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Committee Secretariat
Health Committee
Parliament Buildings
Wellington

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Canterbury Mayoral Forum Submission to the Health Committee

Water Services Bill

1. The Canterbury Mayoral Forum (CMF) thanks the Health Committee for the opportunity to submit on the Water Services Bill.
2. The CMF supports the Government's intent to provide a more robust and comprehensive three waters management regime that has begun with the enactment of the Taumata Arowai Water Regulator Act 2020 and continues with the Water Services Bill.
3. In this submission the CMF discusses and provides recommendations on the key matters in the legislation of significance for Canterbury.
4. The CMF wishes to appear in support of this submission, either in Christchurch or Wellington, in person or via audio or videoconference link. The CMF will be represented by its Chair, Mayor Sam Broughton (Selwyn District Council), supported by Hamish Riach, Chief Executive Ashburton District Council (Chair Canterbury Chief Executives Forum). Other Canterbury Mayors may also elect to attend the Select Committee hearing in support of this submission.

Background and context

5. The CMF comprises the Mayors of the ten territorial local authorities in Canterbury and the Chair of the Canterbury Regional Council (Environment Canterbury), supported by our Chief

Mayors standing together for Canterbury.

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Kaikōura District Council • Mackenzie District Council • Selwyn District Council • Timaru District Council
Waimakariri District Council • Waimate District Council • Waitaki District Council*

Executives. The purpose of the Forum is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.

6. All Canterbury councils actively participate in the Forum: the Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, the Christchurch City Council and the Canterbury Regional Council (Environment Canterbury).
7. The following submission has been developed with input from across Canterbury councils. Our submission focuses on matters of general agreement between the members of the CMF. We note that Environment Canterbury, the Christchurch City Council, and the Mackenzie, Selwyn, Waitaki, Hurunui, Waimakariri, and Ashburton District Councils are also making individual submissions. The CMF supports these submissions.

Canterbury Water Management Strategy

8. In 2009, the CMF launched the Canterbury Water Management Strategy (CWMS) and continues to oversee its implementation. In 2019, the CMF commissioned the Fit for the Future project to develop 2025 and 2030 goals for the ten target areas of the CWMS and a regional work programme to support delivery of the strategy.
9. Clean, safe drinking water and high-performing wastewater and stormwater systems are essential for the protection of public health and the health of the environment. These are all priorities of the Canterbury Water Management Strategy.
10. Information on Canterbury's progress with the CWMS is available on the Environment Canterbury website at this link: <https://www.ecan.govt.nz/your-region/your-environment/water/measuring-progress/>.

Key issues for consideration

11. The key matters in the Bill the CMF wishes to draw to the attention of the Select Committee are:
 - the requirement for residual disinfection for any drinking water supplies that include reticulation
 - the consequences for territorial authorities because of amendments to the Local Government Act 2002
 - the compliance requirements for small drinking water supplies
 - matters related to stock water systems that have some household connections
 - source water protection.
12. We also discuss the intersect between Te Mana o te Wai and Taumata Arowai.
13. Our comments and recommendations on each of these matters are set out below.

Requirement for residual disinfection

14. Clause 31(1)(j) of the Bill requires that drinking water safety plans provide for residual disinfection where the drinking water supply includes reticulation unless an exemption is

obtained. Although there is no definition of 'residual disinfection' in the Bill, the assumption we have made is that it refers to chlorination or similar chemical treatment.

15. The requirement for residual disinfection is of particular significance in the Canterbury region where a number of reticulated drinking water supplies operate without chlorination. In Christchurch City, for example, unchlorinated water was delivered to residents and businesses for many years without any outbreaks of disease. Further, Greater Christchurch communities have continually made their voices clear that they do not want chlorine added to their water.
16. In addition, for very small supplies, the risks involved with the application and handling of chlorine may outweigh any benefits that chlorine may provide. The Bill is unclear on whether residual disinfection is required for very small supplies. Greater detail is therefore required on the residual disinfection requirements that may apply to small supplies, including any timeframes around transitional compliance.
17. Clause 57 of the Bill provides for an exemption to residual disinfection. Clause 57(4) states that Taumata Arowai may grant an exemption from the requirement to use residual disinfection "on any conditions that Taumata Arowai thinks fit".
18. The wording of the Bill creates uncertainty over whether there will be transitional arrangements for any owners/operators of unchlorinated drinking water supplies subject to clause 31(1)(j) who may wish to apply for an exemption. The Bill is unclear on whether chlorine is required on all supplies on the first day of the Bill being enacted, or whether supplies without chlorine can maintain this level of treatment, apply for an exemption, then introduce chlorine treatment only if the exemption application is declined.
19. For many such drinking water suppliers a requirement to chlorinate at short notice would be expensive and/or impractical and/or impossible to achieve. It is unclear whether a drinking water supplier of a supply without residual disinfection would be able to apply for an exemption, or whether the supply would first have to have residual disinfection before an exemption could be sought, given the current wording of clauses 31 and 57.
20. Also, this uncertainty makes it difficult for drinking water suppliers to engage with those they supply and to plan operationally for changes that may be required because of the Bill being enacted and enforced.
21. Under clause 57(3)(b), where a drinking water safety plan "does not provide for the use of residual disinfection" the drinking water supplier must demonstrate that its drinking water safety plan "will comply with legislative requirements and the drinking water safety plan on an ongoing basis". Under clause 31 a drinking water safety plan must include a multi-barrier approach, where a multi-barrier approach is defined as having physical removal of pathogens and disinfection of the water.
22. The CMF supports a provision for exemptions to residual disinfection but considers that improvements are needed to the Bill to clarify requirements for suppliers whose drinking water supplies do not already include residual disinfection.

The CMF recommends that:

- the Bill clarify whether small drinking supplies are subject to residual disinfection requirements, and if so, provide greater detail on the requirements for such supplies, including any timeframes around transitional compliance

- the links between clauses 57 and 31 and their definitions are reviewed to ensure that they are compatible with each other. In particular, if the Bill intends to allow for water without residual disinfection to be provided, and if this is to be demonstrated via a drinking water safety plan, then the requirements in a drinking water safety plan should also allow for water without residual disinfection. If this is not addressed the allowance for an exemption becomes meaningless if the drinking water safety plan criteria preclude chlorine-free water from being permitted.
- the Bill is amended to provide clarity as to whether chlorination is required to be applied on all reticulated drinking water supplies starting from the first day of the Bill being in force, or whether reticulated drinking water supplies that are currently unchlorinated could first apply for an exemption from residual disinfection and then only introduce chlorine treatment if the exemption application is declined.

Consequences for territorial authorities

23. Clauses 197 through 201 of the Bill amend the Local Government Act 2002 (LGA 2002) to replace subpart 1 of Part 7. These amendments to LGA 2002 would require territorial authorities to
 - assess all drinking water supplies other than self-supplies within their districts
 - work with a drinking water supplier, consumers of the supply and Taumata Arowai to find a solution if a drinking water service fails or appears to be failing.
24. These provisions of the Bill go well beyond territorial authorities' current responsibilities under LGA 2002. The CMF considers that it is unreasonable for territorial authorities to be responsible for assessing not only their own public drinking water supplies but those of all applicable private drinking water supplies in their districts.
25. The CMF is concerned that in compelling territorial authorities to ensure communities have access to drinking water if private suppliers cannot meet the obligations under the legislation, the result will be substandard or unsatisfactory outcomes among private water scheme owners, who may look to avoid making investments in their assets to meet drinking water standards, this will in turn create unnecessary and significant costs for affected councils. The CMF understands that between 800,000 and 1 million New Zealanders currently receive their water from non-council sources.
26. The amendments to LGA 2002 would also require territorial authorities to assess wastewater services and "other sanitary services" within their districts, without appearing to limit these responsibilities to their own water services but include private water services as well.
27. We note that the Bill does not appear to anticipate future delivery service models for three waters services in which territorial authorities may no longer be responsible for supply in a future service delivery scheme. As such the appropriate and relevant body to work with drinking water suppliers who fail to provide drinking water services may be the primary drinking water entity for the region, rather than the territorial authority.
28. We urge the Committee to carefully review the Bill's proposed changes to amending the Local Government Act 2002 to ensure they are fit for purpose and do not impose unnecessary (and unfunded) functions on local authorities.

The CMF recommends that

- where a territorial authority manages its own public drinking water supplies, wastewater services and other sanitary services it should be responsible only for assessing its own water services, so that the territorial authority is able to focus on meeting new requirements on their drinking water, wastewater and stormwater networks
- where a primary drinking water entity is responsible for one or more drinking water supplies it should be responsible for assessing those supplies under its management
- Taumata Arowai should bear the responsibility for assessing water services that are not managed by a territorial authority or a primary drinking water entity.

Compliance requirements for small drinking water supplies

29. The Bill will replace Part 2A of the Health Act 1956. Under the Health Act only drinking water supplies that service at least 25 people at least 60 days a year are subject to the Act's drinking water provisions.
30. The Bill significantly increases the number and types of drinking water supplies that will fall under the provisions of the Bill, with the definition of a drinking water supplier enlarged to mean any person supplying drinking water other than a domestic self-supplier.
31. While most of Canterbury's communities are serviced by Council-owned water supplies, there are a range of communities in the region that are not. Councils are therefore rightly concerned about the effect this legislation would have on those communities. As referenced above, at least 800,000 New Zealanders currently receive their water from non-council sources.
32. The Bill indicates that regulation is to be "proportionate to the scale, complexity and risk profile of each drinking water supply". However, the Bill is not clear with respect to the compliance requirements of very small drinking water suppliers that were not covered under the Health Act, and how proportionality will be achieved.
33. For example, a well that services more than one property would be required to fully comply with the New Zealand drinking water standards and have a drinking water safety plan. This appears to place significant obligation on what are likely to be private individuals operating these very small supplies.
34. Another example is clause 26(1)(a), which requires that Fire and Emergency New Zealand is notified where the quantity of drinking water is at imminent risk. This requirement should only apply in gazetted fire-fighting areas, as fire-fighting provisions are not required to be provided by all drinking water supplies, particularly small rural supplies where there is not sufficient capacity from the public supply.
35. We note that the exposure draft of the proposed new drinking water standards and rules have not yet identified requirements for very small drinking water suppliers (those supplying between 2 and 50 households).
36. The Bill does provide for a 5-year transition period for drinking water supplies serving less than 500 people for at least 60 days per year to provide Taumata Arowai with their drinking water safety plans. However, the Bill does not otherwise provide for a transitional period for compliance with the New Zealand drinking water standards, although it does provide the chief executive of Taumata Arowai with the authority to "exempt any drinking water supplier or class of drinking water supplier from compliance".

37. The CMF is aware that the establishment unit for Taumata Arowai is conscious of the issues relating to rural water supplies, and that it intends to work closely with this sector, including through establishing a rural drinking water advisory group to advise on relevant issues. The CMF supports this approach and looks forward to observing progress.

The CMF recommends that:

- the Bill make clear the requirements of very small drinking water suppliers that were not covered in the Health Act, and how proportionality will be achieved
- the Bill provides for an appropriate transition period for compliance with New Zealand drinking water standards for small drinking water supplies.

Stock water systems with some household connections

38. The Bill widens the meaning of 'drinking water supplier' in clause 8(b) to include "...a person who ought reasonably to know that the water they are supplying is used as drinking water...". Clause 9(2) also states that the regulator can declare a water supply.

39. The CMF has concerns about how this may impact on private or Council-operated reticulated stock water schemes. Such schemes were incepted to supply water for stock; however, in practice once a supply enters a property, it is impossible for those operators to regulate what use is made of the water supplied. A property may use the water for their household and in so doing potentially change the entire status of the supply.

40. The CMF therefore considers that the Bill must clarify how an operator of a reticulated stock water scheme can satisfactorily demonstrate to the regulator that they are not considered a drinking water supplier.

The CMF recommends that:

- the Bill make clear how an operator of a reticulated stock water scheme can satisfactorily demonstrate to the regulator that they are not considered a drinking water supplier.

Source water protection

Multi-barrier approach

41. Clause 31(2) states that a multi-barrier approach must be used to implement the drinking water safety plan, which includes the requirement that a drinking water supplier must 'remove particles, pathogens, chemical and radiological hazards from the water by physical treatment'.

42. The CMF is aware that there are many ways to achieve multiple barriers to safe drinking water without removing particles, pathogens and chemical and radiological hazards by physical treatment. It is unlikely there would be any drinking water supply in the country that removes radiological hazards by physical treatment, but rather drinking water sources are selected and managed to ensure radiological hazards are not present.

43. In addition, there may be barriers preventing contaminants entering the source water without the need for physical removal of particles, chemicals or radiological hazards. For example, confined aquifers with good source protection prevent contaminants entering water, and the

aquifers naturally remove particles, pathogens and other contaminants by filtration and absorption.

44. Further, clause 31(2)(c) requires disinfection of all source water to kill or inactivate pathogens. However, aquifers with groundwater that is at least one year old do not contain pathogens. Such disinfection would be a very large expense for the community with no benefit.
45. Because of this, the CMF recommends the focus should instead be on taking a risk-based approach, where the findings of the source water risk management plan prepared under clause 42 are used to determine whether treatment of source water is required. We support Christchurch City Council's proposed wording changes to clause 31(2) to reflect this.

Source water risk management plans

46. The CMF supports drinking water suppliers being responsible for preparing and implementing source water risk management plans. However, we recommend the role of regional councils in supporting the development of source water risk management plans is made clearer in the Bill. For example, local authorities will be expected to provide the suppliers with water quality monitoring information for the source of the drinking water supply; however, clarification is needed on the degree of information that is to be provided. The CMF would support regional council input to Taumata Arowai when setting compliance rules for local authorities.
47. The CMF understands a significant risk to sources of drinking water is from discharges from domestic on-site wastewater systems, particularly cumulative effects from unreticulated communities. Other than in an ad hoc manner through clause 42(4) there appears to be no requirement for this risk to be considered. We therefore consider the amendment to the Local Government Act should include a specific requirement to identify all communities that lack a reticulated sewerage system and stormwater system and the risk this presents to drinking water.

Publication of source water information

48. The CMF seeks clarification on the source water information that is to be published and provided to Taumata Arowai. The CMF supports ultimate responsibility for managing risks to the water supply resting with the water supplier. The CMF would not support a requirement for regional councils to actively monitor suppliers' source water quality or risks to water supplies on behalf of the water supplier. This information would be reliant on suppliers' monitoring their source water quality.
49. Clause 45(2) requires regional councils to assess the effectiveness of regulatory and non-regulatory interventions to manage risks or hazards to source water every three years. The CMF considers that further guidance and standardisation of how this information is to be assessed and reported is required. This is because there is currently no national water quality network; regional councils prioritise their own networks to cover areas impacted most by intensive land use.

The CMF recommends that:

- clause 31(2) be amended in line with the Christchurch City Council's recommendation that it read:

A multi-barrier approach to drinking water safety is one that Taumata Arowai considers will

(a) prevent hazards from entering the raw water; and

(b) if required to achieve compliance with maximum acceptable values in the drinking water standards, remove particles, pathogens, and chemical and radiological hazards from the water; and

(c) if required to achieve compliance with maximum acceptable values in the drinking water standards, kill or inactivate pathogens in the water by disinfection; and

(d) maintain the quality of water in the reticulation system.

- the Bill makes clearer the role of regional councils in supporting the development of source water risk management plans
- the amendment to the Local Government Act includes a specific requirement to identify all communities that lack a reticulated sewerage system and stormwater system and the risk this presents to drinking water
- further guidance is provided, and a nationally consistent approach implemented, for assessing and mitigating the risks to sources of drinking water.

Te Mana o te Wai

50. The CMF supports the requirement to give effect to Te Mana o Te Wai and a commitment by the Taumata Arowai Māori Advisory Board to develop and maintain a framework that provides advice and guidance on interpretation.

51. We note, however, the purpose of the Bill and the duties it imposes on drinking water suppliers is somewhat at odds with Te Mana o te Wai, which prioritises the health and wellbeing of freshwater and ecosystems above the health needs of people, including drinking water. To clarify how Te Mana o te Wai and the Bill intersect, we suggest the Committee consider:

- amending the purpose of the Bill to reflect the intent that where drinking water is supplied it is safe for consumption (if this is indeed the intention)
- making clear in the Bill that priorities in Te Mana o te Wai may be a reason for restricting the quantity of water supplied.

52. The CMF urges Taumata Arowai to work with local communities across the country, which have a clear responsibility for expressing how Te Mana o Te Wai might apply in a particular region. By taking a collaborative and regional approach, regional councils will also be supported to fulfil their obligations under the legislation.

Recommendations on specific clauses within the Bill

53. Aside from the key issues noted above, the CMF also supports the Health Committee considering a range of other recommended changes to the Bill that have been identified by Canterbury councils in their submissions. These include:

- amending clause 5 to ensure clarity of the terms used throughout the Bill, as well as better defining other terms or phrases in the Bill such as “safe” drinking water, “drinking water supply”, “point of supply”, “owner”, “sufficient quantity” of water, clarifying what “reasonable steps” means in relation to supplying aesthetically acceptable drinking water, and providing definitions of “wastewater network” and “stormwater network”

- making the Bill's purpose clear not only with respect to drinking water services but also wastewater and stormwater services
- considering that national oversight of on-site wastewater management systems (OWMS) be added to subpart 7. We support Taumata Arowai establishing a national body to develop and implement mandatory New Zealand standards for the design, installation and maintenance of on-site systems and establishing an accreditation procedure for the testing of systems (e.g. currently the On-site Effluent Treatment National Testing Programme in Rotorua (OSET-NTP) tests tank design). This holistic national approach would reduce the risks to sources of drinking water and cumulative effects on the environment
- replacing “territorial authority” in the appropriate places in the Bill with “primary drinking water entity”, “designated drinking water supplier” or a similar term, given that territorial authorities may not be drinking water suppliers following the Three Waters Review
- linking the clause requiring suppliers to monitor source water quality to the requirements under other legislation and regulations requiring regional councils to monitor this
- clarifying the information-sharing arrangement between suppliers and local authorities with regional councils
- considering the opportunity to resolve the overlap between the Health Act and the Building Act with regard to boundary backflow protection which currently leads to unnecessary complications, inefficiencies and costs.

Conclusion

54. Thank you once again for the opportunity to make a submission on this important piece of legislation. We look forward to discussing these issues with the Committee in greater depth.
55. Our Secretariat is available to answer any questions the Committee has about the issues we have raised and is the best point of contact to arrange an appropriate time for the Forum to appear before the Committee. Contact details are: Maree McNeilly, Canterbury Mayoral Forum Secretariat, secretariat@canterburymayors.org.nz , 027 381 8924

Yours sincerely



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