

Appendix A – Christchurch City Council detailed submission on the Local Government (Water Services) Bill

Clause	Title	Suggested Relief
4. Interpretation	Wastewater Services	We recommend this definition be expanded to include odour treatment. <i>Wastewater services – (a) means the collection, storage, transmission through reticulation, treatment (including of odour and biosolids), storage, transmission through reticulation, reuse, or discharge of wastewater</i>
4. Interpretation	Water Supply Service	<i>Water Supply Service - (a) means the abstraction, storage, treatment, or and transmission of drinking water for supply to—</i> Clarify the ambiguity of including end-point treatment device and back-flow prevention device in the definition.
8.	Territorial authority responsible for providing water services	Recommend rewording of clause to better reflect the intent, as current drafting leaves potential for residual responsibility even where the territorial authority has transferred responsibility to a water organisation to ensure water services are provided in accordance with the Act.
12.	Purpose and effect of transfer agreement	Schedule 9 of the Local Government Act (LGA) applies with any necessary modifications to a transfer agreement. It would be great to get clarification on what these modifications are and whether the schedule should be amended to reflect these.
15.	Objectives of water service providers	Clause 15(1)(a)(i) should apply to wastewater and stormwater as well. Clause 15(1)(a)(ii) should be qualified otherwise it is an unachievable standard. Clause 15(1)(a)(v) should be qualified to take into account that a water service provider must meet regulatory and other legislative requirements. Clause 15(1)(a)((e) – provisions in the Bill provide clarity what this means. Other objectives should be included in relation to providing waters services in a way that supports housing growth and development, having regard to community interests and relationship and engagement with mana whenua.
17.	Obligation to continue water services	Clause 17(2)(c) refers to subsection 3 when there is no subsection 3 in this clause.

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20.	Provider to ensure water supply when existing supplier facing significant problem, etc	Clarity needed on the ultimate responsibilities as it currently reads as though the water service provider carries ultimate responsibility rather than the registered drinking water supplier.
22.	Obligations before entering into contracts	There should at the least be shareholder approval before a water organisation enters into a significant contract to transfer responsibility to another body.
23.	Significant contract requirements	Water organisations should prepare a policy that governs their assessment of significance and that it is consulted on with shareholders.
24.	Joint water service provider arrangements	This clause should be amended to require water organisations to gain shareholder approval before entering into a joint water services provider arrangement.
25-29.	Decision making by territorial authorities	<p>Clause needs redrafting to reflect the policy intent as outlined in the Department of Internal Affairs FAQ guidance and to avoid any unintended consequences that territorial authorities need to undertake a second round of consultation (with the Bill prevailing over the Preliminary Arrangements Act) if its preferred delivery model hasn't been implemented (e.g. the CCO hasn't been established) by the time the Bill becomes law.</p> <p>It would be good to understand the policy intent behind why 3 options being required to be consulted on in the future (compared with the Preliminary Arrangements Act) and why similar streamlining provisions as with the Preliminary Arrangements Act aren't included?</p>
40.	Board directors	Recommend it specifies what relevant provisions in Part 8 of the Companies Act and Part 5 Of the LGA apply.
43.	Territorial authority may establish consumer trusts	We seek clarity on consumer trusts around who has the duties of a water supplier. As well as whether there will be a standing trustee criteria, a limit on the number of people who can stand for any vacant position, who pays for the election process and whether a Council electoral officer can facilitate the election.
78(2).	Purpose of development contributions	This subsection should be rephrased as development contributions should include recovery of future expenses as well as costs incurred.
84(1)(b)(i).	Basis on which water organisation may require development contributions	References to 'incurs capital expenditure' should be reworded to 'to be incurred'.

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116-122.	Accessing land to carry out water services infrastructure work	<p>Agree, that cl 117 notice requirements including 30 working days and conditions apply to new construction works i.e. cl 116(1)(a).</p> <p>However, strongly disagree that every time a Water Service Provider inspects or maintains existing works requires notifications to owners with 30 working days notice or accommodating conditions for each landowner. This is impractical and inefficient and makes required works more difficult, undermines the ability to delivery necessary works efficiently and effectively. Landowners will also get notice fatigue given multiple times and different reasons and repetitive maintenance works required i.e. waterways.</p> <p>By way of example: Banks Peninsula Water and Wastewater Operations - regular access to site is required for intake inspections and to walk the raw water supply lines, including a number of water supply wells. This occurs from weekly intake inspections up to six-monthly line inspections. This doesn't account for any reactive works required.</p> <p>Water Connection / Meters – Christchurch has approximately 160,000 connections across the district that require maintenance and quarterly water meter reads to support billing. There are a large number that are on private property, estimated 5000 - 10,000.</p> <p>Stormwater and Land Drainage Maintenance - just taking a 500m section of Wairarapa Stream from Rossall Street to Idris Road, there's about 40 properties that back onto the stream. This reach is maintained three times per year. This is probably typical of a lot of Christchurch waterways and works out at about 80 properties a km.</p> <p>In round numbers CityCare maintains >930km of waterways per year the vast majority of which will run through private property. The timing of their visits could be affected by any number of things including staff sickness, rain events, volume of</p>

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		<p>aquatic weed etc so there's little guarantee that they could or would be at any individual property at a specified time.</p> <p>If conditions continue to be included – we recommend this is clearly particularised in the Bill regarding an exhaustive list about what those conditions can relate to i.e. time and manner of access, otherwise it leaves the scope wide open to conditions that that Water Services Providers are unlikely able to accommodate and leading to more hearings and appeal processes to undertake what otherwise would be routine works.</p> <p>118(1) seek clarity, that if the landowner gives consent but includes unreasonable conditions that clause 121 process is intended to apply versus clause 119 process?</p> <p>Suggest 121(2) should be the same as clause 120 appeal process, that it is the landowner who has to apply to the District Court if aggrieved by a decision (to not consent to an unreasonably condition), not the Water Services Provider, otherwise there is no disincentive for landowner in placing and maintaining unreasonable conditions.</p> <p>121(5)(c) for the avoidance of doubt, including reference to cl116(1)(a) The Council has the ability power of entry, the ability to carry out works in relation to drains, sewers and watercourses under the Christchurch District Drainage Act 1951 and the Land Drainage Act 1908. Clarity is needed regarding how the Bill provisions interact with those Acts.</p>

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137.	Urgency	We seek clarity on what is meant by a specified serious risk. Part 6 clause 344 definition doesn't apply to clause 137. Should it not apply here too? Otherwise, it could use the current provisions in section 173 LGA, i.e. on reasonable grounds, that a specified serious risk exists [that is causing or likely to cause— (i) loss of life or injury to a person; or (ii) damage to property; or (iii) damage to the environment; or (b) there is danger to any works or adjoining property.
143.	Water service provider must make drinking water catchment plan	We understand the intent behind the plan but note it does cause the potential for confusion in that it is a duplication of a number of existing processes. For example, Environment Canterbury prepares Community Drinking Water Protection Zones under the Land and Water Regional Plan. There is a National Environmental Standard for sources of drinking water prepared by the Ministry for the Environment. Drinking Water Suppliers must also prepare source water risk management plans (s43 Water Services Act). We consider protection of source water catchment, by the very nature of the catchment, is more a regional level activity rather than an individual Council level. Clarification is needed for how this would work alongside regional plans.
155.	Bylaw may authorise making trade waste permits	We recommend that those requesting a review should be required to meet the actual and reasonable costs of the review and appeals.
170.	Stormwater network bylaws	That the power to make stormwater bylaws remains with territorial authority and the water organisations has to recommend the territorial authority makes the bylaw (like Trade Waste and Water Supply bylaws).
171.	Stormwater network bylaws: limitations	This should not apply to a Territorial Authority who is providing water services in house and not through a water organisation.
172(1)(b).	Stormwater network bylaws: process for making	Requires a stormwater bylaw to comply with section 148(2)-(4) of the LGA, without noting any necessary amendments to make it apply to the stormwater context. The process for making a stormwater bylaw does not refer back to the consultation requirements of clause 144, unlike the requirements for trade waste bylaws or water services bylaws proposed in the Drinking Water Catchment Plan.

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175.	Landowner to notify territorial authority of proposed activity	Heading should refer to Water Service Provider not territorial authority.
195.	Process for making water services strategy: territorial authorities	We recommend that a council-controlled organisation should also have to prepare a summary document if shareholders ask them to consult.
199.	Audit of water services strategy	Subclause 1 should be amended to enable shareholders of water organisations to request an audit.
209.	Additional plans or reports: water organisation	Support that additional reports can be requested from a water organisation. Recommend that asset management plans are a mandatory requirement.
215-218.	Amendments to civil defence legislation	Clauses 215 and 216 amend Section 115A of the Civil Defence Emergency Management Act 2002 to include water organisations. Clause 218 amends Part 10 of the National Civil Defence Emergency Management Plan Order 2015 (Government financial support to local authorities) to include water organisations. Note for completeness that clause 33.5.1 Essential infrastructure recovery repairs (CDEM expense claim) of the Guide will also need to be updated accordingly as it currently specifies that essential infrastructure assets that include water, stormwater and sewerage must be local authority assets, which are not the property of trading entities.
269 58JA.	Relationship between wastewater and stormwater environmental performance standards and other instruments	Subclause 3 uses the term “any inconsistency” and subclause 5 uses the term “conflicts” We recommend the same term is used in both places.
269 58JB.	Relationship between infrastructure design solutions and other instruments	We seek clarification as to why this clause does not require councils to change district plans to remove inconsistency between rules and infrastructure design solutions when clause 269 58JA does.
273.	Consideration of applications	<p>This clause bars a grant of consent “contrary to” standards/design solutions. We question whether “inconsistent to” would be better suited here.</p> <p>This clause also says conditions of consent “must give effect to” the standards/design solutions. That term is different and might be interpreted differently from the reference to “consistency” for the rules in 58JA. We recommend changing this from “give effect to” to “consistent with”.</p>

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280 139B.	Definitions for purposes of extant wastewater consents	<p>Clause 139B(a) could be clearer as possible ambiguity regarding whether the term “relates to an activity associated with constructing or operating a wastewater treatment facility” includes discharges to land or water from that plant?</p> <p>Clause 139B(c) could be clearer if the words “immediately before the commencement date” are deleted.</p>
283.	Recommendation by territorial authority	The terms “not contrary” and “no more or less restrictive” are used in this clause. We recommend the same term is used in both places.
296/299.	Operating principles	Mixed-use rural schemes are specified here, we wonder if this could instead refer to acceptable solutions to cover all supplies. Acceptable solutions offer ways for small suppliers to ensure they are providing safe drinking water in a practical and cost-effective way.
302.	Meaning of domestic self-supply and domestic dwelling	It would be good to clarify at what point in time is this to be determined. For example, seasonal variances/fluctuation in population often occur.
303.	Meaning of mixed-use rural water scheme	We suggest grouping acceptable solutions together.
312.	Duty to renew annual registration and notify changes	We recommend the validity of registration renewal period remains annually. It is a quick online task and 5 years is a long time in development of new subdivisions, changes to treatment plants. Changes in population can trigger changes in DWQAR requirements.
313.	General exemptions	The ability to be exempt from notifying a notifiable risk or hazard will potentially create transparency difficulties.
326.	Drinking water compliance, monitoring, and enforcement strategy	We recommend referring to the overall use of acceptable solutions rather than just mixed use rural. Acceptable Solutions offer an alternative route for water suppliers.
327.	Taumata Arowai to publish annual drinking water regulation report	We recommend referring to the overall use of acceptable solutions rather than just mixed use rural. Acceptable Solutions offer an alternative route for water suppliers.
343.	Schedule 1 amended	We do not support an additional three years to be registered as registration gives certainty around supply numbers which enables better planning and education.
346.	Definition of water services bylaw	Specified serious risk needs to be clarified, many of the powers related are dependent on this definition.

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347.	Power to make water services bylaws	<p>Clarification is needed on whether standard bylaw making process including consultation is needed for bylaws made under this clause which do not have specific requirements elsewhere in the Bill.</p> <p>We seek clarity on clause 347(1)(b) as we are not clear when trade waste would be discharged into a stormwater or water supply network.</p>
349(2).	Territorial authority must consider proposal	We seek clarity on why a special consultative procedure always needs to apply instead of the ability to assess significance under s156(1) of the LGA.
351.	Initial review of bylaws	<p>For consistency Clause 351(5)(b) should be amended to <i>'ensure the amendment, revocation, or revocation and replacement is made'</i>.</p> <p>We suggest this clause should include a provision similar to s160A of the LGA.</p>
352.	Ongoing review of water services bylaws	We seek clarity on why a special consultative procedure always needs to apply instead of the ability to assess significance under s156(1) of the LGA.
358.	Who may use infringement notices	Should 358(2) refer to water organisation (not water services provider)?
366.	Compliance officers	We suggest these are called enforcement officers in order to be consistent with s177 of the LGA to avoid having multiple officers with different titles if water services are kept in-house model.