

**Submission of Thames-Coromandel District Council
to the
Finance and Expenditure Select Committee
regarding the
*Water Services Economic Efficiency and Consumer Protection
Bill***

Date:	09 February 2023
Submission:	On behalf of an organisation
Oral submission to the Committee:	No
Organisation details:	Thames-Coromandel District Council, 515 Mackay Street, Thames 3500
Contact person:	Ms Aileen Lawrie – Chief Executive aileen.lawrie@tcdc.govt.nz Primary phone number: 021819342 Other phone number: 07 8680423 Postal address: 515 Mackay Street, Thames Postcode: 3500 Region: Waikato

Executive summary

The Thames Coromandel District Council (“The Council”) is a territorial local authority in the Waikato region. The Council provides a wide range of essential services including three waters, to both residents and visitors. The Council is made up of a mayor and eight Councillors, all of whom are elected members. The management of the organisation is led by the Chief Executive who reports to The Council. The district has a population of approximately 27,625 and 21,181 are on Council water supplies. Those on Council water supplies pay for the water services they receive, through both rates and water by meter charges.

General position

The Council appreciates the opportunity to make a submission on the Water Services Economic Efficiency and Consumer Protection Bill 2020 (“the Bill”).

Council is not supportive of the water reform in its current form as proposed by the central government.

On 07 April 2022, Council passed a resolution supporting the operating model proposed by Communities 4 Local Democracy (C4LD) and is a signatory their (C4LD) Memorandum of Understanding, along with several other territorial local authorities.

Communities 4 Local Democracy He hapori mo te Manapori is a new local government action group committed to working with central government to ensure all New Zealanders have access to safe drinking water and that all of our local communities continue to have a say on the use of assets purchased on their behalf using ratepayer funds.

Submission

1. General comments

- 1.1 Define 'Financial Year' for purposes of this Bill / Act. For example, 01 July to 30 June, or 01 January to 31 December etc.
- 1.2 Clarify whether the 'Regulatory Period' mentioned in this Bill the same as the 'Financial Year'.
- 1.3 WSE refers to the Water Service Entity
- 1.4 TLA, LA or Council refers to Territorial Local Authority

2. Specific comments on the legislation

Part 1 – Preliminary Provisions

- **Clause 4 – Functions of Commission under this Act**

Item (1)

It is important that the Commission does both monitor **and report**.

It is recommended that Clauses (a) and (b) be amended to read as follows:

Recommendation

*(a) monitor **and report on** the quality of service provided by regulated water services providers; and*

*(b) monitor **and report on** whether outcomes in the markets described in section 11 are consistent with outcomes produced in competitive markets; and*

- **Clause 5 – Functions of Commission under this Act**

Item (2) (c) (iv)

This clause as is ignores the needs of asset owners.

It is recommended that the following item be added to Clause (2) (c) (iv):

Recommendation

*(v) **Needs of asset owners***

Part 2 – Price and quality Regulation

Subpart 1 – General

- **Clause 12 – Purposes of this Part**

- **First paragraph**

Check grammar in first sentence.

It reads: *‘The purpose of this Part is to promote the long-term benefit of consumers in markets referred to.....’*

It should read *benefit to consumers.*

Recommendation

‘The purpose of this Part is to promote the long-term benefit to consumers in markets referred to.....’

- **Clause 12 (d)**

Clause 12 (d) refers to limiting ability to extract excessive profits.

Recommendation

Define what constitutes excessive profits.

- **Clause 15 – Determinations made by Commission under this section**

Clause 15 (1) (b) quality regulation and (c) price – quality regulation

Recommendation

Specify who sets the benchmark for the quality and price-quality regulation.

Subpart 3 – Input methodologies

- **Clause 27– Matters covered by input methodologies**

Clause 27 (1) (a) lists various matters in respect of the supply of water infrastructure services. For completeness, it is important that these matters also include: (a) Regulatory and Resource compliance costs and (b) Operation and Maintenance costs.

Therefore, it is recommended to add the following to Clause 27 (1) (a)

Recommendation

(v) Regulatory and Resource compliance costs

(vi) Operation and Maintenance costs

Subpart 4 – Information disclosure regulation

- **Clause 33 – Effect of being subject to information disclosure regulation**

Clause 33 (b) - It is unclear whether the public disclosure of this information includes information first made available to the public under Official Information Act requests.

Recommendation

Clarify whether Clause 33 (b) includes information first made available to the public under Official Information Act requests.

- **Clause 35 – Information required may include information about goods or services not subject to regulation under this Part**

The intent of Clause 35 (1) as stated in the Bill reads *‘The purpose of this section is to enable the Commission to monitor--’*

Clause 35 (1) (b) only refers to the Commission monitoring the ongoing capability of a regulated water services provider to **raise** finance. It is important that a regulated water services provider must also be able to **service debt**, and this needs to be part of the Commission’s monitoring role.

Recommendation

Clause 35 (1) (b) – *Insert the words ‘and service debt’, after the word ‘finance’ in the second sentence of this clause.*

Subpart 5 – Quality Regulation

- **Clause 37 – Purpose of quality regulation**

The first sentence of the above clause refers to **‘quality and performance’**. It would be helpful here to refer any reader of this Bill (and subsequently the Act) to *Clause 39 – Section 15 determination to set out quality path requirements*, which provides definitions for the above terms i.e., **quality and performance**.

Recommendation

Clause 37 – *Add new sentence - ‘Refer to Clause 39 - Section 15 determination to set out quality path requirements, for the definitions of quality and performance.’*

- **Clause 38 – Effect of being subject to quality regulation**

Clause 38 (1) - The second sentence of this clause refers to **‘quality paths’**. It would be helpful here to refer any reader of this Bill (and subsequently the Act) to *Clause 39 – Section 15 determination to set out quality path requirements*, which provides definitions for the above term i.e., **quality paths**.

Recommendation

Clause 38 – Add new sentence - ‘Refer to Clause 39 - Section 15 determination to set out quality path requirements, for the definition of quality path.’

- **Clause 39 – Section 15 determination to set out quality path requirements**

Clause 38 (1) states that the **quality path** will be set by the Commission.

Clause 39 (3) (b) –Refers to ‘**performance requirements**’, and this is part of a **quality path** (Clause 39 (3)).

If the Commission sets the **performance requirements**, then the Commission needs to accept all performance outcomes also.

Recommendation

Clause 39 (3) (b) – Given that the Commission sets the performance requirements, clarify whether the Commission then accepts all performance outcomes also. If not, clearly state who is responsible for accepting the outcomes of these performance requirements targets.

Subpart 6 – Price-quality Regulation

- **Clause 42 – Section 15 determination to set out price-quality path requirements**
- Clause 42 (3) (a) (i) refers to imposition of **penalties** on the regulated water services provider, as an **incentive**.

A fundamental premise of water reform is to make up for years of under investment in three waters assets. If an Entity (regulated water services provider) inherits poorly maintained assets, it is unfair to impose quality and performance penalties until these assets are brought up to a minimum acceptable standard.

Recommendation

Clause 42 (3) (a) (i) – Defer the provision for imposition of penalties until the three waters assets are brought up to a minimum acceptable standard.

- Clause 42 (3) (b) – This is a repeat of Clause 39 (3) (b)

Recommendation

Clause 42 (3) (b) – Delete this clause.

- Clause 42 (5) requires the regulated water services provider to ring-fence revenue and may include a requirement not to spend the relevant funds without the approval of the Commission.

The above requirement inhibits the regulated water services provider to independently conduct their business activities in a commercially prudent manner.

Recommendation

Clause 42 (5) – Delete the requirement for the regulated water services provider to obtain approval of the Commission to spend any ring-fenced revenue. Instead hold the regulated water services provider accountable to demonstrate to the Commission that their business is being run in a commercially prudent manner.