

Memorandum

22 January 2020

To: Local board members

Subject: Preparing Auckland Council's submissions on central government's *Taumata Arowai – Water Services Regulator Bill and Water Services Bill*

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Purpose

1. To provide elected members with information on council's upcoming submission on Taumata Arowai – the Water Services Regulator Bill.

Summary

2. Taumata Arowai – the Water Services Regulator Bill (Taumata Arowai) was introduced to Parliament on 17 December 2019. It is expected this will be followed by introduction of the Water Services Bill in the coming months. These bills build on the government's work to date on the Three Waters review. Submissions on Taumata Arowai close on 4 March 2020; the submission period for the Water Services Bill has not yet been announced.
3. Taumata Arowai will establish a stand-alone regulatory body with responsibilities relating to drinking water safety and administration of the drinking water regulatory system, along with improving the environmental performance and transparency of stormwater and wastewater networks.
4. While Auckland Council's role in the delivery of drinking water, wastewater and stormwater services will not be significantly affected by the establishment of the regulator, the details within the Water Services Bill are expected to have implications for how we deliver these services, and how our planning and regulatory functions are carried out. Further detail and analysis of the implications of the Water Services Bill for Auckland Council will be provided following its release.
5. Auckland Plan, Strategy and Research staff will coordinate the Auckland Council group submissions to both bills, working with staff from across the council group.
6. Staff propose bringing the draft submission on Taumata Arowai to Environment and Climate Change Committee members for consideration at their meeting on 12 March 2020. While the official submission period closes on 4 March, the Health Select Committee Secretariat have permitted an extension for Auckland Council until 17 March 2020.
7. Local boards are invited to provide input into the draft submission on Taumata Arowai prior to 24 February 2020.

Background

8. In mid-2017 the government launched the Three Waters Review, in parallel to the latter stages of the Havelock North Inquiry into drinking water safety. The review focussed on improving regulation and service delivery arrangements of drinking water, wastewater and stormwater.

9. In July 2019, Cabinet agreed to a suite of system-wide reforms to the regulation of drinking water, including the establishment of a centrally located regulator to oversee a new drinking water regulatory system. Cabinet also agreed to targeted reforms to improve the regulation and performance of wastewater and stormwater systems, including some new regulatory functions that would be undertaken by a central regulatory body.
10. The Three Waters Review is a separate but related work programme to the Ministry for the Environment's Essential Freshwater programme. The government released the Action for Healthy Waterways Discussion Document in September 2019, which outlined the proposals of the Essential Freshwater programme. The discussion document covered some proposals related to the Three Waters Review, such as the government's intent to amend the National Environmental Standards for Human Drinking Water and the proposed approach to improving management of stormwater and wastewater systems, including a proposed National Environmental Standard for Wastewater Discharges and Overflows. The discussion document did not include any information about the structure or function of the proposed central regulator.
11. Auckland Council's submission on the Action for Healthy Waterways Discussion Document noted its support, in principle, for the initiatives relating to the three waters, and offered to work with central government on the development of detail around these proposals. A memorandum outlining Auckland Council's submission to the discussion document was provided to Planning Committee members, local board members and the Independent Māori Statutory Board on 25 November 2019.
12. Taumata Arowai – the Water Services Regulator Bill was introduced to the House on 17 December 2019, and submissions on this bill are due on 4 March 2020. Auckland Council has received an extension for submission until 17 March 2020 to enable consideration at the 12 March Environment and Climate Change Committee meeting. The separate Water Services Bill is expected to be released in the coming months.
13. Taumata Arowai – the Water Services Regulator Bill can be found at the following link: <http://www.legislation.govt.nz/bill/government/2019/0202/latest/LMS294345.html>
14. The Auckland Plan, Strategy and Research department is coordinating the preparation of the Auckland Council group submissions to these bills.

Summary of Taumata Arowai – the Water Services Regulator Bill

15. Taumata Arowai – the Water Services Regulator Bill and the yet-to-be released Water Services Bill are complementary, with Taumata Arowai focusing on the establishment of the regulatory body that will implement the regulatory framework which is expected to be outlined in the Water Services Bill.

A new regulator and a new regulatory framework

16. Taumata Arowai – the Water Services Regulator Bill proposes the establishment of a new regulator, which will be a standalone crown agent, with the objectives of:
 - a) protecting and promoting drinking water safety and public health outcomes
 - b) effectively administering the drinking water regulatory system
 - c) building and maintaining capability among drinking water suppliers and across the wider industry
 - d) giving effect to Te Mana o te Wai, to the extent that Te Mana o te Wai applies to functions and duties of Taumata Arowai
 - e) providing oversight of, and advice on, the regulation, management, and environmental performance of wastewater and stormwater networks
 - f) promoting public understanding of the environmental performance of wastewater and stormwater networks.
17. While the regulator's primary focus is drinking water, its functions include providing national-level oversight, leadership, communication, coordination, guidance, advice and information in relation

to statutory requirements for and environmental performance of wastewater and stormwater networks and network operators.

18. Regional councils will remain the primary regulators of discharges from wastewater and stormwater networks.
19. The regulator will be governed by a board appointed by the responsible Minister. A separate Māori advisory group, also appointed by the responsible Minister, will support the drinking water regulator on how to uphold Te Mana o Te Wai, and how to enable mātauranga, tikanga Māori and kaitiakitanga to be exercised.
20. Responsibility for policy and system stewardship, including investment decisions about fundamental matters relating to water service delivery, infrastructure and funding arrangements, will remain with the relevant ministers and their departments.
21. The establishment of the regulator is anticipated to take around 18 months. An establishment unit, formed in the Department of Internal Affairs in October 2019 to lead this work, will be governed by a transition board that will be appointed in early 2020. Taumata Arowai – the Water Services Regulator is due to be operational by 1 July 2021 at the latest. The intent is for the regulator to have both a central, national presence, and a strong regional presence, reflecting the nature of the issues it is tasked with addressing.

Impact on Auckland Council's role

22. While Auckland Council's role in the delivery of drinking water, wastewater and stormwater services will not be significantly affected by the establishment of the regulator, the details within the yet-to-be released Water Services Bill will have implications for how we deliver these services, through both the council parent and its council-controlled organisation functions. Further analysis of these impacts will be provided following the release of that proposed legislation.

Feedback timetable

23. The table below sets out the key timeframes for input into council's submission:

Date	Action
24 February 2020	Deadline for local board input so it can be incorporated into the final Auckland Council submission
12 March 2020	Draft Auckland Council submission presented to the Environment and Climate Change Committee
17 March 2020	Auckland Council submission to Health Select Committee (note extension received from 4 March)
20 March 2020	Copy of final council submission circulated to all elected members, the IMSB and mana whenua representatives.

Next steps

24. Input from local boards must be received by Auckland Plan, Strategy and Research staff no later than 24 February 2020, to enable this feedback to be considered for incorporation into council's draft submission.
25. The final draft submission on Taumata Arowai – the Water Services Regulator Bill will be presented to the Environment and Climate Change Committee meeting of 12 March 2020, with the final Auckland Council submission on this bill due to be received by the Health Select Committee by the permitted extension date of 17 March 2020.
26. Auckland Plan, Strategy and Research staff will keep elected members and the IMSB informed on the release and submission period for the Water Services Bill, which is expected to be in the coming months, as this information becomes available.