legislation as it stands will significantly limit WSEs from carrying out scheduled maintenance.

In Lower Hutt most of the water infrastructure (pipes principally) within private land does not have an easement or other access agreement.

Section 200 requires written agreement by property owners for the WSE to enter their properties to carry out routine maintenance including clearing tree roots and other obstacles from pipes. There are between 13,000 and 18,000 private properties in Hutt City with water infrastructure located therein. Waiting on the written consent of a whole street of property owners would be time consuming. If one homeowner does not give written permission to carry out maintenance on their land, an entire project could be held up. This is a real risk in our locality.

Section 204 provides that the WSE must apply to the District Court to make an order allowing a WSE to do routine maintenance, if consent is not given. Given the already strained resources in the Courts, Council is concerned that delays up to a year could be the norm for accessing properties. Further to this, there's a risk that the District Court will be filled with minor access disputes.

Council submits that the District Court should be reserved for only the most impactful circumstances.

Further to this, section 202 gives landowners the ability to impose *reasonable* conditions. Council accepts that landowners can control the way in which access is permitted on their land, but expects WSEs and their contractors to maintain private property in a good condition while carrying out their work. Council has concerns that "reasonable" is fact specific and may be difficult to define. Secondly, the time to complete routine maintenance is likely to be lengthened by negotiations about access.

The Local Government Act enables broad powers to local authorities including the ability to access land to carry out its functions. This broad power ranges from access for enforcement purposes to regular water infrastructure maintenance.

It is our view that it is in the public interest for WSE right of access to continue as it currently is for councils and CCOs, and the rights of individuals should not trump communal access to water services.

On the contrary, the limited access ability of the new WSE is likely to significantly impact on a WSE's operations and be detrimental for the wider community, and potentially public health.

Council proposes the insertion of a clause akin to section 171 of the LGA (with changes relevant to the WSE):

171 General power of entry

(1) *For the purpose of doing anything that the Water Services Entity is empowered to do under this Act or any other Act, a Water Services Entity representative may enter any land or building other than a dwellinghouse*

OR

(2) *For the purposes of carrying out maintenance, emergency repairs and routine inspections of water assets, a Water Services Entity representative may enter any land or building other than a dwellinghouse.*

(3) *If a Water Services Entity exercises the power under subsection (1) (or 2) to enter unoccupied land or unoccupied buildings, the local authority must notify the owner—*

(a) *not less than 24 hours in advance of the intended entry if it is reasonably practicable to do so; or*

(b) *as early as reasonably practicable, whether before or after entry has been made.*

Thank you again for the opportunity to provide feedback in shaping these Bills.

Nāku iti noa, nā

Campbell Barry
MAYOR

Jo Miller
CHIEF EXECUTIVE