



**PSA submission to Parliament's Finance and
Expenditure Committee on the
Water Services Entities Bill**

July 2022

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About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 80,000 members. People join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace, and to have an independent public voice on the quality of public and community services and how they're delivered.

We are a democratic union representing people working in the public service (including departments, crown agents, other crown entities, and state-owned enterprises); local government; tertiary education institutions; and non-governmental organisations working in the health, social services and community sectors.

We are committed to advancing the Tiriti o Waitangi values of partnership, protection and participation through our work. Our structures ensure a Māori perspective is heard at all levels of our organisation. Te Rūnanga o Ngā Toa Āwhina is the Māori arm of the PSA membership.

The PSA is affiliated to Te Kauae Kaimahi the New Zealand Council of Trade Unions, Public Services International and UniGlobal.

About this submission and who contributed to it

We represent an estimated 800 workers whose jobs would be directly affected by the Three Waters reform proposals and the creation of new Water Services Entities (WSEs). These members care about being able to do their best work in delivering Three Waters services, and about having a positive working life working for employers that respect and value them.

As the union for local public and community services it is also important to us that we advocate for these services to be strong, effective and well-resourced, delivering high-quality services that are accessible to all. As such, we have an interest in ensuring the proposed model for water services delivery results in a well-designed and well-functioning Three Waters management system.

This submission was developed with input from:

- Our Local Government Sector Committee, a democratic structure within the PSA representing members working in local government, including those directly affected by the proposed changes
- Te Rūnanga o Ngā Toa Āwhina Kōmiti, a democratic structure within the PSA representing Māori members

- PSA members in local government through workshops in 2021, our local government delegates' conference in April 2022, and a survey of local government members carried out in June 2022.

The submission was also guided by:

- The PSA's strategic goals
- Our values and Ngā kaupapa o Te Rūnanga o Ngā Toa Āwhina (provided in Appendix 1).

This submission includes:

- A summary of our overall response, setting out the main areas we think are important to consider in the legislation and why
- A section more specifically detailing the changes to particular clauses we think the Select Committee should recommend.

This submission is accompanied by separate submissions from our Local Government Sector Committee and Ngā kaupapa o Te Rūnanga o Ngā Toa Āwhina, both of which the PSA endorses.

Overall response

The PSA supports the intent of the Water Services Entities Bill and the drive towards more joined-up management of water services. As we set out in our submission on the Water Services Act in 2021, we support multi-regional entities in principle, and we support the inclusion of mechanisms that provide for continued public ownership of water infrastructure.¹

Members of the PSA have expressed mixed views on details of the Three Waters reforms, with some expressing strong support, others expressing strong opposition, and a large proportion expressing uncertainty about what the reforms will mean in practice. This is not surprising considering the nature of the public debate so far and the range of views expressed publicly by various parties.

We consider that, done well, the creation of new WSEs will be an opportunity to significantly improve how we manage water services in Aotearoa and enhance the Three Waters workforce. The governance structures in the proposed WSEs also provide an opportunity for mana whenua to be equal and active partners in the governance of natural resources.

These benefits come with trade-offs in other areas that are important, such as the level of democratic participation in water management at a local community level. The changes that have been made to iterations of the proposed WSE model over recent months, in response to public feedback and the Working Group on Governance and Accountability, help to address these concerns by making governance more representative. In our submission we suggest additional changes that could make the WSEs more accountable to communities.

The reforms contain strong protections to prevent Three Waters infrastructure being privatised, but these could go further, and the legislation should include greater protection against the contracting out of the delivery of water services for private profit.

¹ [PSA submission to the Health Select Committee on the Water Services Bill](#)

Reform is necessary and is an opportunity

Continuing with the status quo is not a feasible option. The scale of investment needed to improve our Three Waters infrastructure, both to make up for decades of underinvestment and to meet the future needs of our communities in a changing climate, is too much for councils to bear on their own.

“To me it is absolutely essential to recognise the dreadful state of affairs, especially with respect to wastewater treatment in NZ. Wastewater treatment infrastructure needs to be upgraded and modernised, and smaller councils probably don't have the resources to do so. I suspect if people knew more about how bad things are they would be more supportive of the Three Waters reforms.”

- PSA member working in Three Waters

These reforms, and the creation of the proposed new WSEs, are an opportunity to do things better. The creation of new WSEs is an opportunity to create a system that gives workers in Three Waters the resources, the support and the scale to deliver Three Waters services to an acceptable standard for every community.

By and large, members we talked to believed that compared to the current model, the reforms would do a better job of ensuring sufficient investment in Three Waters infrastructure to meet our future needs. Generally our members tended to think the reforms would do a better job of protecting the health of people and the environment.

“I believe our three water assets in particular reticulation have been left behind in councils' eyes for too long now that it's beyond local government's ability to rectify. Also in my opinion local government concentrates or gives too much emphasis to development and not on health and wellbeing of three water networks. I think the reform will balance this out. I also like the bargaining and purchasing power the identities will have that currently councils outside the cities don't have.”

- PSA member working in Three Waters

Stage Two of the Havelock North Enquiry noted workforce-related benefits that come from having dedicated water services providers at scale, beyond what can be achieved by small councils: “Large size can enable more proactive and strategic activity, such as refresher and further education for staff, more sophisticated risk management programmes, strategic planning, and providing buffers against emergencies, breakdowns, staff absences, training needs and myriad other demands on an organisation. By contrast, many, if not most, smaller suppliers do not have the resources for these things and operate on a purely reactive and day to day level. With adequate resources, benefits such as good retention of institutional memory, internal training, and collaboration with other agencies will all be available at a much better level than that attainable by smaller suppliers.”²

² Government Inquiry into Havelock North Drinking Water, 2017. [Report of the Havelock North Drinking Water Inquiry: Stage Two](#), page 120

We will see increased standardisation and an improvement in the industry knowledge and performance, but this will take time. Organisational culture takes time to build, high performance teams take time to build.

- PSA member working in Three Waters

Submitters to the Enquiry noted a range of workforce-related benefits including “greater resources on all fronts, the ability to recruit and retain qualified staff, obtain greater access to internal and external expert advice, more rigorous risk management, quality assurance and investment disciplines, the ability to secure long term funding, and the ability to carry out long term planning.”³

We want workers to be listened to and treated fairly through the transition process and in the new Water Services Entities

Our primary mandate as a union is to advocate for the interests of our members. As a union representing workers in the Three Waters sector, our highest priority is to ensure that the interests of workers in the sector are protected through the transition process and in the new WSEs.

“Keep the focus on maintaining existing Three Waters infrastructure and retaining Three Waters technical competence, no matter the governance structure.”

- PSA member working in Three Waters

It is important for our members that the transition to new WSEs focuses on:

- retaining as many people as possible in employment (along with the institutional knowledge and relationships they currently bring to their roles), including people whose work is related to Three Waters but don't meet the definition of 'primarily' undertaking Three Waters functions
- ensuring that the terms and conditions in new WSEs do not leave workers any worse off (and preferably result in them ending up better off) in their new roles
- ensuring workers have opportunities for training, upskilling and communities of practice.

Worker voice

Ensuring worker voice is heard, both in the transition process and in the new WSEs post-establishment, is a way of ensuring worker expertise is valued and acted upon in the planning and design of services. Workers in the new WSEs will have expert technical knowledge, as well as local knowledge that will be particularly valuable in a more centralised model.

Our members working in Three Waters – just like the wider public – have expressed feeling uncertain about how the needs of smaller communities will be represented in the new multi-regional model. Providing good mechanisms for industrial democracy can be a way of helping to ensure the workplace needs of smaller communities can be heard. It is also an opportunity to ensure that the needs of

³ Government Inquiry into Havelock North Drinking Water, 2017. [Report of the Havelock North Drinking Water Inquiry: Stage Two](#), page 116

workers as a whole are identified and provided for. The operating principles for the WSEs should provide for this, supported by board arrangements that ensure worker voice is heard.

We recommend that in the operating principles under clause 13:

- **‘Engaging early and meaningfully with unions on workforce matters’ (or words to that effect) be included as a principle**
- **‘Providing a voice for workers through strong industrial democracy mechanisms’ (or words to that effect) be included as a principle**
- **Principle 1 (developing and sharing capability and technical expertise with other WSEs and throughout the water services sector) be strengthened to provide for ‘developing capability and technical expertise through the provision of training, professional development and worker participation in decision-making’ (or words to that effect).**

We also recommend that the composition of WSE Boards provide a voice for workers. This should be though:

- **providing a position on each WSE Board for a worker representative**
- **requiring that the knowledge and experience sought for Board appointees under clause 57 includes worker representation.**

Transitional arrangements

We broadly support the provisions in clause 16 of Schedule 1 setting out the obligation to offer certain employees position that involves the same or similar duties and responsibilities. However we believe that that the definition of ‘core terms’ in clause 16 is too narrow. Instead of salary it should include remuneration more generally. It should also include overtime, penal rates, on call and call-out provisions, allowances, shift work arrangements, public holidays and flexible working conditions.

We suggest that clause 16 be amended to require that the offer made to affected employees be on the same terms and conditions rather than the same ‘core terms’.

We acknowledge that it is not feasible to extend the provisions of clause 16 beyond those people who primarily undertake functions that will be transferred to a new WSE, to also cover workers whose work only partially relates to Three Waters.

However, we believe there should be as much protection as possible for these workers, including staff in teams that support both Three Waters and other council functions (eg, customer service and administration), where only a relatively small proportion of each person’s work relates to Three Waters. For these workers, the removal of Three Waters work from councils would result in fewer FTE positions being required in councils, putting them at risk of redundancy.

We are concerned that in some councils the transfer of water-related services out of the organisation could result in significant restructuring. The wellbeing of people in these ‘mixed’ roles needs to be a core consideration.

We recommend that the legislation guarantee preferential consideration in WSE job applications, and for similar roles advertised in their home councils, for workers whose work is partially in Three Waters and aren’t eligible for an offer under clause 16.

We also believe that the redundancy provisions in Clause 18 pose a risk of an unfair outcome for a worker who is offered a position in a new WSE that is later found to be unsuitable; for example, if there is dispute about the extent to which the role meets the criteria set out in legislation, or if the work does not in practice reflect the position that was offered. In addition, they leave workers

unprotected if they do not have adequate redundancy provisions in their current employment agreements, or if they are employed in fixed term roles during the initial life of the WSE but not offered ongoing work after that.

We recommend that the redundancy provisions:

- **provide for people who may be offered a position that is not suitable, or later found to be not suitable**
- **provide a minimum six month redundancy provision for people who do not have redundancy provisions in their existing employment agreement**
- **apply to people who are employed on a fixed term contract (or series of fixed term contracts) with a new WSE, if they are not offered a permanent role at the end of their fixed term.**

We note that the Three Waters National Transition Unit has indicated they intend to offer some of the provisions we suggest above (eg, preferential consideration, and extension of redundancy for fixed term employees), but we recommend they be included in the legislation to ensure workers' rights to these are protected.

Standardising terms and conditions across Water Services Entities

Pay and conditions for workers at councils vary and can be dependent on the income of each council. While a transition to four WSEs will improve this situation through simply reducing the number of different employers, there is opportunity to improve it further.

We recommend that pay and conditions for water operators across all councils is streamlined and that industry standards are developed to ensure consistency.

“Ensure members are not disadvantaged by transfer - in fact remuneration should be improved to reflect true market rates”

- PSA member working in Three Waters

The PSA supports the development of a Multi-Employer Collective Agreement (MECA) for workers in this industry to ensure industry standards.

Protection of public assets from privatisation is essential

We believe it is essential to ensure water services remain in public ownership for the good of all people in Aotearoa. This has been a key area of interest to our members, and to the wider public, and we have seen that much of the opposition to the Three Waters reforms has come from people's concerns that the proposed model will fail to protect assets from privatisation.

When surveyed, almost three quarters of PSA local government member respondents felt that protecting Three Waters assets from privatisation was very important. More than 40% thought that the current model performed well in terms of protecting water assets from being sold off, but less than 30% thought the proposed model would perform well in this regard.

“More protection from ever selling our contracting out assets and services regarding three waters. Recognition that all people of NZ have paid in to purchase, maintain, improve these assets and as such they must always be part of public ownership.”

- PSA member working in Three Waters

It is essential that the legislation include the strongest measures possible to ensure Three Waters infrastructure stays in public ownership. The current provisions are a good start but could go further.

We support the protections in Schedule 4 of the legislation to prevent assets being privatised, including the requirement for any divestment proposals to be supported by 75% of the Regional Representative Group, all of the territorial authority owners, and 75% of the voting population, in order to be successful.

We support the recommendation made by the Governance and Accountability Working Group that the legislation also include a requirement for a majority of 75% of all the members of the House of Representatives to repeal or amend provisions of the Bill where the repeal or amendment of that provision is necessary to allow privatisation of a WSE. We note that this would require cross-party support at the Committee of the Whole House stage, and that the Minister has written to all parties in Parliament asking for that support. We strongly urge all parties to support this provision, and we urge the Select Committee to make a strong, unanimous recommendation in support of this.

We note that the Minister for Local Government intended that the proposed model would make it more difficult to privatise than under the current arrangements,⁴ and that the protections against privatisation in Three Waters reform “would be similar to the approach currently taken in the Local Government Act 2002, which prevents local authorities from selling or disposing of infrastructure necessary for providing water services.”⁵

While the proposed provisions set a high bar by ensuring that a divestment proposal needs the overwhelming support of both councils and residents, we question why the legislation could not simply include the same provision as clause 130 of the Local Government Act 2002 if the intended outcome is to be the same. This clause provides that council must not divest its ownership or other interest in a water service except to another local government organisation (other than for small water services in certain situations). Alternatively, changes to clause 116 could provide additional protection, such as:

- amending clause 116(2)(c) so it requires the disposal of infrastructure to both meet Schedule 1 and retain the WSE’s capacity to perform its duties, functions and powers (this is currently an ‘or’ provision)
- explicitly specifying under clause 116 that any divestment proposals must ensure the WSE can still exercise its duties, functions, or powers
- further narrowing the types of services that can and cannot be divested – similar to how clause 130 of the Local Government Act specified a process for divesting ‘small water services’ but and prohibited divestment of other services/infrastructure.

⁴ [14 June 2021, Cabinet Paper: Designing the New Water Service Delivery Entities: Paper Two, Office of the Minister Local Government.](#) p26

⁵ [14 June 2021, Cabinet Paper: Designing the New Water Service Delivery Entities: Paper Two, Office of the Minister Local Government.](#) p26

We recommend the committee consider further changes to clause 116 of the Bill to provide additional protection against privatisation of water infrastructure.

The legislation presents an opportunity to strengthen public delivery

Keeping public delivery in public hands

We see the Three Waters reforms as an opportunity to halt and reverse the trend towards councils contracting out the operation and management of water services to private providers that began with the 2010 amendments to the Local Government Act 2002. These 2010 changes extended the maximum contract term from 15 to 35 years and removed the requirement for a council to be responsible for all matters relating to the management of water services.

Hon Rodney Hide, Minister of Local Government at the time, said that these changes “were aimed at small councils that needed to invest in water and wastewater plants and were interested in a public-private partnership.”⁶ The proposed Water Services Entity Bill still includes provisions that mirror the 2010 Local Government Act amendments, allowing that “a water services entity may enter into a contract for any aspect of the operation of all or part of water services for a term not longer than 35 years.” However, as the Water Services Entities Bill would move water service delivery functions into new entities specifically tasked with delivering these services, and with the scale to manage those services effectively, the provision enabling widespread contracting out is no longer necessary.

Research from the United Kingdom suggests that water privatisation leads to higher prices and lower investment in water infrastructure.⁷ Contracting out means the public subsidising the profits of private companies, on the basis of promised levels of service that aren’t always met. A recent example of this can be found in Wellington Water’s 2021 report into failures in water service delivery, which stated “Wellington Water contracted Veolia NZ (Veolia) through a contestable process and expected Veolia, as part of a large global water organisation, to manage and operate the WWTPs effectively to deliver its public health and environmental objectives. However, this has not been consistently achieved and there have been numerous breaches and non-compliance incidents at the WWTPs by Veolia.”⁸

While the public are rightfully concerned about the prospect of assets being sold off at some point in the future, the issue of water services being contracted out for profit is something already happening in the current system, and the PSA does not believe this should be a part of the future system. This Bill is an opportunity to ensure strong public services delivered by public entities.

We recommend that the legislation include provisions ensuring WSEs cannot contract out significant parts of the delivery of services to the private sector.

Social procurement

One area in which it may be appropriate – and even beneficial – for WSEs to enter into contracts is where it creates opportunities to drive positive social outcomes through social procurement. Examples of this could include where WSEs contract community and mana whenua groups to provide plants or landscaping as part of stormwater projects, or require contractors to work with such groups; or where contracting with local companies is used as a way of addressing local issues around unemployment and training.

⁶ [NZ Herald, 29 October 2009. ‘Hide opens door to privatised water deals’](#)

⁷ David Hall & Emanuele Lobina. 2010. [Water Privatisation](#). Public Services International Research Unit

⁸ [Independent Review of the Wellington Water regional wastewater treatment plant operating model](#), 2021

Where this happens, it should be backed up by procurement rules applying to WSEs similar to the broader outcomes in the Government Procurement Rules.⁹

There may be other limited circumstances in which contracting out is required, such as where specialist expertise is required that cannot feasibly be provided from within the entity itself, or where the contracting is incidental to the core business of the organisation (eg, standard arrangements for things like IT cloud services or administrative functions not delivered in-house). WSEs should be restricted to only being able to do this where it is practically necessary. A focus of the WSEs should be to grow the capacity and capability to perform all of its duties. WSEs should be required to grow that expertise rather than expecting to be able to continue outsourcing it.

We recommend that the Bill provide for limited circumstances where WSEs can enter into contracts for the delivery of services, but require that:

- **WSEs themselves must remain responsible for the delivery of water services**
- **Contracting out is only used in circumstances when it is unfeasible for the services to be delivered by the WSE itself, or where it presents wider positive social outcomes for the community**
- **Any contracting out of water services should be governed by procurement rules that are intended drive positive social outcomes.**

Growing public infrastructure-building capability in the public sector

Although we advocate for changes to the contracting out provisions in the Bill, we believe that joint arrangements between WSEs, or with government entities more generally, in the delivery of services should be permitted. This could allow for cost-savings and avoid duplication, while ensuring that in-house capacity is maintained in the WSEs, and that public money is being used for public services rather than private profit.

The building of large-scale infrastructure is an area where joint arrangements between multiple WSEs, or between WSEs and wider government, could be of particular benefit. The PSA has consistently been calling for the creation of a Ministry of Works-type agency that could deliver public infrastructure directly, and in 2021 a report from First Union made the case for a 'Ministry of Green Works' to build green infrastructure in a way that addressed issues around contracting out, and around a lack of coordination on infrastructure to meet our climate goals.¹⁰ The estimated \$120-\$185 billion in water infrastructure needing to be built over the next 30 to 40 years¹¹ provides a long-term pipeline of projects to sustain a publicly employed workforce.

WSEs should be required to develop infrastructure-building capacity and capability internally to deliver the bulk of this infrastructure. But for particularly large-scale projects that may be too complex, or too infrequent, for individual WSEs to develop long-term capability for, a public infrastructure-building entity would be an alternative to procuring from the private sector. This could possibly be achieved through WSEs entering into a joint arrangement, or through WSEs commissioning infrastructure in partnership with a Ministry of Works-type central agency.

We recommend clauses 117 and 118 should provide the ability for WSEs to enter into joint arrangements with other WSEs or government entities, but not with the private sector.

⁹ The broader outcomes can be found at <https://www.procurement.govt.nz/broader-outcomes/>

¹⁰ Max Harris and Jacqueline Paul, 2021. [A Ministry of Green Works for Aotearoa New Zealand An Ambitious Approach to Housing, Infrastructure, and Climate Change](#). First Union

¹¹ [Transforming the system for delivering three waters services: Summary of proposals](#). DIA, 2022, page 23

We also recommend that the Government carry out further work looking at the most suitable mechanism for the public sector as a whole to improve how it coordinates the delivery of large-scale infrastructure.

We support partnership between councils and mana whenua

The PSA supports mana whenua having equal representation in the governance structures of Water Services Entities. It is a means of ensuring Māori can be equal and active partners in the governance of water in their rohe/takiwā and provides greater ability for mana whenua to exercise rangatiratanga over their taonga.

We endorse the submission made by Te Rūnanga o Ngā Toa Āwhina, the arm of the PSA representing Māori members.

Partnership at the governance level of WSEs should be supported with a strong focus on building and maintaining capability within the water sector workforce for engaging with Māori and understanding mātauranga and te ao Māori perspectives. This could be strengthened by including a provision in the Bill similar to section 14 of the Public Service Act 2020 giving WSEs a responsibility to build and maintain such capacity.

We support equity within and between communities

We recommend that the operating principles of WSEs include equitable access to services, and equitable pricing, within and between communities.

Entities need to be responsible for ensuring that the way they plan infrastructure provision results in all communities receiving an acceptable standard of healthy Three Waters services, and that smaller communities are not disadvantaged. This principle would also help ensure that decisions around pricing water services do not entrench existing inequalities.

We also believe that the proposed size of regional representative groups has the potential to exclude some communities and iwi/hapū groupings.

We recommend a more flexible approach to the size of regional representative groups to enable all communities and mana whenua to participate.

We support public participation in the direction of how water services are run

We believe in the importance of local democracy, and our goal is to see workers and communities participating in shaping public and community services. We acknowledge that the creation of distance between elected local representation and the day-to-day management decisions is a necessary trade-off to enable multi-regional WSEs to function effectively.

We support the changes that have been made to the WSEs' governance and accountability arrangements in light of public feedback and the advice of the Governance and Accountability Working Group to alleviate public concerns about democratic participation. It is positive that the legislation also sets out multiple avenues for community involvement and representation, including:

- Regional advisory boards
- The consumer forum and consumer engagement stocktake
- The requirement to consult with the public and the Regional Representative Group when preparing asset management plans, funding and pricing plans, and infrastructure strategies.

One area where we believe the legislation could go further is in relation to engagement on plans. Clause 202 provides options for the kind of consultation that can be undertaken; however this allows for WSEs to simply consult on a proposal without seeking wider community input in the earlier stages of its development. The practice of consulting on a fully formed proposal – effectively presenting the community with something they perceive as a ‘done deal’ they cannot meaningfully influence, is a common complaint of government agencies both central and local. WSEs should be required to involve communities in the early stages of forming proposals.

We recommend that Clause 202 (2):

- **require WSEs to both consult on proposals and seek input during the formation of proposals**
- **also cover significant proposals (eg, major pieces of new infrastructure) in addition to the regular plans and strategies already covered in this clause.**

“[Ensure] it is clear that there will be accountability and responsibility by those governing it to the public.”

- PSA member working in Three Waters

We recommend that WSEs’ planning documents (eg, asset management plans and infrastructure strategies) be required to take into account local government planning documents (eg, district and regional plans, long term plans, and spatial plans under the new Strategic Planning Bill if passed). This would help ensure better linkages between council land-use planning and WSE stormwater planning, and help ensure WSEs are giving effect to the desires of local communities in terms of place-making.

Comments on specific parts of the legislation

The following tables set out changes we think should be made to specific clauses in the legislation.

Main body of the Bill

<p>13. Operating principles</p>	<p>Include a principle of ‘Engaging early and meaningfully with unions on workforce matters’ (or words to that effect).</p> <p>Include a principle of ‘Providing a voice for workers through strong industrial democracy mechanisms’ (or words to that effect).</p> <p>Strengthen Principle 1 (developing and sharing capability and technical expertise with other WSEs and throughout the water services sector) to provide for ‘developing capability and technical expertise through the provision of training, professional development and worker participation in decision-making’ (or words to that effect).</p> <p>Include a principle of equitable access to water services, both within and between communities.</p>
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<p>27. Establishment, role, and decision making of regional representative group</p>	<p>Enable the size of regional representative groups to be determined through WSE constitutions rather than limiting the size to between 12 and 14 members.</p>
<p>57. Membership of board</p>	<p>Either:</p> <p>Include a requirement that the Board include a worker representative;</p> <p>Or,</p> <p>Under clause (2) include require that the Board Appointment committee appoint board members who, collectively, have knowledge of, and experience and expertise in relation to worker representation.</p>
<p>116. Obligation to maintain water services</p>	<p>Provide additional protection against privatising water infrastructure by:</p> <ul style="list-style-type: none"> • amending clause 116(2)(c) so it requires the disposal of infrastructure to both meet Schedule 1 <u>and</u> retain the WSE’s capacity to perform its duties, functions and powers (this is currently an ‘or’ provision) • explicitly specifying under clause 116 that any divestment proposals must ensure the WSE can still exercise its duties, functions, or powers • further narrowing the types of services that can and cannot be divested – similar to how section 130 of the Local Government Act specified a process for divesting ‘small water services’ but and prohibited divestment of other services/infrastructure.
<p>117. Contracts relating to provision of water services</p>	<p>Amend this clause to make it consistent with the Local Government Act prior to its 2010 amendments, to ensure that WSEs cannot contract out their core business (ie, the operation, management and delivery of water services) to the private sector. This would include:</p> <ul style="list-style-type: none"> • Amending clause (1) change the contract period back to 15 years. • Amending clause (2) to say that the WSE must also “retain control over all matters relating to the management of water services”. • Adding a test requiring that WSEs only contract out aspects of water service delivery when it is not feasible to provide it in-house. <p>In addition, add to this clause with requirements that any contracting should use a social procurement approach to prioritise contracts that benefit the community.</p>
<p>118. Joint arrangements for purpose of providing water services</p>	<p>Specify that a joint arrangement means an arrangement entered into by 1 or more WSEs with 1 or more publicly owned bodies that are not WSEs for the purpose of providing water services or any aspect of a water service.</p>

	The purpose of this change would be to clarify that WSEs can enter into joint arrangements with each other, and/or with a central government infrastructure building entity, but not with private sector entities.
120. Water services entity to be good employer	Amend this clause to align with the good employer provisions in the Public Service Act 2020.
131. Preparation or review of Government policy statement	Require the Minister to consult with the public in the preparation of a Government Policy Statement.
140. Mana whenua may provide Te Mana o te Wai statements for water services	The legislation (or guidance issued under the legislation) should provide an indication of what a Te Mana o te Wai statement can or should include to most effectively help guide WSEs to give effect to Te Mana o te Wai.
151. Content of funding and pricing plan	Require the funding and pricing plan to set out how it deals with matters of equity (both between and within communities) in pricing and funding (eg, how it is ensuring an equitable approach to pricing that does not disadvantage vulnerable consumers, and how it is ensuring and equitable approach to investment across different communities).
202. Engagement requirements	<p>Require clause 202 to apply not only to the documents specified, but also to any significant proposals (eg, plans for the creation of significant pieces of infrastructure).</p> <p>Amend clause (2) to require a WSE to do both of the following before deciding on a matter:</p> <ul style="list-style-type: none"> a) consult on a proposal; and b) seek input during the formulation of a proposal.
<i>Additional suggested clause</i>	Add a requirement for appointments to be notified and subject to a review period, consistent with the requirements of Schedule 8 of the Public Service Act 2020. This should only apply to appointments made once WSEs are established, not during the transition period.
<i>Additional suggested clause</i>	Include a clause similar to section 14 of the Public Service Act 2020 giving WSE Boards responsibility for developing and maintaining the capability of the WSEs to engage with Māori and to understand Māori perspectives.

Schedule 1 - Transitional, savings, and related provisions

15. Review of employment provisions by chief executive of	<p>Further clarify what ‘primarily’ means.</p> <p>Amend subclause (2) to set an earlier window of time in which the chief executive is required to notify each employee of their determination in writing, instead of requiring it “before the establishment date”, to allow</p>
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department during establishment period	time for any disputes about the outcome of the transition to be settled before the establishment date.
16. Obligation to offer certain employees position that involves same or similar duties and responsibilities	<p>Amend clause 16 to require that the offer made to affected employees involve the same or substantially similar duties and responsibilities, be on the same terms and conditions as their current employment, treat service as continuous, and be in the same general locality or a locality within reasonable commuting distance from their current place of work.</p> <p>Add a clause providing for compensation (and an accompanying schedule) for workers who have a change in location, similar to clause 105 of the Local Government (Auckland Transitional Provisions) Act 2010.</p> <p>Add a provision that an employee of an existing employer who undertakes some functions being transferred, but does not meet the definition of 'primarily' undertaking those functions and does not qualify for the obligation under clause 16, must be offered preferential status in any employment application within a new WSE.</p>
18. Employees not entitled to redundancy or other compensation just because position or employer ceases to exist	<p>Add a clause stating that an employee who accepts a position with the WSE has a period of 12 months in which they may resign from that position if they believe the new position is unsuitable in any way and receive their contractual redundancy compensation or 12 weeks redundancy compensation, whichever is the greatest.</p> <p>Amend clause 18 to state that employees are not eligible to received redundancy in the circumstances set out unless that role is for a fixed term; and in these cases, they continue to qualify for redundancy at the end of their fixed term (including any extensions of this term, or subsequent similar fixed term contracts). This could be modelled on clause 106 of the Local Government (Auckland Transitional Provisions) Act 2010.</p>

Schedule 3 - Preparation of planning documents

Part 2, 3 and 4	Require planning documents to take into account existing local government plans under the Local Government Act 2002 and the Resource Management Act 1991.
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Schedule 4 - Divestment proposals

Part 1: Divestment proposal	Include a clause requiring that any divestment proposal be subject to a 75% majority in Parliament. If parties currently in Parliament are unwilling to agree to this, include a clause requiring that any divestment proposal be subject to a 62% majority in Parliament.
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Conclusion

We appreciate the opportunity to submit the Water Services Entities Bill. We want to ensure that the reform process provides the best outcomes possible, both for our members working in Three Waters, and for all of our communities. We will continue to engage constructively with the Government on the transition process.

For further information about this submission, please contact:

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Appendix 1: PSA values and o Te Rūnanga o Ngā Toa Āwhina

PSA values

Solidarity | Kotahitanga

We champion members' interests with a strong effective voice. We stand together, supporting and empowering members, individually and collectively.

Social justice | Pāpori Ture Tika

We take a stand for decent treatment and justice. We embrace diversity and challenge inequality.

Integrity and respect | Te Pono me te Whakaute

Our actions are characterised by professionalism, integrity and respect.

Solution focused | Otinga Arotahi

We are a progressive and constructive union, constantly seeking solutions that improve members' working lives.

Democratic | Tā te Nuinga e Whakatau ai

We encourage participation from members. We aim to be transparent, accessible and inclusive in the way we work.

Ngā Kaupapa o Te Rūnanga o Ngā Toa Āwhina

Kotahitanga - Unity and Solidarity

Rangatiratanga - Empowering Māori Leadership

Kaitiakitanga - Protection of Māori to secure fair working conditions in the workplace

Manaakitanga - Health and Wellbeing

Wairuatanga - Cultural behaviour

Whakahiato Umanga - Career Development

Whanaungatanga - Personalise whānau

Whakamana - Effectiveness