

Office of the Mayor



26 February 2025

The Chair
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Tēnā koe Mr Chair

DUNEDIN CITY COUNCIL SUBMISSION: LOCAL GOVERNMENT (WATER SERVICES) BILL

INTRODUCTION

- 1 The Dunedin City Council (“Council”) thanks the Finance and Expenditure Committee for the opportunity to provide a submission on the Local Government (Water Services) Bill (the “Bill”). Council notes the Bill is the third bill in a three-part legislative package implementing the Government’s Local Water Done Well (LWDW) plan.
- 2 Council would like to acknowledge and thank the Government for listening to Council’s earlier submissions relating to the now repealed Affordable Water Reform plan. Council is generally supportive of the enabling approach under LWDW, specifically around ownership and local influence.
- 3 While supportive of the Bill’s enabling approach, Council is concerned that the level of regulation and widening ministerial influence somewhat dilute Council control regardless of the water services delivery model adopted. Likewise, the Bill’s enduring settings are still more weighted towards some models over others. Council is perhaps tentative that this reform may represent just one further step towards potential privatisation in the future despite the current provisions in the Bill.
- 4 Council notes that the timing of the parliamentary process is challenging given Council is in the process of making decisions on the Water Services Delivery Plan (WSDP). It is difficult to be making such decisions and consulting with communities when it is unclear what amendments will be made to the Bill before enactment. This is particularly relevant to (i) different consultation provisions between this Bill and the Local Government (Water Services Preliminary Arrangements) Act 2024 (Preliminary Act); and (ii) the likely scope of terms such as a “joint water service provider arrangement” (JWSPA).
- 5 Council is also concerned about the short time frame to submit on a Bill that has such an enduring impact on critical infrastructure. This is accentuated given Council’s current resource and focus on developing the legislated WSDP requirements. Council encourages the Select Committee to genuinely consider submissions from the local government sector to further refine the operation of the Bill.

- 6 Council sets out its key submission points below primarily in the order of the section headings in the Bill.

STRUCTURAL ARRANGEMENTS

- 7 Council appreciates the further clarity at clause 9 of the Bill by clearly listing various options on how to deliver water services. The direct inclusion of in-house delivery is also encouraging. However, the introduction of a comprehensive and staged economic regulation framework and other accountability requirements could be said to skew the decision between one model over another. Council submits that for those territorial authorities that decide to continue delivering water services in-house that a ring-fenced business unit operating within the comprehensive and established local government framework should be sufficient.
- 8 Different leverage percentages seem to also favour certain delivery options over others by incentivising those choosing a particular model or potentially those in a high growth area. Higher debt level headroom only available for those territorial authorities choosing to establish council-controlled organisations (CCOs) or in high growth areas seems unfair and again could infer the indirect mandating of a model despite providing a wider list of options at clause 9 of the Bill.
- 9 Council asks why a water services delivery model operating in-house must operate under a lower debt ceiling than a CCO? When considering a water bill and a rates bill, a household receives both. The concept of balance sheet separation is favoured by rating agencies however, the total debt exposure to a household is the same whether it is in two piles or one pile. Council submit that in-house delivery models should be allowed the same level of debt funding as any other model.
- 10 Of most immediate concern to Council is the conflicting consultation provisions between the Preliminary Act and the Bill. Currently, Council is in the process of making decisions on their proposed and anticipated model under the WSDP and having to consider the strict interpretation implications of clauses 25 to 28 of the Bill should be unnecessary. While staff at Council have received email correspondence from the Department of Internal Affairs that clauses 25 to 28 of the Bill are intended to capture changes outside options consulted on through the consultation process for the WSDP, reliance on an email communication is not an ideal decision-making base. Council submits for amendment to these clauses to ensure a "Change Proposal" is limited to changes after the WSDP (and outside the WSDP process) i.e., a Change Proposal is not triggered on implementing an aspect of the WSDP such as simply on establishment of an actual CCO or entering the actual contract relating to a JWSPA.
- 11 Likewise, Council is concerned regarding the wide definition of a JWSPA given the implication that entering a JWSPA triggers the Change Proposal process under clause 25 of the Bill. For example, some shared service arrangements may begin small and of a nature that does not necessarily warrant full community consultation under clauses 26 to 28 of the Bill. Council recommends that there is some further narrowing (or flexibility provided) relating to the definition of JWSPA under clause 24 and that shared services at a contractual level be excluded from the possible scope of a Change Proposal. It could be that shared

service arrangements are a first step towards more formal aggregation with other territorial authorities. Therefore, the strict interpretation of the legislation should not be a deterrent to taking this initial step.

- 12 Council notes the intended repeal of section 130 of the Local Government Act 2002 (LGA 2002) but are encouraged by the corresponding inclusion of clause 18 in the Bill providing a general duty on water service providers to retain ownership of infrastructure. Council is strongly of the view that there should be no future deviation from this requirement.
- 13 Council takes seriously its role, both as a water service provider and more broadly, in giving effect to the Treaty partnership. Of concern to Council is the potential weakening of Māori interests under the Bill. Water organisations appear to be legally required to consider Māori interests in limited areas of the Bill in comparison to those continuing to deliver water services in-house who will still be subject to the LGA 2002. Council submits that further consideration should be made to increase mandatory engagement with Māori within the Bill in line with other legislation such as the LGA 2002.
- 14 Council notes the directorship requirements for members of the water organisation board at clause 40 of the Bill. It is essential that boards possess a mix of skills including governance experience, technical expertise, strategic insight and community representation. Council submit that exemptions should be possible for representatives of the territorial authority to enable their inclusion as directors. In addition, there should be a requirement to include Māori representation on the board. Additional directorship requirements under the Companies Act 1993 and the LGA 2002 should also be explicitly covered within clause 40.
- 15 The Preliminary Act requires a WSDP to support the territorial authority's housing growth and urban development, as specified in the territorial authority's long-term plan. Likewise, the support of the territorial authority's housing growth and urban development should also be listed as an objective of water service providers at clause 15 of the Bill.
- 16 Additionally, Council considers that provision of water services that do not have adverse effects on the environment is an unrealistic objective for water service providers. Complete avoidance of adverse environmental effects is unlikely for activities such as large-scale water takes and discharges involved in providing safe and reliable water services to consumers in New Zealand's urban areas. A more realistic objective for water service providers would be to manage water services activities in a manner that minimises the adverse environmental effects of those activities to the extent practicable.

17 Council Recommendations:

Bill Clause	Commentary	Recommendation
Clause 15 Objectives of water service providers	Include an additional objective for water service providers to support a territorial authority's housing growth and urban development policy.	Council recommends that clause 15 includes this additional objective.

Bill Clause	Commentary	Recommendation
Clause 15 Objectives of water service providers	Provision of water services that do not have any adverse effects on the environment is unrealistic.	Council recommends that clause 15(1)(a)(ii) is amended so that the objective is for water service providers to provide water services in a manner that 'minimises' the adverse environmental effects of water services activities to the extent practicable.
Clause 23 Significant contract requirements	Council notes the onerous monitoring and performance indicators relating to significant contracts in ongoing reporting documentation which will have a resourcing impact. Council raises the general question as to whether monitoring and reporting on matters like this will have any impact on efficiencies?	Council recommends that further consideration is made as to the benefits of the monitoring and reporting on significant contracts at clause 23. Council also recommends that the word "significant" is added before "contract" in clause 23(4) in the first line.
Clauses 25-28 Change Proposals	Ensure any "Change Proposal" is limited to changes after the WSDP and outside the WSDP process.	Council recommends that clauses 25 to 28 are amended to make it very clear that a Change Proposal is not triggered within the WSDP process, and that this only relates to changes not consulted on through the WSDP consultation process.
Clause 24 JWSPA and implications of Clauses 25-28	The Change Proposal requirements are disproportionate for some JWSPAs such as a shared service arrangement with another territorial authority for simpler operational matters. The definition of a JWSPA should be limited to more complex arrangements. Shared service arrangements at a contractual level should be outside the scope of a Change Proposal.	Council recommends that further consideration is given to narrowing the definition of a JWSPA under clause 24 or providing further flexibility to not necessarily trigger the Change Proposal process e.g., entering simpler operational shared service arrangements. Further, contractual shared service arrangements should be explicitly excluded from the scope of a Change Proposal.
Clause 40 Board Directors	Exemptions should be possible for representatives of the territorial authority to enable their inclusion as directors. Additionally, require the inclusion of Māori representation on the board as well as make other requirements in other legislation explicit.	Council recommends that clause 40 is amended to provide for Māori representation and an exemption process for territorial representatives on the board. Also to show explicit requirements under other legislation.

PROVISION OF WATER SERVICES – OPERATIONAL MATTERS

- 18 Council is grateful for the provision of several tools to improve operational efficiencies, including bylaws and the stormwater network risk management plan (SWNRMP) to support management of watercourses. Council would note, however, that management of private watercourses can be complex and expensive. In some cases, the work required to ensure private watercourses do not impair the functioning of the wider stormwater system may be beyond the abilities of some private property owners.

- 19 In addition, Council submits that the legislation has not fully addressed the full complexities of stormwater delivery. This is particularly apparent regarding the lack of direction relating to overlapping responsibilities, maintenance, transport corridors, and how stormwater charging may work. For example, a threshold for distance from a 'stormwater network' is not a clear way to determine chargeability for stormwater services.
- 20 While Council is fully supportive of the expected benefits of documenting various plans (drinking water catchment, trade waste, stormwater network risk management) and other bylaws required under the Bill, Council notes the potential duplication and high volume of work that providers must produce within the first two years from enactment of the Bill. Some leniencies in achieving the timeframes with the current resource would be appreciated while Council navigates the wider LWDW requirements. Consideration must also be given to the challenges of resourcing both territorial authorities and separate water organisations given the necessary integration between the different entities particularly in planning matters. Ultimately, the Council is concerned that the up-front costs of resourcing these additional requirements will need to be passed on to consumers by the territorial authority and/or the water organisation.
- 21 Prior to the introduction of this Bill, Council was concerned that separating the water invoice from local authority rates invoices could create an opportunity, particularly for residential landlords, to pass on the separate water invoice to residential tenants as is common practice with commercial tenancies. It is encouraging to see that clause 67 of the Bill (setting out who is liable to pay water services charges) largely mimics content in the Local Government (Rating) Act 2002 which sets out who is liable to pay rates. In most cases liability remains with the owner of a property with some exceptions for certain registered leaseholders, noting other clauses of the Bill also cover liability for water services charges for Māori land.
- 22 In the instance of volumetric charging as a component of a water invoice, Council questions how this water invoice will not ultimately be delivered to the occupant in the same way as an electricity invoice?
- 23 Council notes the replication of some existing territorial authority powers to water organisations including the ability to require development contributions. Council submits that the Crown should not be exempt from making development contributions. In Council's view, any entity putting a burden on the system should be liable for development contributions including the Crown generally (not just Kāinga Ora-Homes and Communities).
- 24 The table below also includes some other technical recommendations on the wording of the Bill to further support efficiencies e.g., carrying out works, stormwater charging.

25 *Council Recommendations*

Bill Clause	Commentary	Recommendation
Clause 4 Interpretation - "watercourse" definition	There are two definitions for watercourse – the first on page 25 (which appears to be out of alphabetical order) and relates to stormwater, and the second on page 27 that	Council recommends that clause 4 is amended so that it contains a single, comprehensive definition of a "watercourse".

Bill Clause	Commentary	Recommendation
	relates to a continuous or intermittent water flow.	
Clauses 60-61 Charges for stormwater services	<p>Clause 60(6)(b) precludes a water organisation from setting charges for stormwater services based on property valuations. However, Council considers property valuations may be an appropriate factor to use in determining stormwater charges. Due to the complexity of stormwater systems and stormwater management, determining charges for stormwater services based on connections or serviceability (as determined by distance from physical infrastructure) may not be appropriate.</p> <p>Clause 61(2)(a) does not take into account properties that are further than 100m from a stormwater network. Many residential properties in Dunedin are not connected to a 'stormwater network' (as defined in the Bill) or may not be within 100m of a 'stormwater network'. Rather stormwater from these properties runs to the roading network, eventually flowing into the stormwater network or the environment. Under this clause, a water organisation could not charge these types of properties for stormwater services, even though they are still likely to receive a benefit from the stormwater system more broadly. Administratively and practically, this is a difficult and inequitable way for water organisations to determine who will be charged for stormwater services and who will not.</p>	Council recommends clauses 60 and 61 are reviewed and amended to provide for a range of methods for determining charges for stormwater services to account for the complexities of stormwater management.
Clause 117 Notice required before carrying out work on, over, or under land	Clause 117(2)(b) - the notice period of at least 30 working days before proposed work is to start is too long. Currently section 181(5) of the LGA 2002 requires the local authority to give "reasonable notice". Therefore, six weeks seems excessive and has the potential to cause unnecessary delays.	Council recommends that the timeframe in clause 117(2)(b) is amended to be no longer than 20 working days.
Part 3, Subpart 4 - Accessing land to carry out water services infrastructure work (clauses 116 to 121)	Council is concerned that the proposed provisions on access to land to carry out water services infrastructure work favours the rights and interests of private property owners over the rights and interests of the water service providers. This contrasts with the approach taken by the equivalent access provisions in the LGA 2002. Council is concerned that the proposed provisions could reduce the efficiency of water services infrastructure delivery.	Council recommends clauses 116-121 of the Bill are reviewed and amended ensuring efficient delivery of water services infrastructure.
Clause 143 - Water service provider must make drinking water catchment plan	The proposals would place a substantial workload on water service providers in the two years following the Bill's enactment. Not only are they required to make drinking water catchment plans, trade waste plans and SWNRMPs but all water services related bylaws are also required to be reviewed in	Council recommends that the timeframes for water service providers to complete all mandatory plans and bylaw reviews are assessed for feasibility and amended as appropriate.
Clause 150 - Water service provider must make trade waste plan		

Bill Clause	Commentary	Recommendation
Clause 165 - Stormwater network risk management plan	the same timeframe. This places a heavy burden on providers in the first two years.	
Clause 351(3) - Initial review of bylaws	Given the amount of work includes plans requiring public consultation, the workload over a relatively short timeframe is burdensome.	
Clause 155 Bylaw may authorise making trade waste permits	Clause 155(8) appears to be at odds with clause 178(1)(b). While clause 155(8) states that it is an offence to discharge trade waste into a wastewater network without a trade waste permit, clause 178(1)(b) allows trade waste discharged into a sewerage drain without consent (if it is permitted by a trade waste bylaw). It appears that clause 155(8) forbids all trade waste discharges without a permit, and clause 178(1)(b) allows them (provided they are permitted by a trade waste bylaw). Furthermore, it is not clear if there is a material difference between a 'wastewater network' in clause 155(8) and a 'sewerage drain' in clause 178(1)(b).	Council recommends that clauses 155(8) and 178(1)(b) are reviewed for clarity and consistency and amended as appropriate.
Clause 178 Discharge of trade waste		
Clause 167(2) Content of SWNRMP	It is not clear what the difference is between an "emerging hazard" and "potential future hazard".	Council recommends that clause 167(2) is amended to improve clarity.
Clause 168 Preparation and publication of SWNRMP	Water organisations should consult with shareholders when preparing their SWNRMP. This is important especially given that in heavy rain events stormwater services will overlap with local authorities' retention of civil defence and emergency management responsibilities, as well as stormwater services that are provided in the roading corridor.	Council recommends that clause 168 is amended to include a requirement for water organisations to consult with shareholders.
	<p>Are the Gazette timeframes in clauses 168(1)(a) and (c) a timeframe within a timeframe? Will the final SWNRMP need to be completed and sent to Taumata Arowai for review early so it can be finalised within the two-year limit?</p> <p>Notifying a timeframe in the Gazette for the due date of the draft and final SWNRMP does not provide any certainty to water service providers.</p> <p>The SWNRMP will be substantial and requires clearer timeframes for workstream planning.</p>	Council recommends that clauses 168(1)(a)-(c) be amended to provide clear timeframes for the draft and final SWNRMP.

PLANNING, REPORTING AND FINANCIAL MANAGEMENT

26 Council acknowledges the principle behind separate planning, reporting and financial management ensuring that money collected for the delivery of water services is spent on water. However, the framework could be said to be another example of prescriptions within the Bill more weighted towards some models over others.

27 Council further questions how the Government can be assured that new water organisations

have been transferred sufficient requirements as compared to existing territorial authorities operating in the established local government framework. An example of this is that the Bill does not require a water organisation (or its shareholders) to consult communities or consumers on a draft water services strategy, yet a territorial authority that is a water service provider must consult the community using the special consultative procedure under the LGA.

- 28 Council also repeats Taituarā's intended submission point, that shareholders of a water organisation should be able to request an audit of a Water Services Strategy in addition to the Secretary for Local Government and the Commerce Commission at clause 199 of the Bill.

- 29 *Council Recommendation:*

Bill Clause	Commentary	Recommendation
Clause 199	Shareholders of a water organisation should be able to request an audit of a Water Services Strategy in addition to the Secretary for Local Government and the Commerce Commission.	Council recommends the addition of a new clause 199(1)(a): "(iii) the shareholders of a water organisation; or"

ECONOMIC REGULATION AND CONSUMER PROTECTION

- 30 Council is generally supportive of the establishment of a framework for economic regulation within the water services industry. Council further acknowledges the need for broad information disclosure to enable such regulation particularly in a CCO context.
- 31 However, Council considers the scope and scale of the Commerce Commission's economic regulation activities should be tailored to the water service provider's delivery model. Council is concerned that the level of Commerce Commission oversight currently proposed may be higher than is necessary in cases where territorial authorities adopt a delivery model that retains a high degree of territorial authority control (e.g., 'in-house' delivery). Council notes that the existing 'in-house' delivery model for water services already has a number of checks and balances in place that contribute to achieving the objectives of the proposed economic regulation system. These include long-term planning and audit requirements, with democratic elections as a backstop if the Council's performance does not meet the expectations of consumers.
- 32 Council has separately submitted on the proposed levies to fund both Taumata Arowai-the Water Services Regulator (Taumata Arowai) and the Commerce Commission. In addition to these submissions, Council would like to also raise its concern regarding any longer-term increases to the respective levies particularly given the increasing functions of Taumata Arowai and the staged approach to economic regulation ahead. Council would expect that the Crown would pick up the majority of any increase to continue to ensure affordability and certainty for local communities.

TAUMATA AROWAI – THE WATER SERVICES REGULATOR

- 33 Council, in line with its commitment to the Treaty partnership, supports retention of the Māori language name 'Taumata Arowai' as the primary name for the Water Services Regulator. Council does not agree the proposal to change the name to 'Water Services Authority – Taumata Arowai' is necessary or beneficial. Council takes no issue with substituting 'Authority' for 'Regulator' in the organisation's name to recognise the expansion of Taumata Arowai's functions beyond pure regulatory activities.
- 34 Council understands parts of the Bill have been designed to reduce the cost and burden for drinking water suppliers associated with complying with the Water Services Act 2021 (WSA 2021). The same provisions are also intended to improve the efficiency and effectiveness of the drinking water regulatory system. Council recognises the proposed changes are pragmatic and would likely contribute to achieving the aims of reducing costs and improving efficiency.
- 35 However, Council is concerned that some of the changes could result in a step backwards in terms of improving drinking water safety outcomes for New Zealand. In other words, Council is concerned the proposed changes may not achieve the aim of increasing the regulatory system's effectiveness in terms of improving drinking water safety, especially in smaller communities. Council is encouraged by the expansion of Taumata Arowai's functions to include education and training for domestic self-suppliers and shared domestic drinking water suppliers. Council considers the sector of the community serviced by these types of drinking water supplies are vulnerable to drinking water safety issues and submits it is vital to ensure Taumata Arowai is well-resourced to deliver this function.
- 36 Making drinking water regulation be more "proportionate to the scale, complexity, and risk profile of each drinking water supply" is attractive in theory but has the potential to make things less clear for the regulator and drinking water suppliers in practice. Council anticipates implementing this policy direction would see Taumata Arowai taking a more case-by-case approach to drinking water regulation. This could erode certainty of the regulatory approach for both the regulator and suppliers, adding to resourcing requirements for the regulator and making planning for the future (for suppliers) more uncertain. Council would expect to see Taumata Arowai set out, in detail, how it will implement regulation in a manner "proportionate to the scale, complexity, and risk profile of each drinking water supply" in the drinking water compliance, monitoring, and enforcement strategy prepared under section 136 of the WSA 2021.
- 37 Council supports, in principle, the Te Mana o te Wai hierarchy of obligations as an overarching framework for freshwater management. Council does not support the proposed amendment to WSA 2021 included in this Bill that would remove the requirement for Taumata Arowai and water services providers to give effect to the Te Mana o te Wai hierarchy of obligations when exercising duties, powers and functions under the WSA 2021. Council is concerned that excluding this requirement could reduce the likelihood that aspects of the delivery and regulation of water services are carried out in a manner protecting the health of freshwater and associated values, including mana whenua values and drinking water values.
- 38 Council understands the Government intends to review the National Policy Statement for Freshwater Management 2020 (NPS-FM) in the near future. Council has previously made submissions in Otago regional policy and plan-making processes on the challenges that may arise for the DCC as water services provider due to the application of the hierarchy of obligations. The DCC would recommend that any updates to the NPS-FM retain the

hierarchy of obligations but with appropriate modifications to ensure large public drinking water suppliers like the DCC are enabled to continue providing water supply for the health and wellbeing of communities, including growing communities.

39 *Council Recommendations:*

Bill Clause	Commentary	Recommendation
Clause 288 and Schedule 10, Part 1 – amendments related to Water Services Authority – Taumata Arowai	Council supports retention of the name ‘Taumata Arowai’ as the primary name for the Water Services Regulator / Authority.	Council recommends that clause 288 and Schedule 10, Part 1 be either deleted, or amended so that ‘Taumata Arowai’ remains the primary name of the regulator / authority.
Part 5, Subparts 8 and 9 – amendments to other legislation	Council is concerned that provisions in Part 5, Subparts 8-9 of the Bill, which are designed to achieve cost reductions and efficiencies in the drinking water regulatory system, could potentially compromise the effectiveness of the drinking water regulatory system. Council is particularly concerned about potential negative impacts on drinking water safety outcomes in small communities and certainty of regulatory approach for all drinking water suppliers.	Council recommends that Part 5, Subparts 8-9 be reviewed and amended, as appropriate, to address Council’s concerns.
Clause 304 – repeal of section 14 of WSA 2021	Council is concerned that removing the requirement for Taumata Arowai and water service providers to give effect to Te Mana o te Wai could reduce the likelihood that aspects of the delivery and regulation of water services are carried out in a manner protecting the health of freshwater and associated values, including Mana Whenua values and drinking water values.	Council recommends clause 304 of the Bill is deleted.

NATIONAL ENGINEERING DESIGN STANDARDS FOR WATER NETWORKS

- 40 Council supports the reintroduction of the National Engineering Design Standards (NEDS) for water services networks. Council notes clause 97B (Clause 319 of the Bill) outlines the purpose of the NEDS which is to provide mandatory technical standards for the design, construction and operational performance of infrastructure and processes for water services.
- 41 It is Council’s understanding that the intention is that minimum standards will form the basis of the NEDS with definitive technical standards that can be used uniformly by water service providers to deliver better water infrastructure nationwide. It is, therefore, concerning to see clause 97D(3) (Clause 319 of the Bill) proposed for insertion into the WSA 2021 using the word “may” rather than “must” when referring to minimum standards and performance-based requirements.
- 42 Council appreciates the development of the NEDS by Taumata Arowai will be a sizeable task, however, information on the timing of this project and when it will be delivered would be appreciated as the impact of the NEDS on current and future water service providers’ workstreams is considerable.

43 *Council Recommendation:*

Bill Clause	Commentary	Recommendation
Clause 319 Addition of new subpart 1AA of Part 3 of WSA 2021	The inclusion of minimum standards and performance-based requirements in the NEDS should be mandatory to ensure the NEDS achieve the desired outcome.	Council recommends clause 319 is amended so that 'may' is replaced with 'must' in clause 97D(3)(b) proposed to be inserted into WSA 2021.

ENVIRONMENTAL PERFORMANCE STANDARDS AND INFRASTRUCTURE DESIGN SOLUTIONS FOR WASTEWATER AND STORMWATER SYSTEMS

44 Council recognises the proposed suite of changes designed to reduce the costs and increase the efficiency of consenting and operating wastewater and stormwater systems, are pragmatic and will likely contribute to achieving their aims. In other words, the Council recognises the proposals have the potential to deliver benefits to wastewater and stormwater system operators in terms of cost reductions, efficiency and certainty when consenting wastewater and stormwater systems.

45 Council understands Taumata Arowai would be required to consult on any proposed environmental performance standards and infrastructure design solutions prior to their coming into effect. However, the consultation requirements for making standards and infrastructure design solutions appear to provide less opportunity for input than is currently provided to the community, including local authorities, mana whenua and the general public, in the RMA plan-making system. Council is concerned that the implementation of standards and infrastructure design solutions could – if the details are not right – potentially compromise environmental outcomes and/or lead to outcomes inconsistent with cultural values and other values. Council is particularly concerned a standardised, one-size-fits-all approach may not be suitable for all circumstances.

46 Council considers a rigorous process should be followed to make the standards and infrastructure design solutions, to reduce the potential for standards to cause adverse effects once implemented. Council suggests the Committee considers introducing provisions in the Bill to improve the ability of the community to participate in the development of environmental performance standards and infrastructure design solutions, for example by requiring Taumata Arowai to hold hearings on submissions and by providing an avenue for appeals on decisions on the final content of standards or infrastructure design solutions. This would provide a regulation-making process more akin to the RMA plan-making system, which is appropriate because any new standards and infrastructure design solutions would override some current policies and rules for managing the effects of wastewater and stormwater systems that were originally made through the RMA system.

47 *Council Recommendations:*

Bill Clause	Commentary	Recommendation
Clause 310 – amendment to section 53(1) of WSA 2021	For the sake of clarity, section 53(1) of the WSA 2021 should also include specific reference to consultation being required before making infrastructure design solutions.	Council recommends the following is added to clause 310: "(f) regulations setting infrastructure design solutions under section 139B."

Bill Clause	Commentary	Recommendation
Clause 310 – amendment to section 53(2) of WSA 2021	Council is concerned that the requirements of section 53(2) of WSA 2021 do not provide sufficient opportunity for public participation in making environment performance standards and infrastructure design solutions for wastewater and stormwater systems. Additional opportunities for public participation in the regulation-making process – for example, through hearings and appeals – would provide for a process more akin to the RMA plan-making process.	Council recommends clause 310 is expanded to strengthen the consultation requirements in section 53(2) of the WSA 2021 in accordance with Council's submission points above.

REVIEW OF WATER SERVICES SYSTEM

- 48 Council notes the requirement for the Minister to initiate a review of the water services system no earlier than 54 months (4.5 years) after commencement of the Act under Part 6 of the Bill. The Bill currently leaves the decision on who to consult as part of the review with the reviewer. Council's view is that it should be mandatory for the reviewer to consult local authorities and water service providers to ensure a balanced review process.

SUMMARY OF KEY SUBMISSION POINTS

- 49 Council is supportive of the enabling approach of LWDW including retention of ownership and local influence. Council urges the Government to ensure that restrictions against privatisation are enduring, and that local influence is preserved by ensuring all delivery models are on a comparable path. There should be no difference in debt funding availability between models.
- 50 It is essential that Parliament clarify in the Bill that the implications of the new "Change Proposal" provisions in the Bill only relate to changes outside the WSDP process to ensure that territorial authorities are not subject to unnecessary process. Further, that there is some narrowing or flexibility given to the definition of a JWSPA to ensure simpler shared service arrangements can be entered efficiently.
- 51 Further consideration should be made to increase mandatory engagement with Māori within the Bill in line with other legislation such as the LGA 2002. Additionally, to ensure Māori representation on water organisation boards.
- 52 Further consideration of the complexities of stormwater management should be made, particularly relating to charging, integration with other bodies, transport corridors and maintenance.
- 53 While supportive of the benefits that various operational tools such as bylaws and plans will provide, some leniencies on timeframes and resources would be appreciated given the sheer volume of work that needs to be completed in such a short time.
- 54 The scope and scale of the Commerce Commission's economic regulation activities should be tailored to the water service provider's delivery model. Council notes that the existing 'in-house' delivery model for water services already has several checks and balances in place that contribute to achieving the objectives of the proposed economic regulation system.
- 55 Council is supportive of retaining the Māori language name 'Taumata Arowai' as the primary

name for the Water Services Regulator. Council has no issue with substituting 'Authority' for 'Regulator'.

- 56 Changes designed to achieve cost reductions and efficiencies in the drinking water regulatory system should not come at the expense of the effectiveness of the system. This is particularly important in terms of improving drinking water safety outcomes in small communities and providing some certainty in the regulatory approach.
- 57 Additional opportunities should be provided for interested parties to participate in the process of making environmental performance standards and infrastructure design solutions for wastewater and stormwater systems. As proposed, these new regulatory tools have the potential to be very powerful enabling instruments for wastewater and stormwater service providers. Following a robust process to develop the content of these tools, will reduce the risk that their implementation unintentionally leads to adverse effects on environmental or cultural values.

CONCLUSION

- 58 The Council thanks the Committee once again for the opportunity to provide a submission on the Bill.
- 59 The Council requests the opportunity to make an oral submission to the Committee.

Kā mihi



Jules Radich
MAYOR OF DUNEDIN



Jim O'Malley
COUNCILLOR
CHAIR OF INFRASTRUCTURE SERVICES COMMITTEE