

22 July 2022

Finance and Expenditure Select Committee

Select Committee Services
Parliament Buildings
Wellington 6160

Tēnā koutou

Environment Canterbury submission on the Water Services Entities Bill

1. Canterbury Regional Council (Environment Canterbury) thanks the Finance and Expenditure Select Committee for the opportunity to submit on the Water Services Entities Bill (the Bill).
2. Environment Canterbury supports the Government's intent to deliver improved environmental and health outcomes for drinking water, stormwater and wastewater. Environment Canterbury is committed to working collaboratively with all relevant agencies, regional councils, territorial authorities and Ngāi Tahu to provide the best protection for our communities.
3. Environment Canterbury does not wish to appear in support of this submission.

GENERAL COMMENTS

4. Environment Canterbury identifies that:
 - a. the expectations of tangata whenua and the implementation of Te Mana o Te Wai need to be met within the new system;
 - b. should water services entities be created, there are a range of attributes that will be required for Three Waters governance, planning, delivery and compliance, for example:
 - i. the need to engage in long-term planning and policy development processes (including spatial planning) across more than one region if necessary
 - ii. having the capacity and capability to achieve the above which will require a greater scale than is currently in place in parts of New Zealand
 - iii. having the capacity to work with all communities, including iwi/Māori and uphold Te Mana o Te Wai

- iv. having a strong relationship with the regional sector around the interface between urban planning, source water protection, and the management of flood, wastewater and stormwater.

SPECIFIC COMMENTS

Engagement in Planning Processes

5. Environment Canterbury seeks assurance that the interface between the Water Services Entities Bill and all other legislation will be addressed and clearly articulated in the development of the second Water Services Entities Bill.
6. The Bill is silent on how the planning roles and functions of regional and district councils will interact with the roles and functions of the Water Service Entities (WSEs) around matters such as regional and sub-regional growth and development, and freshwater planning and regulation. While Clause 11 may intend that this should occur through “supporting and enabling housing and urban development” and Clause 13 requires the entities to “partner and engage early and meaningfully with territorial authorities and their communities”, there is no sense that there is a wider responsibility for the WSEs to engage in long-term plans, spatial plans, and natural and built environment plans with their constituent councils.
7. As regional councils will not be part of the co-ownership of the entity that covers their respective regions, there is concern that there will be few legislative requirements for those WSEs to engage with regional councils. This is potentially a lost opportunity given the raft of central government reforms which are looking to better integrate regional council functions with those of their territorial authorities in place-making, policy development, and the development of regulation.

Capacity and Capability to Engage

8. Environment Canterbury supports the requirement for Boards to be competency-based and for there to be a direct link back to the Regional Representative Group in terms of accountability of the Board. We support the inclusion of knowledge and expertise of local government and place-making as one of the competencies required for each Board. We also support the Board having knowledge, experience and expertise in relation to the regulatory framework they will be operating under, the relevant planning and environmental legislation, and to the perspectives of mana whenua, mātauranga, tikanga, and te ao Māori.
9. The Bill has limited mechanisms for local voice in water services delivery. This means a lack of certainty remains around how local desired outcomes for urban development, land use changes, adaptation to climate change and other environmental factors will inform the strategic direction and operational activities of the WSEs.
10. Environment Canterbury submits that the Bill should contain a requirement for the WSEs to consider the strategy and planning documents of constituent councils and give effect to these documents.

11. We seek clarification in the Bill to the role for regional councils in engagement with Regional Representative Groups and Regional Advisory Panels to support decision making to ensure environmental outcomes are achieved.
12. We seek clarification in the Bill about how regional councils may contribute to the Board's priorities in its Asset Management Plan and Infrastructure Strategy, particularly with respect to wastewater and stormwater assets in the light of environmental performance and regulatory compliance.
13. We support Boards having an understanding of the water industry, and the environmental legislation and regulatory environment in which they will be operating for wastewater and stormwater networks and drinking water infrastructure i.e. including the RMA and its successor legislation.

Te Tiriti o Waitangi and Te Mana o Te Wai

14. Environment Canterbury advocates for consistent Te Tiriti o Waitangi wording with other legislation, and in particular the pending Natural and Built Environments Act, the Conservation Act, and the Water Services Act.
15. Environment Canterbury supports the focus on Te Mana o Te Wai in the Bill and is committed to working across the sectors on holistic planning and confirmation of the regulatory role. We support the requirement for all persons exercising duties, functions or powers to give effect to:
 - a. the principles of the Treaty of Waitangi; and
 - b. Te Mana o Te Wai, to the extent that Te Mana o Te Wai applies to those duties, functions or powers.
16. We further support the Bill providing for local expression of Te Mana o Te Wai by allowing mana whenua, whose rohe or takiwā includes a freshwater body in the service area of an entity, to make a Te Mana o Te Wai statement for water services. We consider it essential for central government or the WSE to assist mana whenua by providing resourcing support for the development of these statements.
17. We support the requirements around maintaining systems and processes for the continuing education of WSE Board members to grow the knowledge of, and experience and expertise in relation to the principles of Te Tiriti o Waitangi.

Stormwater and Flood Management

18. Stormwater systems must be managed at a catchment level. This means that regional and unitary councils and proposed WSEs will need to work together to manage the interface between flood and stormwater management and improve the environmental performance of stormwater systems. The legislative, policy and planning framework for stormwater is complex and there is a lack of clarity around agencies' accountabilities, responsibilities, and powers to act.

19. The transfer of stormwater responsibilities from local authorities to the WSEs will require a different approach to the transfer of drinking water and wastewater responsibilities. To effectively manage stormwater systems, the proposed WSEs must be able to undertake planning, management, and operational activities that are necessary to meet levels of service and regulatory requirements for stormwater quantity and quality. We recognise the complexity of stormwater and flood management and note the need for improved clarity around agency roles, responsibilities and powers to act.
20. While consolidating stormwater functions enables significant operational benefits, there are significant and ongoing interface requirements with local authorities, regional councils (for catchment management, regulation and flood management), and road controlling authorities that must be provided for to realise the full benefits of the reform. We do not believe that the Bill gives due consideration to these complexities and the need for a fundamental re-design of stormwater and catchment management systems.
21. We recommend that WSEs actively engage with regional, unitary and territorial authorities during the development of local authority plans.

Environment Canterbury thanks the Committee for the opportunity to provide this submission.

Nāku noa, nā

A handwritten signature in cursive script that reads "Jenny Hughey". The signature is written in black ink on a white background.

Jenny Hughey

Chair

Te Kaunihera Taiao ki Waitaha