

4 March 2020

Committee Secretariat
Health Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6160

Submission to Taumata Arowai — the Water Services Regulator Bill

Thank you for the opportunity to provide a written submission on the Water Services Regulator Bill (The Bill).

Regional Public Health (RPH) delivers population and personal health services in the greater Wellington region. Our geographical area of service delivery spans Hutt Valley, Capital & Coast and Wairarapa District Health Boards. We deliver a range of population and personal health services, aiming to improve the health of communities throughout the greater Wellington region. In particular, we focus on achieving equitable health outcomes for Māori, Pacific peoples, tamariki and young people, low income whānau and other people groups facing complex challenges.

We have a range of occupations working within Regional Public Health including: medical officers of health and public health physicians, public health advisors, public health analysts, health protection officers, drinking water assessors and public health nurses.

The following submission to the Bill is derived from our public health perspective and experiences from currently being contracted by the Ministry of Health to provide drinking water audit and information services. For additional advice or clarification on any of the points raised in our written feedback please contact:

Keith Lewis
Team Leader
Health Protection
Keith.lewis@huttvalleydhb.org.nz

We are able to provide further advice or clarification on any of the points raised in our written submission. We do **not** wish to make an oral submission.

Nāku noa, nā

Dr Jill McKenzie
Medical Officer of Health

Peter Gush
General Manager

Regional Public Health's Submission

Regional Public Health (RPH) supports the intent of The Bill, to establish a stand-alone Crown entity as the sole drinking water regulator for New Zealand. However, we note that to achieve the prescribed objectives and functions, this agency will require a greater level of funding and resourcing than is available within the current regime.

RPH notes that the Water Services Regulator Bill does not establish new, or amend existing legislative and regulatory requirements for the delivery of safe drinking water. RPH also notes that Taumata Arowai will not take over as regulator of the drinking water system until Part 2A of the Health Act 1956 is repealed and that this will be undertaken through a separate Bill. The resourcing required to give effect to the legislation will be determined via this subsequent legislative review.

Regional Public Health Recommendations

Although our submission concentrates on the drinking water aspects of The Bill, RPH supports the inclusion of wastewater and stormwater infrastructure and processes as part of a stand-alone regulator. We note that there are no definitions for stormwater and wastewater. Defining these 'waters' in the Bill will be important as the new Regulator will have functions and duties related to stormwater and wastewater.

Recommendation: Include definitions for stormwater and wastewater in Section 4 Interpretation of The Bill.

RPH fully supports the intent to give effect to Treaty of Waitangi responsibilities by mandating that the regulator Board has "experience of, and capability in the Treaty of Waitangi and its principles, and perspectives of Māori and tikanga Māori" (clauses 12 (2) (c) and (d)). RPH notes that the Bill also establishes a Māori Advisory Group with its own role as set out in clause 17 of the Bill. The Bill also requires the regulator board to have regard to the advice of the Māori Advisory Group (clause 17(3)(a)) and demonstrate in its annual report how it has had regard to that advice.

RPH supports the approach in the Bill to require the regulator board to have regard for the advice of the Māori Advisory Group and to demonstrate in its annual report how it has had regard to the advice of the Māori Advisory Group. However, we have concerns that having regard to the advice is not sufficiently strong enough to give effect to Te Tiriti o Waitangi obligations, as advice may not be followed.

Recommendation: Further consideration is given to strengthening Māori leadership in Taumata Arowai, in consultation with Māori and according to the principles of Te Tiriti o Waitangi.

Clause 10(a) states that it is an objective of Taumata Arowai to "*protect and promote drinking water safety and public health outcomes*". It is well established that the provision of safe drinking water is fundamental to the health of the population that is drinking that water. This requires provision of water of a suitable quality and quantity.

Recommendation: RPH submits that clause 10(a) of the Bill should read "protect and promote public health through the provision of adequate safe drinking water". The definition of "adequate" and "safe drinking water" will be required in the subsequent legislative review.

Clause 12(2) says that the Minister must appoint members to the board who, collectively, have knowledge and experience of and capability in, ---. Clauses 12(2) (a) to (e) lists the knowledge and

capabilities required. Missing from the list is knowledge and capability in public health¹, which is a key principle for Taumata Arowai and an essential skill set to ensure they can achieve their regulatory function of providing safe drinking water.

Recommendation: RPH submits that a new sub-clause should be added to clause 12(2) requiring the Minister to appoint members to the board that have experience and capability in public health.

Part 2A of the Health Act 1956 contains the current definition of drinking water. While the Bill does not repeal Part 2A of the Health Act, it does provide a new definition of drinking water. RPH presumes that because the Bill will not come into force until Part 2A of the Health Act is repealed that there will, in fact, be only one definition of drinking water legislated at any point in time. RPH presumes the same for the definition of drinking water supplier. Currently the definition of “drinking water” does not include a reference to the quality or safety of the water.

Recommendation: That the definition of drinking water be amended to make it clear that water used for the purposes set out in clause 4(a)(i) to (iv) is “safe” to be used for these purposes.

In the definition of drinking water supplier it is unclear what a “drinking water supply scheme” is. For instance, a farming enterprise that supplies drinking water to a number of residences may be considered a drinking water supplier, as might a rural café or hotel that supplies drinking water to a single building for public consumption, or a water source directly available to the public (e.g. a bore/spring directly accessible via a public tap). This is despite the fact that in the common use of the term “scheme” there is no drinking water “scheme”. These types of supplies have been provided as examples of supplies that do not meet the criteria described under the “domestic self-supplier” interpretation. Increased clarity would be achieved via defining “drinking water supply scheme” and providing examples of “schemes” meeting this definition.

Recommendation: That it be made clear in the definition of drinking water supplier, exactly what constitutes a drinking water scheme, and that there is a separate definition for drinking water scheme. Also that any definition of drinking water scheme ensure that it covers the supply of drinking water to multiple buildings on one property (not land title) and to public use buildings or direct bore water access.

RPH notes that there may be some confusion as to whether someone, who permits a water source (e.g. a ground water well) on their land to be used by another person to supply water, is deemed to be a Drinking Water Supplier. We suggest this is clarified in either the definition of a Drinking Water Supplier or the definition of a Drinking Water Supply Scheme.

Recommendation: RPH submits that a person who permits a water source to be used by a Drinking Water Supplier should not be deemed a Drinking Water Supplier.

RPH notes that two categories of Drinking Water Supplier within the current legislation (Health Act 1956) do not appear to be included in the proposed new definition. These are a drinking water carrier and a temporary drinking water supply.

¹ For example public health skills include: an understanding of the epidemiology of water borne disease; a knowledge of the impact of water borne disease on individual, whanau and communities; risk assessment, management and communication.

Recommendation: We submit that the definition is amended to include a drinking water carrier and a temporary drinking water supply. Alternatively, it may be possible to include these within the definition of a Drinking Water Supply Scheme.