

Report No.	20-11
Decision Required	

CREATION OF NEW WATER REGULATOR: TAUMATA AROWAI BILL - DRAFT SUBMISSION

1. PURPOSE

- 1.1. This report provides members with an overview of the **Taumata Arowai—the Water Services Regulator Bill**, and seeks approval for the draft submission to be provided to Parliament’s Health Select Committee.

2. RECOMMENDATION

It is recommended that Council:

- a. receives the information contained in Report No. 20-11 and Annex A;
- b. notes that the Taumata Arowai – the Water Services Regulator Bill would establish a new regulatory body responsible for overseeing management and monitoring of drinking-water, stormwater, and wastewater networks;
- c. approves the draft submission on the Taumata Arowai – the Water Services Regulator Bill to be provided to Parliament’s Health Committee.

3. FINANCIAL IMPACT

- 3.1. There is no impact on existing budgets as a result of this report.

4. COMMUNITY ENGAGEMENT

- 4.1. Community engagement around the development of the Bill has been undertaken by the Department of Internal Affairs on behalf of the Government.

5. SIGNIFICANT BUSINESS RISK IMPACT

- 5.1. There is no significant business risk impact arising from this report.

6. BACKGROUND

- 6.1. The **Havelock North Drinking-Water Inquiry (the Inquiry)** undertaken in 2017 investigated the widespread outbreak of gastroenteritis in Havelock North in August 2016 during which more than 5000 people were estimated to have fallen ill, with up to four deaths associated with the outbreak.
- 6.2. The Inquiry made 51 recommendations to improve the safety of New Zealand’s drinking-water, the main ones being that all water supplies should be treated and that a dedicated drinking-water regulator should be established. The Inquiry found widespread systemic failure of water suppliers to meet the high standards required for the safe supply of drinking-water to the public, and that enforcement of statutory obligations on water suppliers was not as effective as it should be. The Inquiry recommended significant reform.

- 6.3. The first area of reform is the establishment of a new regulatory body to oversee, administer and enforce the drinking-water regulatory system. The Taumata Arowai – the Water Services Regulator Bill establishes this new regulatory body (Taumata Arowai, the Water Regulator Authority) and is part of a broader package to reform the three waters (drinking water, wastewater and stormwater) regulatory systems. The key function of Taumata Arowai is to oversee agencies responsible for managing and monitoring drinking-water.
- 6.4. Regional Councils and **Territorial Authorities (TAs)** have responsibilities for water quality under the Resource Management Act, and through the National Environmental Standard for Sources of Human Drinking Water. TAs are required to manage and monitor drinking-water supplies and comply with the New Zealand Drinking-water Standards. This includes taking reasonable steps to protect water sources from contamination and pollution, and preparing and implementing a Water Safety Plan.

7. Overview of the Bill

- 7.1. The Bill establishes Taumata Arowai as a new independent crown entity, which will be governed by a board of 5-7 members. The objectives of Taumata Arowai set out in the Bill are to:
- prioritise drinking-water regulation and safety;
 - help to maintain public confidence in drinking-water safety in New Zealand;
 - build capability among drinking-water suppliers through education and training;
 - ensure that Maori interests are reflected, including Tikanga Māori and Te Mana o te Wai; and
 - improve environmental outcomes for freshwater by providing oversight and guidance to stormwater and wastewater networks.
- 7.2. Taumata Arowai would also have a number of monitoring and enforcement functions including that local authorities are managing drinking-water supplies to the appropriate standard.
- 7.3. The Bill does not impose any regulations on domestic self-suppliers (i.e. single dwellings). The management of water supply and discharge will remain with local entities (in particular with local government).
- 7.4. Iwi and Māori are affected parties for the new regulator given their role as kaitiaki (guardians) of Te Taiao (nature). Therefore, the Bill also provides for a Māori Advisory Group of 5-7 appointed members, who will advise on Māori interests and knowledge as they relate to the objectives, functions, and operating principles of Taumata Arowai. The role of the Māori advisory group includes:
- developing a framework that provides advice and guidance to Taumata Arowai on how to interpret and give effect to Te Mana o te Wai; and
 - providing advice on how to enable mātauranga Māori (Māori knowledge), tikanga Māori (Māori customs and protocol), and kaitiakitanga (guardianship) to be exercised; and
 - any other matters requested by the board.

8. DISCUSSION

- 8.1. The Havelock North Inquiry clearly identified a need for oversight and monitoring of drinking-water supply, and ensuring standards are met. While the implications of the Bill are largely borne by TAs, Horizons will also be required to provide information on drinking-water in our region. This information may be used for enforcement action.

- 8.2. Since the events of 2016, Horizons has been actively working with city and district councils and the region's Health Boards to improve drinking water management in the region; achieving significant progress towards improved drinking-water quality outcomes.
- 8.3. A challenge that remains, and one that is not addressed by the Bill is the impact on small communities in the region, for whom increasing the standards of water supply may be unaffordable. This is particularly notable in communities that are relatively isolated and have experienced contraction over time (even in this current period of growth throughout the region).
- 8.4. While the costs of setting up the new regulator will be covered by Government, there will be new costs imposed on local government - particularly on smaller councils. The flow on effects of these costs (aside from the issue of likely rates increases), could be that choices may need to be made that would affect the progress towards Horizons environmental outcomes. For example, drinking-water supply upgrades may need to be prioritised over wastewater treatment upgrades.
- 8.5. Our role in managing water largely relates to floodwater. At this stage, Taumata Arowai's main role is providing oversight for the three waters. While Horizons have a role as a stormwater network operator, this role is limited. Future legislative development on three waters is unlikely to impact significantly on our role as stormwater network operators.

HORIZONS' SUBMISSION

- 8.6. A draft submission on the Bill is attached as **ANNEX A** for members' approval. The key points it covers are:
 - Supports the establishment of a new water regulator body with monitoring, management and enforcement functions, particularly for drinking-water; and acknowledges there is further policy development work needed to cover stormwater and wastewater.
 - The Bill does not acknowledge the potential financial implications for the regulated sector, or for small drinking water suppliers, such as Marae or Papakāinga, who would be required to ensure drinking-water supplies are improved and/or maintained to the regulated standard;
 - The Bill does not include a provision that allows for the funding of the Māori Advisory Group. It is important that a robust funding mechanism is incorporated in the Bill to ensure the efficiency of the Māori Advisory Group;
 - There is a potential for overlap of Taumata Arowai and other agencies – like the Environmental Protection Authority or the Ministry for the Environment. There are already a number of agencies with roles and responsibilities relating to managing and monitoring water quality. The Bill is unclear on how these responsibilities may overlap and who may have the final say on water quality issues.
 - The Bill does not include any provisions that appoints a representative from the regulated sector to Taumata Arowai's board;

9. CONSULTATION

- 9.1. No consultation was required in the preparation of this report. Formal consultation on the Bill is being conducted through the Parliamentary Select Committee process, with public submissions to be considered by the Health Committee.

10. TIMELINE / NEXT STEPS

- 10.1. Submissions to Select Committee are due by 4 March, with the aim for Government to pass this Bill before the election period begins in 2020.

11. SIGNIFICANCE

11.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

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ANNEXES

A Draft submission on Taumata Arowai - the Water Services Regulator Bill