



## Meeting of the Hawke's Bay Drinking Water Governance Joint Committee

**Date:** Monday 3 August 2020  
**Time:** 10.00am  
**Venue:** Council Chamber  
Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER

### Agenda

ITEM	TITLE	PAGE
1.	Welcome/Notices/Apologies	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Hawke's Bay Drinking Water Governance Joint Committee held on 13 February 2020	
4.	Call for Minor Items not on the Agenda	
<b>Decision Items</b>		
5.	Proposed submission to HBRC Plan Change 9	3
6.	Work Plan Update	13
<b>Information or Performance Monitoring</b>		
7.	Groundwater quality and communications	17
8.	Feedback on submission on Taumata Arowai Bill	25
9.	Three Waters Update	
10.	Discussion of Minor Items Not on the Agenda	39





## HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Monday 03 August 2020

### Subject: PROPOSED SUBMISSION TO HBRC PLAN CHANGE 9

#### Reason for Report

1. The purpose of this report is for the Committee to consider lodging a submission to the Hawke's Bay Regional Council on Plan Change 9 to the Hawke's Bay Regional Resource Management Plan.

#### Officers' Recommendation(s)

2. That the Hawke's Bay Drinking Water Governance Committee approves the attached submission for lodging with the Hawke's Bay Regional Council on its Plan Change 9.

#### Executive Summary

3. On 2 May 2020 the HBRC publicly notified Plan Change 9 – the "TANK" plan change – covering the Tutaekuri, Ahuriri, Ngaruroro and Karamu catchments.
4. Since the establishment of the Joint Drinking Water Group (JDWG) one of its top priorities has been the development of objectives, policies and rules for managing source protection of drinking water, for inclusion in the TANK plan change.
5. Submissions on TANK provisions close on 16 August 2020.

#### Discussion

6. Plan Change 9 ("TANK") is a change to the Hawke's Bay Regional Resource Management Plan to manage water quality and water quantity in the TANK catchments. The second report of the Havelock North Drinking Water Inquiry (December 2017) raised the issue of drinking water safety in the context of water quality. The Inquiry Panel went on to observe that the TANK plan change would add to the understanding of drinking water source protection issues.
7. In February 2018 the TANK stakeholder group agreed that the Drinking Water Joint Working Group (JWG) should be regarded as a TANK working group to be tasked with developing draft policies and rules for consideration by the TANK collaborative group.
8. *Good Earth Matters* (GEM) was engaged by the JWG to provide recommendations on source protection provisions within the RMA regulatory framework and to develop draft policies and rules for the JDWG's recommendation to TANK.
9. GEM presented the JDWG with three options:
  - Option A – Objectives and policies only
  - Option B – Objectives and Policies supported by non-regulatory SPZ Maps
  - Option C – Regulation of Activities based on Mapped Source Protection Zones
10. The JWG chose Option C for further development as it not only includes an objective and policy making the need for protecting drinking water explicit but also provides guidance to decision makers as to how resource consent decisions may be made.

11. In July 2018 the JWG presented the following recommendation to the TANK group:
  - 11.1. A new objective be included to provide an explicit statement in the RRMP that recognises and provides for source protection zones
  - 11.2. A new policy to support the above objective and provide guidance as to how the objective was to be implemented
  - 11.3. Several changes to rules:
    - 11.3.1. For activities that already require a resource consent, adding matters of control/discretion that enable the risk of drinking water sources to be considered, where those activities are in mapped source protection zones
    - 11.3.2. Introducing consenting for activities located over source protection zones
    - 11.3.3. Amendments to some existing permitted activity rules so that they meet the requirement of the National Environment Standard for Sources of Human Drinking Water
    - 11.3.4. Production land use in a source protection zone are to be a permitted activity as proposed by TANK, but Farm Environment Plans will need to include consultation with the water supply authority and identify measures to manage risks to drinking water sources.
12. The TANK Group supported the recommendations subject to some technical refinements.
13. The TANK plan change includes these provisions and it is now for the Drinking Water Joint Committee to consider whether it wishes to lodge a submission on the provisions.

### **Options Assessment**

14. The Committee has three options:
  - 14.1. Do nothing i.e not lodge a submission
  - 14.2. Lodge a submission in support of the drinking water provisions
  - 14.3. Lodge a submission opposing the drinking water provisions
15. The Working Group has considered these options and has chosen to prepare a submission supporting the provisions for several reasons:
  - 15.1. If the do nothing option is selected the Joint Drinking Water Governance Committee has no standing to appear before the Hearing Panel considering the TANK plan change.=
  - 15.2. Having been asked by the TANK collaborative group to prepare the provisions around the drinking water source protection zones the Committee should be prepared to speak in support of those provisions during the plan hearing process.=
  - 15.3. While most, if not all, of the agencies represented on the Drinking Water Governance Committee will likely lodge their own submissions on TANK their submissions may not have a focus on the safety of drinking water which is the critical remit of the Drinking Water Committee.
16. The Joint Drinking Water Group has prepared a submission based on option 14.2, supporting the TANK provisions. The submission is attached for the Committee's review and approval.

### **Significance and Engagement Policy Assessment**

17. The preparation and lodging of a submission on the TANK plan change by the Drinking Water Governance Committee does not trigger the significance and engagement policy criteria. Any person is able to make their own submission on the TANK plan change.

## Considerations of Tangata Whenua

18. The maintenance and enhancement of the mauri of water is fundamental to tangata whenua. The provisions submitted by the JDWGC to TANK are seeking to ensure that this is recognised and preserved through the identification of source protection zones and the introduction of rules governing what happens on land above the receiving water bodies.

## Financial and Resource Implications

19. The costs incurred in submitting to TANK have to date been staff time and some further costs may be incurred in the presentation of the submission. These are provided for in the Governance budget.

## Decision Making Process

20. Council and its committees are required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
  - 20.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan
  - 20.2. The use of the special consultative procedure is not prescribed by legislation
  - 20.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy
  - 20.4. The persons affected by this decision are all persons with an interest in the region's management of natural and physical resources under the RMA
  - 20.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

## Recommendations

That the Hawke's Bay Drinking Water Joint Governance Committee:

1. Receives and considers the "Proposed Submission to HBRC Plan Change 9" staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
3. Approves the lodging of the attached submission, including any amendments agreed at the meeting, to the Hawke's Bay Regional Council.

## Authored and Approved by:

**Liz Lambert**  
**GROUP MANAGER REGULATION**

## Attachment/s

- [!\[\]\(11a0966cbb90b5c1d6ebfc666ec75f78\_img.jpg\) 1](#) Submission on Plan Change 9



3 August 2020

Hawke's Bay Regional Council  
159 Dalton Street  
NAPIER 4110

via email to: eTANK@hbrc.govt.nz

#### SUBMISSION ON PLAN CHANGE 9 – "TANK"

1. Thank you for this opportunity to submit on Plan Change 9. This submission is made on behalf of the following agencies under the auspices of the Hawke's Bay Drinking Water Governance Joint Committee:
  - a) Central Hawke's Bay District Council
  - b) Hastings District Council
  - c) Hawke's Bay Regional Council
  - d) Napier City Council and
  - e) Wairoa District Council.
  - f) Hawke's Bay District Health Board
  - g) Ngati Kahungunu Iwi Inc.
2. The contents of this submission relate solely to the supply of safe drinking water. It is noted that most of the agencies represented on the Drinking Water Governance Committee will also lodge individual submissions on TANK provisions, beyond the scope of this submission.

#### INTRODUCTION

3. The Hawke's Bay Drinking Water Governance Joint Committee ("the Joint Committee") was established at the behest of the Board of Inquiry into the Havelock North Drinking Water Contamination Event.
4. The purpose of the Joint Committee is to strengthen interagency relationships, collaboration and information sharing pertaining to drinking water. The Committee provides governance oversight to a group of officials from the member agencies, the Joint Working Group, who are tasked with the implementation of recommendations from the Inquiry Panel and the implementation of the ongoing work plan approved by the Joint Committee.
5. An agreed purpose of the Joint Committee is to make recommendations as appropriate to relevant agencies and decision making fora on initiatives and priorities related to water, having regard to
  - a. the needs of the region for adequate and secure water resources suitable for the supply of safe drinking water
  - b. the multi-barrier approach to safe drinking water recommended by HN Government Inquiry and
  - c. the six principles of safe drinking water.

6. Given this kaupapa the Joint Committee was requested by the TANK collaborative group to provide recommendations on source protection provisions within the Resource Management Act regulatory framework and to include draft policies and rules for inclusion in Plan Change 9. This has been a top priority for the Joint Committee.
7. The Joint Committee tasked its officers in the Joint Working Group with undertaking this work. *Good Earth Matters* (GEM) was engaged to develop and deliver the framework back to the Joint Working Group.
8. GEM presented three options:
  - a. Option A – objectives and policies only
  - b. Option B – objectives and policies supported by non-regulatory source protection zone maps
  - c. Option C – regulation of activities based on mapped source protection zones.
9. Ultimately the Joint Committee approved the approach set out in Option C and this was forwarded to the TANK development process as best presenting one of the first steps in the multi-barrier approach. Option C not only makes the need for protecting drinking water sources explicit, but it also provides guidance to decision makers as to how resource consent decisions may be made.

#### GENERAL COMMENTS

10. The Hawkes Bay Drinking Water Governance Joint Committee's mandate includes both drinking water quality and quantity, although the work programme to date has focused primarily on drinking water quality and source protection zones in particular.
11. The Hawke's Bay Drinking Water Governance Joint Committee supports the drinking water source protection provisions in Plan Change 9.
12. The Joint Committee submits that the security of water quality and adequate access to drinking water are major issues for public health. The objectives and policies in Plan Change 9 must not be amended in any way that would undermine this fundamental principle. The Joint Committee notes that the Regional Policy Statement includes an objective of *no degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifers* (OBJ 21) and that this objective remains unchanged by Plan Change 9. Any amendments to the relevant objectives and policies in Plan Change 9 must not be inconsistent with this overarching objective.
13. The regulation of activities based on Source Protection Zones intends that certain activities are able to be regulated and that there is an ability to impose conditions on activities to ensure that risks are appropriately managed. There is also the ability to decline resource consents should the assessment outcome be that the risks (both quality and quantity) to the source water of a registered drinking water supply are unacceptable and unable to be mitigated.
14. The regulation of activities allows both the water supplier and the regulator to have a greater level of visibility of activities located within source protection zones. This will provide for increased oversight and strongly mitigate the risk of contamination such as that which occurred in Havelock North.
15. We note that following the establishment of the new central water services body, *Taumata Arowai*, that a second bill on the Water Services Regulations is to be issued later in 2020 and



this will complete the legislative package designed to implement the government's policy reforms on drinking water. We expect that national regulations may see the need for amendments to the Plan Change 9 provisions but until the former are finalised we request the Hearing Panel continue with the inclusion of the provisions to protect the source of drinking water, as proposed by the Joint Committee.

16. Overall the Drinking Water Joint Governance Committee supports the provisions in Plan Change 9 relating to the protection of source drinking water and we wish to be heard in relation to our submission.

#### SPECIFIC COMMENTS

17. The following table lists the specific provisions for drinking water source protection and outlines the Joint Committee's position:

Provision Reference	Summary of Provision	Specific Submission
Objective 9	Activities in Source Protection Areas for Registered Drinking Water Supplies are managed to ensure that they do not cause water in these zones to become unsuitable for human consumption, and that risks to the supply of safe drinking water are appropriately managed.	<b>Support</b> , noting that the risk of contamination arises from a number of activities, including: (a) on-site sewage disposal (particularly septic tanks) (b) the use, transport and storage of hazardous substances, including hydrocarbon fuels and agrichemicals (c) industrial discharges (d) intensive horticultural and agricultural land uses (e) stormwater discharges (f) landfills and offal holes, and (g) mining and quarrying
Objective 14	Groundwater is maintained to enable people and communities to safely meet their domestic water needs and to enable the provision of safe and secure supplies of water for municipal use.	<b>Support</b> , noting OBJ 21 in the RRMP refers to no degradation of existing groundwater quality.
Policy 6	Identify water source areas and regulate activities in those areas to protect quality of groundwater used for community supply	<b>Support</b>
Policy 7	Enable specified SPZs to be amended through a resource consent process	<b>Support</b> , noting that the definition of Registered Drinking Water Supply will be a focus of the Taumata Arowai Establishment Unit and in particular for them to consider how the regulatory arrangements might apply to small suppliers (such as marae and rural/agricultural drinking water suppliers) and ensure these are proportionate to the scale, complexity, and risk profile of supplies.

Policy 8	Manage risks to groundwater quality from identified high risk land and water use activities	<b>Support</b>
Policy 9	HBRC will work with other agencies to ensure a multi-barrier approach is adopted and managed collectively	<b>Support in part</b> - support intent of this policy while suggesting that the wording is amended by removing reference to all agencies by name, given the prospective changes to roles and responsibilities under the upcoming three waters reforms.
Schedule 35	Instructions and methodology for establishing protection areas for community groundwater supplies	<b>Support</b> , noting that the findings from the HBRC SkyTem Study may better inform the methodology options once they are received.
Rule TANK 1	<b>Production Land Use on farms &gt; 10ha</b> <i>Permitted Activity if part of TANK Catchment Collective or has Farm Environment Plan.</i>  Where land is within SPZ or default radius of community supplies must include identification of potential risk to source water	<b>Support</b>
Rule TANK 2	<b>Production Land Use on farms &gt; 10ha</b> <i>Controlled Activity if not part of TANK Catchment Collective and no Farm Environment Plan.</i>  Matters for control include measures to prevent effects on quality of source water for Registered Drinking Water Supplies.	<b>Support</b>
Rule TANK 4	<b>Stock access to rivers, lakes, wetlands</b> <i>Restricted discretionary activity if conditions in TANK 3 not met</i>  Matters for discretion include measures to prevent effects on quality of source water for Registered Drinking Water Supplies	<b>Support</b>
Rule TANK 5	<b>Change of use of production land</b> <i>Controlled activity</i>  Matters for control include measures to prevent effects on quality of source water for Registered Drinking Water Supplies	<b>Support</b>
Rule TANK 6	<b>Change of use of production land</b> <i>Restricted discretionary activity</i>  Matters for discretion include measures to prevent effects on quality of source water for Registered Drinking Water Supplies	<b>Support</b>

Rule TANK 9	<b>Reapplication for Water Permits – Groundwater in HPWMZ</b> <i>Restricted discretionary activity</i> Matters for discretion include within an SPZ effects of the rate of take and volume abstracted on the quality of source water for Registered Drinking Water Supplies	Support
Rule TANK 10	<b>Surface and Groundwater Takes (at low flows)</b> <i>Restricted discretionary activity</i> Matters for discretion include within an SPZ effects of the rate of take and volume abstracted on the quality of source water for Registered Drinking Water Supplies	Support
Stormwater TANK 20	<b>Stormwater from an existing or new TLA managed stormwater network into water, or onto land where it may enter water</b> <i>Controlled Activity</i> Matters for control include measures to prevent effects on quality of source water for Registered Drinking Water Supplies.	Support
Stormwater TANK 21	<b>Stormwater into land or water from industry or trade premises where low risk of contaminants</b> <i>Controlled Activity</i> Matters for control include measures to prevent effects on quality of source water for Registered Drinking Water Supplies.	Support
Stormwater TANK 22	<b>Stormwater into land or water from industry or trade premises where high risk of contaminants</b> <i>Restricted Discretionary Activity</i> Matters for discretion include measures to prevent effects on quality of source water for Registered Drinking Water Supplies.	Support
Definitions	<b>Relevant definitions particularly “Registered Drinking Water Supply or Supplies)</b>	The Taumata Arowai – Water Services Regulator Bill has had its third reading in Parliament and is awaiting Royal Assent for enactment. The definition of drinking water supplier in the legislation includes a person who supplies drinking water to consumers through a drinking water supply. In other words anyone other than a domestic self-supplier will be a registered drinking water supplier and will need to be considered in the

		application of the source protection rules.
Source Protection Zones	<b>Methodology for establishment and updating of SPZs.</b>	Support for enhanced definition of zones by registered drinking water suppliers through their own agency submissions.

18. The Drinking Water Joint Governance Committee wishes to be heard in respect of this submission.
19. The contact person as an address for service in relation to this submission is:

Liz Lambert, Group Manager Regulation  
Hawke's Bay Regional Council  
Private Bag 6006, Napier 4142  
email: [liz@hbrc.govt.nz](mailto:liz@hbrc.govt.nz)

Yours faithfully

**Garth Cowie**  
**Chairman**  
**Hawke's Bay Drinking Water Joint Governance Committee**

DRAFT



## HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Monday 03 August 2020

### Subject: WORK PLAN UPDATE

#### Reason for Report

1. To provide an update on the Joint Working Group's (JWG) work plan.

#### Background

2. The Joint Committee monitors the progress of the JWG progress on its work through a Work Plan. The JWG has been systematically working this plan over the last three years. Most of the original actions arising from the Inquiry Panel's directions have been completed, and what remains is being continually monitored and updated.
3. In 2018 the Committee directed the JWG to prioritise its actions. The work plan is now updated and priorities amended, if required, at every JWG meeting.

#### Discussion

4. The Joint Working Group has now been operating for three years. The focus of the first term was, firstly, the immediate steps to be taken to resolve Havelock North Drinking water issues and, secondly, completion of the work required to input into the TANK plan change
5. With the completion of these the priority actions for the JWG are now proposed as:
  - 5.1. Greater focus on sharing of information/knowledge/skills across agencies to enhance consistency of approach and to fill knowledge gaps. This will include federated approach to data sharing and gaps analysis about what information is missing
  - 5.2. The development of a Joint Emergency Response Plan to enhance preparation for potential scenarios where drinking water access is lost or interrupted.
6. In addition to these priorities as part of its kaupapa the JWG will be reviewing new and amended requirements from central government on the management of drinking water and preparing responses for consideration by the Joint Committee.
7. The workstream identified by the Board of Inquiry that specifically related to the Havelock North water supply has been "closed out" as this has been completed.
8. A copy of the updated Work Plan is attached for the Committee's consideration and approval

#### Decision Making Process

9. Council and its committees are required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:

- 9.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan
- 9.2. The use of the special consultative procedure is not prescribed by legislation
- 9.3. The decision is not significant under the criteria contained in Council's adopted Significance and Engagement Policy
- 9.4. The persons affected by this decision are all ratepayers in the region
- 9.5. Given the nature and significance of the issue to be considered and decided, and also the persons likely to be affected by, or have an interest in the decisions made, Council can exercise its discretion and make a decision without consulting directly with the community or others having an interest in the decision.

### **Recommendations**

That the Hawke's Bay Drinking Water Governance Joint Committee:

1. Receives and considers the "Work Plan Update" staff report.
2. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue without conferring directly with the community or persons likely to have an interest in the decision.
3. Approves the changes to the work plan for implementation by the Joint Drinking Water Group.

**Authored and Approved by:**

**Liz Lambert**

**GROUP MANAGER REGULATION**

### **Attachment/s**

[!\[\]\(73002692dd5e7a64e60946be3158e719\_img.jpg\) 1](#) Work Plan with priorities August 2020



Drinking Water Joint Working Group - Work Plan 2020						
Action/Recommendation:	Who/When		Background	Current status	Priority	
Secure protection zones	All and TANK project members	Derived from White Paper, the TANK plan change work programme	Good Earth Matters were engaged by JWG to develop objectives, policies, and rules for the TANK plan change. This included an assessment of the potential use of Source/secure protection zones in the TANK area. Regular meetings held between JWG, GEM and TANK project team to refine the proposals. Recommendations to TANK on behalf of JWG were presented at the 1 August meet	<b>COMPLETED.</b> TANK agreed to the recommendations, subject to some technical refinement which were undertaken by the TANK project team. TANK submissions close on 14 August 2020 and a draft submission has been prepared on behalf of the Governance Joint Committee for approval to lodge.	<b>High.</b> This has been the top priority of the JWG. Draft package of recommendations was presented to RPC at its 31 October 2018 meeting. RPC were broadly comfortable with the package. JWG carried out further work in response to the feedback of RPC. Also, HBRC science and HDC worked together to finalise the spatial definition of the default protection zone (PPZs). The work is now largely completed.	
Communications: Development of common terminology, sharing of information on a no-blame basis, consistency of outward facing messages between JWG members	All	Derived from White Paper	Development of Comms plan between all JWG parties to outline how messages and information are shared consistently, the development of 'a hierarchy of emergencies' that will assess the level of response, timeframes for agencies to respond and how information will be shared.	<b>COMPLETED.</b> The Communication Protocol for the Contamination of Groundwater has been adopted by the JWG. Webcasting of Joint Committee meetings is also being introduced which will allow for greater public visibility of matters discussed.	<b>High.</b> A Communications workshop was held in May 2019 to finalise both the responsibilities and the messaging for when groundwater contamination is identified. An appendix to cover information on nitrates has now been added to the Interagency Protocol.	
Federated approach to data sharing and gaps analysis about what data is missing	All	Derived from White Paper	JWG members are of view that data sharing has improved amongst members significantly. It's important to understand how often people need certain types of data.	<b>COMMENCED.</b> This is now a key focus of the Working Group. It is being coordinated with the IT sections of all Councils through the IT Group operating under HBLASS. Initially Hastings District Council is sharing the work it has undertaken on a risk assessment tool and the IT Group is assessing what further work needs to be done.	<b>High.</b> The priority for this has been upgraded from Medium to High.	
Joint Emergency Response Plan	All	Derived from JWG discussions November 2019	It was considered by the JWG that it is important to have response plans for drinking water around loss of control scenarios, such as in emergency management situations. The CDEM exercise Rauamoko, conducted in October 2019, provides lessons for the response planning.	<b>TO BE COMMENCED IN 2020.</b> This was raised with the Coordinating Executive Group of Civil Defence and Emergency Management in July 2020 and the work will be coordinated with the lifelines workstream of CDEM.	<b>High.</b>	
Development of risk management approach through Water Safety Plans	All		The development of a common risk management approach is identifying opportunities for improvement for the TLAs in their water supply management. This is still in its early stages but is a focus for 2020. Initial focus is on Emergency Response planning.	<b>ONGOING.</b> Water Safety Plans have been completed by all four TAs and regular updates are provided to the JWG. HDC is to report back on its risk management approach.	<b>Medium</b>	
Models to understand transportation of contaminants	HBRC		It was noted that although the TANK model does have a component for contaminants, it has been built at a regional scale and not for bore specific recommendations. It is a base model for all to use. Important to recognise that rainwater is the mechanism of transportation, and the question becomes one of assessing what types of activities there are on the ground that potentially influence groundwater.	<b>UNDERWAY.</b> The refinement of the model to be applicable at a local scale is part of the overall SkyTem project which has recently commenced. Once information gathering is completed the modelling will begin mid-2021 and results will be available at the end of 2022.	<b>Medium</b>	

## Attachment 1

## Item 6

<i>Reporting to Governance on Compliance</i>	All		The Drinking Water Assessors are about to begin issuing quarterly compliance reports, beginning in October 2020. These will become a standing item on the Governance Joint Committee agenda.	COMMENCING OCTOBER 2020	Medium	
<i>Quantity of Supply</i>	All	Joint Committee meeting 15 August	Joint Committee members requested of the JWG to develop a workstream that looks at the role of the JWG with regard to quantity of water AND quality.	ONGOING. At the 1 November 2018 meeting the JWG received an update from the CHB representative. This issue primarily relates to the Tukituki Taskforce which is exploring CHB self supply issues. The JWG and the Taskforce will remain connected as the Taskforce progresses its work programme.	Medium	
<i>Capturing data as it relates to episodic events</i>	All		It was noted that all parties have increased their baseline monitoring. State of the Environment reporting has a specific purpose and is not designed to capture short, term episodic events. Extraordinary events include volcanic eruptions as well as rain induced or pumping induced events. Furthermore, Napier and Hastings are now chlorinating water, however, it is still important to understand behaviours and trends. Questions around whether or not we have all the necessary information, and/or if we do if this being used 'well' enough.	YET TO OCCUR. Later in the year the JWG will run a scenario that will model the impact of ash cover from an eruption. We can then gauge what data we currently have available (or haven't) and what we still need for episodic events. This lower priority work has been delayed due to the focus on preparing Source Water Protection Zone package for TANK.	Low: to occur later in the year once higher priority actions have been settled. Scenario to potentially incorporated CDEM members. Higher priority action includes development of an Emergency Response Plan	
<i>DHB to provide a six monthly update on issues they are encountering on their implementation visits</i>	DHB		Raised at JWG meeting of 24 August 2018.	UNDERWAY. The first presentation by the DHB and the Drinking Water Assessor occurred at the JWG meeting of 29 August 2019. It was reported to the Joint Governance Committee in September 2019. DHB to present information systems it uses to next JWG meeting.	Low: Commenced in 2019 with regular updates scheduled.	
<i>Greater liaison and sharing of information between agencies responsible for health information and for environmental management</i>	DHB		This is part of the federated data work that we are looking to get underway in 2020.	YET TO OCCUR. Part of the support for this will have to come from the Ministry of Health but they are not putting any additional funding in to their relevant systems pending the outcome of the new drinking water regulations.	Low: to occur later in the year once higher priority actions have been settled.	





## HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Monday 03 August 2020

### Subject: GROUNDWATER QUALITY AND COMMUNICATIONS

#### Reason for Report

1. In May 2020 the Hawkes Bay Regional Council circulated a Managed Aquifer Recharge (MAR) feasibility study, commissioned by HBRC. This led to media reports being circulated implying a significant increase in nitrates in groundwater in Central Hawke's Bay had occurred over very recent years.
2. The purpose of this report is for a presentation to be made by HBRC Groundwater Science staff on what the MAR study actually tells us.

#### Discussion

3. The MAR study includes data on nitrate levels in groundwater.
4. Nitrates have been recognised as a legacy issue in CHB and Plan Change 6 (the Tukituki Plan Change) includes rules and limits that work to reduce the level of nitrogen in water and improve overall water quality.
5. The limits set by the plan, for the acceptable level of nutrients in both groundwater and surface water, are some of the strictest regulations in New Zealand including those proposed by the Government's Essential Freshwater package.
6. All landowners in the Tukituki catchment have needed Farm Environment Management Plans (FEMPs) since 2018, to manage their nutrient losses, and resource consents to farm are required for over 300 farms during 2020. Consent conditions will control what farmers can do on their land and will severely restrict practices that result in high levels of nitrogen leaching into ground and surface water.
7. In accordance with its communication protocols the Joint Working Group has prepared an Appendix 2 to its Interagency Protocol for the Management of Contaminants in Groundwater to cover Nitrates. A copy of the protocol and its Appendices – Arsenic and Nitrates – is attached for reference to this paper.

#### Presentation

8. Janine Barber, Principal Groundwater Quality Scientist, and Iain Maxwell, HBRC Group Manager Integrated Catchment Management, will make a presentation to the Committee on what the data from HBRC groundwater monitoring programme is telling us and it provides information on the state of nitrates in groundwater.

#### Decision Making Process

9. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

### **Recommendations**

That the Hawke's Bay Drinking Water Governance Joint Committee receives and considers the "Groundwater Quality and Communications" staff report.

### **Authored and Approved by:**

**Liz Lambert**

**GROUP MANAGER REGULATION**

### **Attachment/s**

[↓](#)1 Drinking Water Contamination Communication Protocol - August 2020

## INTER AGENCY PROTOCOL FOR THE MANAGEMENT OF CONTAMINANTS IN GROUNDWATER

August 2019

### AGENCIES

<i>Hawke's Bay District Health Board</i>	HBDHB	<i>Hastings District Council</i>	HDC
<i>Hawke's Bay Regional Council</i>	HBRC	<i>Central Hawke's Bay District Council</i>	CHBDC
<i>Napier City Council</i>	NCC	<i>Wairoa District Council</i>	WDC

### BACKGROUND

The *Drinking Water Standards for New Zealand 2005*, (revised 2018) (DWSNZ) Wellington, Ministry of Health, prescribe the maximum allowable concentrations of potentially harmful contaminants that may be present in drinking water and are of significance to human health.

In the past three years HBRC has responded to three separate incidents where contaminants have been detected in small community or self-supply drinking water. In all cases HBRC has been supported by the HBDHB and the relevant territorial authority to meet with affected residents and provide advice to them.

As a result of increased awareness of risk and testing by homeowners, and by HBRC of its own groundwater monitoring bores, we expect further notifications to us of DWSNZ exceedances.

### PURPOSE

The purpose of this protocol is to have agreed key processes and messages in place for the consistent management of drinking water contamination within the Hawke's Bay Region.

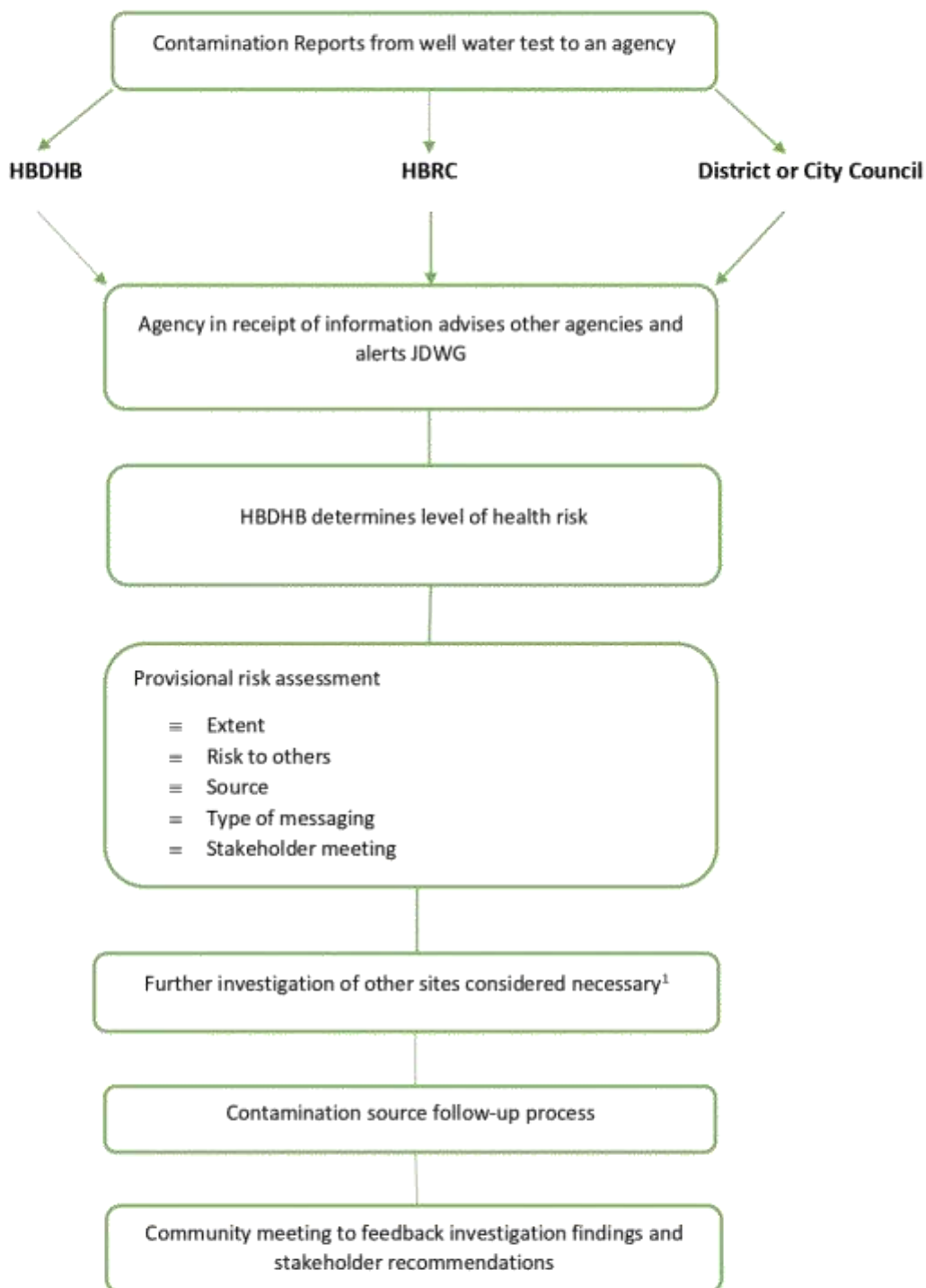
*This protocol does not supply to municipal drinking water supplies for which the relevant territorial authority will already have processes in place for contamination under required Water Safety Plans.*

### ROLES AND RESPONSIBILITIES

In respect of this protocol the agencies have the following roles and responsibilities:

<i>Hawke's Bay District Health Board</i>	<ul style="list-style-type: none"> <li>• Undertakes health risk assessments and provision of advice for non-municipal supplies</li> <li>• Compliance with the Drinking Water Standards for NZ and the Health Act</li> <li>• Advice on water quality testing</li> <li>• Interpretation of testing results</li> <li>• Communication with health care providers</li> <li>• Notification to other agencies when contamination confirmed</li> <li>• Support the lead agency with communication to public of health risks</li> </ul>
<i>Hawkes Bay Regional Council</i>	<ul style="list-style-type: none"> <li>• Manage groundwater quality and quantity, including extent of contamination</li> <li>• Approval for siting and construction of wells</li> <li>• Historic land use and potential contaminated land issues</li> <li>• Notification to other agencies when contamination confirmed</li> <li>• Support the lead agency with communication to public of health risks</li> </ul>
<i>Territorial authorities</i>	<ul style="list-style-type: none"> <li>• Compliance with Building Act for dwellings to have potable water supply</li> <li>• Review private bore results supplied in support of building consent applications</li> <li>• Advice on treatment options</li> <li>• Provide relevant LIM information on water supply to property on request</li> <li>• Approval of alternative supply options</li> <li>• Historic land use and potential contaminated land issues</li> <li>• Notification to other agencies when contamination confirmed</li> <li>• Lead agency with communication to public of health risks</li> </ul>

### Contaminants Protocols



<sup>1</sup> Testing usually takes about 2 weeks but can be dealt with in 3 days urgently

This flow chart sets out the process which will be followed by the participating agencies in the event of a drinking water contamination incident.

The landowner will be informed first as a matter of courtesy, if they are not the original source of the exceedance information.

#### **General Information**

Agencies will provide public information on their respective websites as follows:

HBDHB: Health risks/effects; what to test drinking water for, and how often.

HBRC: Well maintenance, what to test drinking water for, and how often

Territorial authority: Information on treatment options, what to test drinking water for, and how often.

#### **Appendices**

The appendices contain information relevant to specific contaminants that are detected in groundwater supplying drinking water, and exceed the DWSNZ values. They are to be used as the basis of key messaging of public information as well as information to affected landowners.

Appendix 1 relates to Arsenic which has been found on three occasions up until the finalising of this protocol.

Appendix 2 relates to nitrates in groundwater.

Information on other contaminants will be added if and when these are found to be breaching the DWSNZ.

## Appendix 1

### Arsenic

DWSNZ standard:	Maximum Acceptable Value (MAV) is 0.01mg/l (ten micrograms per litre)
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In the case of arsenic contamination it has been determined that there is more than one series of messages to be delivered, depending on the level of arsenic recorded and its impact on human health. This is because while the drinking water standard identifies a maximum acceptable value for long-term health risks, there will be instances where the measured level of arsenic is way in exceedance of that and may present immediate or short-term risks to health.

In recognition of these alternative scenarios two scenarios for messaging have been developed. Both have much in common – bringing together all the relevant agencies, a risk assessment of the triggering findings, investigations into the extent of contamination and potential source, and follow up processes.

***A decision on whether a reading represents a long-term or more immediate risk to human health, and the course of action to therefore be followed, will be made by the Drinking Water Assessor and the Medical Officer of Health.***

***Water that meets the MAV may be used as a drinking water supply – although any water supply where the arsenic exceeds half the MAV needs to be monitored.***

**Where the MAV is exceeded (actions to be taken short term):**

The MAV level in the DWSNZ of 0.01 mg/l represents an increased risk of cancer after 70 years of consumption of water with that level of arsenic in it. The messaging for property owners where the MAV is exceeded is:

*Immediate:*

- *It is still safe to drink the water for now*
- *It is safe to use the water for showering, bathing and washing clothes.*
- *The water is safe for animal consumption*
- *The water is safe for watering gardens*

*Short term:*

- *Options for on-site treatment to be considered by land owner*

**Where the MAV is exceeded (actions to be taken longer term):**

A water supplier must take all practicable steps to meet the DWSNZ, and should not supply drinking water that exceeds one or more MAVs. A number of treatment options exist for removing arsenic (<https://www.health.govt.nz/publication/guidelines-drinking-water-quality-management-new-zealand>). However the water supplier will need to consider if it is more cost effective to treat a water supply with high levels of arsenic or to seek an alternative supply for potable use.



## Appendix 2

### Nitrates

DWSNZ standard:	Maximum Acceptable Value (MAV) is 50 mg/l
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Nitrate is a compound that is formed when nitrogen combines with oxygen. The main adult intake of nitrate is from food rather than water, but sometimes high amounts of nitrate get into drinking water.

Typical sources of nitrate include: fertilisers, animal wastes, unreticulated sewage disposal systems, industrial waste and food processing waste. Nitrate is highly soluble in water, making it readily transported through the soil to groundwater.

#### How do I know if my drinking water is high in nitrates?

Council water supplies in Hawke's Bay have safe nitrate levels.

Rural drinking water bores are considered to be more at risk of elevated nitrate levels.

Nitrate levels do vary over the year and results are often highest in spring (following rain). In areas where there is extensive irrigation high nitrate levels may occur in late summer.

Testing is the only way to detect nitrate as it is tasteless, odourless and colourless.

#### What do I do if my water has high nitrate levels?

If tests show that nitrate levels are above or close to the MAV pregnant women and formula-fed infants less than six months old should use an alternative water source for drinking water or making up formula.

If tests show that nitrate levels are above half the MAV the water is safe to drink but water should be tested monthly to ensure that it does not increase over the MAV.

#### Can the nitrate be treated or filtered out?

Nitrate is difficult to remove from water. Common cartridge or carbon filters, boiling water and chemical treatments (e.g. chlorine) will not remove nitrate.

There are three methods that do remove nitrates from drinking water: distillation, reverse osmosis and anion exchange. These processes are expensive and potentially unreliable.

#### How can nitrates in groundwater be reduced?

Nitrates have been recognised as a legacy issue in CHB and Plan Change 6 (the Tukituki Plan Change) includes rules and limits that work to reduce the level of nitrogen in water and improve overall water quality. The limits set by the plan, for the acceptable level of nutrients in both groundwater and surface water, are some of the strictest regulations in New Zealand including those proposed by the Government's Essential Freshwater package.

All landowners in the Tukituki catchment have needed Farm Environment Management Plans (FEMPs) since 2018, to manage their nutrient losses, and resource consents to farm are required for over 500 farms as part of the plan change.







## HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Monday 03 August 2020

### Subject: FEEDBACK ON SUBMISSION ON TAUMATA AROWAI BILL

#### Reason for Report

1. The purpose of this report is to provide feedback to the Drinking Water Governance Joint Committee (the Committee) on the Taumata Arowai Bill and the Committee's submission to the Bill.

#### Executive Summary

2. At its meeting on 13 February 2020 the Committee approved the preparation of a submission to the Health Select Committee on the Taumata Arowai – Water Services Regulator Bill ("the Bill")
3. The submission was lodged on 4 March 2020. A copy of the submission is attached to this report.
4. Representatives of the Committee presented a verbal submission to the Health Select Committee on 11 March.
5. The Bill received its Third Reading in Parliament on Friday 24 July 2020 and is now awaiting Royal Assent.

#### Discussion

6. The bill is the first of two pieces of legislation that are being prepared to overhaul the management of drinking water services in New Zealand. It is focused on the establishment of a new centralized drinking water regulator to support stronger centralized approach to drinking water compliance, monitoring and enforcement.
7. The Committee's written submission to the Select Committee focused on:
  - 7.1. Funding
  - 7.2. Capability
  - 7.3. Statutory independence
  - 7.4. Governance
  - 7.5. Māori Interests and Māori Advisory Group
  - 7.6. Objectives and Functions of Taumata Arowai
  - 7.7. Interpretations
8. Given the opportunity to present to the Select Committee in person for ten minutes our Chari's verbal submission focused on sector capability and the loss of critical mass in public health responsibilities. Similarly the establishment of Taumata Arowai and its need to recruit for technical capability may negatively impact the capability of drinking water suppliers to deliver to the required standards.

9. A copy of the notes on which the verbal submission was based are attached to this paper.

### **Outcomes of Submission**

10. Several of the matters raised in our submission were acknowledged to be likely to be addressed in the second Bill rather than this one. We used the submission as an opportunity to flag those issues and will be closely scrutinizing the second Bill for these matters. In particular the issues of funding and statutory independence of Taumata Arowai.
11. Of the remaining matters covered in our submission the final legislation has provided a little further clarification:
  - 11.1. The definition of drinking water was not amended. However, a definition of domestic dwelling has been inserted. The definition of domestic self-supplier has been amended to include examples such as “a marae wharekai or community hall that has its own river water supply is not a domestic self-supplier”
  - 11.2. The composition of the Board has not been amended – we had sought the inclusion of local government and/or strong technical experience, community stakeholder engagement and a delegated representative of the Director-General of Public Health as part of the skill set required for the Board. Minister Mahuta did advise in the third reading that a supplementary order paper has extended the time for the Bill’s commencement provision to provide time for Taumata Arowai’s board to be appointed before the Act comes into force
  - 11.3. There have been no meaningful changes to the provisions around the role of the Māori Advisory Group and our changes were not incorporated. The Māori Advisory Group will provide support and guidance to the Board, chief executive and wider organization but the need for rohe specific advice has not been include
  - 11.4. Our submission to include the word “related” in objective a) was successful and the objective now reads “Protect and promote drinking water safety and related public health outcomes”
  - 11.5. Finally our two submission points on the functions of Taumata Arowai were not taken up. We had sought reference to the potential for Taumata Arowai to sue a delegated enforcement agency and also saw the need for them to participate in and support drinking water collaboration groups within each regional council region.
12. Further opportunity to submit on central government direction on drinking water management will occur when the Water Services Bill is released.

### **Decision Making Process**

13. Staff have assessed the requirements of the Local Government Act 2002 in relation to this item and have concluded that, as this report is for information only, the decision making provisions do not apply.

### **Recommendation**

That the Hawke’s Bay Drinking Water Governance Joint Committee receives and notes the “Feedback on Submission to Taumata Arowai Bill” staff report.

**Authored and Approved by:**

**Liz Lambert**

**GROUP MANAGER REGULATION**

**Attachment/s**

- [↓1](#) Submission Water Services Regulator Bill
- [↓2](#) Verbal submission to Health Committee



4 March 2020



Committee Secretariat  
Health Select Committee  
Parliament Buildings  
Private Bag 18888  
WELLINGTON 6160

via email to: [he@parliament.govt.nz](mailto:he@parliament.govt.nz)

#### SUBMISSION ON TAUMATA AROWAI – THE WATER SERVICES REGULATOR BILL

1. Thank you for this opportunity to submit on Taumata Arowai – the Water Services Regulator Bill (“the Bill”). This submission is made on behalf of the following agencies under the auspices of the Hawke’s Bay Drinking Water Governance Joint Committee:
  - a) Central Hawke’s Bay District Council
  - b) Hastings District Council
  - c) Hawke’s Bay Regional Council
  - d) Napier City Council and
  - e) Wairoa District Council.
  - f) Hawke’s Bay District Health Board
  - g) Ngati Kahungunu Iwi Inc.
2. Due to timing of the submission deadline and respective meeting schedules, this submission has not been formally considered by each of the agencies prior to lodging. However, the submission was prepared by a sub-group delegated by the Joint Committee at its meeting on 13 February 2020 specifically to prepare and lodge the submission. It is anticipated by the Joint Committee that some of the member agencies will also lodge separate submissions on the Bill.

#### INTRODUCTION

3. The Hawke’s Bay Drinking Water Governance Joint Committee (“the Joint Committee”) was established at the behest of the Board of Inquiry into the Havelock North Drinking Water Contamination Event.
4. The purpose of the Joint Committee is to strengthen interagency relationships, collaboration and information sharing pertaining to drinking water. The Committee provides governance oversight to a group of officials from the member agencies, the Joint Working Group, who are tasked with the implementation of recommendations from the Inquiry Panel and the implementation of the ongoing work plan approved by the Joint Committee.
5. An agreed purpose of the Joint Committee is to make recommendations as appropriate to relevant agencies and decision making fora on initiatives and priorities related to water, having regard to the needs of the region for adequate and secure water resources suitable for the supply of safe drinking water.

Enhancing our environment together | Te whakapakari tahiri i tō tātau talao

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6. Given this kaupapa and the experience gained by the agencies during and following the Havelock North event the Joint Committee considers it has the mandate to lodge this submission. Where any one of the member agencies does not agree with any points in this submission this will be noted in the submission.

#### GENERAL COMMENTS

7. The Hawke's Bay Drinking Water Joint Governance Committee supports the intent of the Bill and our specific comments are intended to assist in improving clarification of the final legislation to avoid uncertainty or inconsistency of application.
8. We note that a second bill on the Water Services Regulations is to be issued later in 2020 and will complete the legislative package designed to implement the government's policy reforms on drinking water. We expect that we will provide a detailed submission on the regulations themselves in due course but for now our aim through this submission is to ensure that Taumata Arowai is set up for success.
9. The Joint Governance Committee supports Taumata Arowai having a strong focus on the health and safety of drinking water. While we recognise the benefits of leveraging technical expertise and relationships to extend functions of Taumata Arowai to limited technical aspects of stormwater and wastewater management we urge that these extensions be tightly proscribed. Stormwater and wastewater networks are much bigger public assets than drinking water networks and their regulation is more complex. We would not wish to see the focus of Taumata Arowai diverted away from drinking water safety. We support the Local Government New Zealand submission's comments to clarify this matter.

#### SPECIFIC COMMENTS

##### Funding

10. Members of the Joint Drinking Water Governance Committee represent the major agencies whose functions will be regulated by Taumata Arowai. The Bill is silent on how costs of the agency and its activities will be apportioned to the regulated community. The Cabinet paper commented that *"legislation should equip the regulator with appropriate funding tools should those be needed in future. I am seeking agreement to include provisions in the legislation that enable regulations to be made to recover the cost from third parties"*.
11. Local government agencies are required to set out their funding strategies, including cost recovery formulae, in Long Term Plans and Annual Plans for public consultation. We would expect the same level of transparency and opportunity for public input into the costs to be recovered by Taumata Arowai.
12. Our submission seeks that this omission be rectified and that provisions be included that set out the process for third party cost recovery. If not in this Bill then in the second tranche of legislation.

##### Affordability

13. The establishment of Taumata Arowai and the accompanying changes to drinking water regulation herald a new chapter in drinking water safety. Drinking water supplies not currently captured under the regulatory oversight of the existing Health Act 1956 such as specified self-supplies i.e. farm houses, Marae, and community purpose buildings, will now fall under the scope of Taumata Arowai. The flow on effect of this is that existing untreated supplies will have



to invest significantly both financially and operationally in the upgrade and maintenance of their water supplies.

14. The affordability of bringing these supplies into compliance needs to be weighed against the future sustainability of being able to "keep the doors open" in what are often charitable entities with limited revenue streams. The fiscal reality of every self-supplied Marae in Hawkes Bay installing water treatment, building reticulation, and water storage to the desired standard could be in the order of \$5 million for the region, plus an ongoing operational cost of \$500,000 annually for the region. In rural communities, and/or communities of high deprivation, this money may be difficult to find, which in turn could challenge the future viability of such buildings.

#### Statutory Independence

15. As a statutory regulator Taumata Arowai should have statutory independence in respect of its compliance, monitoring and enforcement activities. While we note that it is a crown entity that exists to give effect to government policy there are no provisions in the Bill which sets out that the Taumata Arowai has statutory independence from Ministers in respect of its compliance, monitoring and enforcement functions. While we prefer to think this was just an oversight we request that provisions clarifying the regulator has statutory independence from Ministers be included in the final legislation.

#### Clause 4 Interpretation

16. Clause four of the bill defines key terms relating to drinking water. For some terms definitions have been modified from those set out within current legislation (Health Act 1956). New terms are also defined. Assuming that terms are to be defined consistently in both the current bill and the Water Services Bill yet to be introduced, it is important that this interpretation section supports both pieces of legislation. We propose amendments accordingly.
17. **Definition of "Drinking Water Supplier"**

We note that there may be some confusion as to whether someone, who permits a water source (eg 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 (see below).

*Our view is that a person who permits a water source to be used by a Drinking Water Supplier should not be deemed a Drinking Water Supplier.*

We note that four categories of Drinking Water Supplier within the current legislation (Health Act 1956) do not appear to be included in the proposed definition.

#### Amendment Requested:

Amend the definition to include:

- a water carrier;
- a temporary drinking water supply;
- a rural agricultural drinking water supply
- a domestic self-supply that supplies drinking water for sale to the public

Alternatively, it may be possible to include water carriers or temporary drinking water supplies within the definition of a Drinking Water Supply Scheme.

**18. Definition of "Drinking Water"**

We note that water used for oral hygiene or for food related purposes is deemed to be drinking water. We recommend that consideration be given to whether water used for bathing, hand washing or showering should be included given the risks of ingestion of water through these activities.

We understand inclusion of water used for these purposes could create significant practical difficulties and a risk-based approach should be used.

**19. Definition of "Drinking Water Supply Scheme"**

We submit that a definition of "Drinking Water Supply Scheme" be provided.

The terminology "Drinking Water Supply Scheme" is included in the definition of Drinking Water Supplier but is not defined. This potentially creates ambiguity as to what is and what isn't a drinking water supply scheme.

**Clause 5: Māori interests and Māori Advisory Group**

20. We fully support the intent of the bill in seeking to make Māori interests and viewpoints central to the regulator and the enactment of Te Mana o te Wai and we support the formation of a Māori Advisory Group. We note however that the proposed model has certain weaknesses.

21. Firstly the Taumata Arowai board is required only to "have regard" to the advisory group's advice and ultimately the board may choose to make decisions contrary to that advice.

***Amendment Requested:***

We submit that in respect of the matters set out in clause 5 (d) the board should be required to demonstrate that it has acted in accordance with the advisory group's advice.

Alternatively, appeal provisions should be established that enable the advisory group to challenge decisions of the Taumata Board that concern 5 (d) matters (ie: the interpretation of Te Mana o te Wai or the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga).

Corresponding subclauses should be added to clause 17 (3) concerning the relationship between the advisory group and the board.

22. A second weakness concerns the ability of the Māori Advisory Group to provide rohe specific advice. Our experience with the Hawke's Bay Regional Drinking Water Governance Joint Committee and Joint Working Group (see below) has been that local representation is critical to understanding and giving effect to Te Mana o te Wai. This knowledge is particularly important in respect to drinking water sources and catchments monitored and regulated by regional councils.

***Amendment Requested:***

We submit that an additional subpart is added to clause 5 (d) as follows:

(iii) providing for active participation of Iwi and Hapu in relation to water sources within their respective rohe:

23. Another practical challenge with the proposed model is that the Maori advisory group is likely to have a significant interest in the financial impact of regulatory changes on Māori



communities. While it is anticipated that government may address these challenges in other ways such as through changes to drinking water supply funding mechanisms, we believe the Maori advisory group could play an important role in terms of monitoring and advising on financial impacts.

**Amendment Requested:**

We submit that an additional subpart is added to clause 5 (d) as follows:

(iv) providing advice on the potential and actual economic and social impacts of Drinking Water Regulation on Māori communities.

Corresponding subclauses should be added to clauses 15 and 17. In particular we submit that a subclause stating that the Minister must consult with Iwi before making any appointments under clause 15. The 5 (d) subparts proposed above should be repeated under clause 17.

**Clause 10: Objectives of Taumata Arowai**

24. For the avoidance of any doubt we submit that objective (a) should be amended to include the work "related" in respect of public health outcomes i.e "Protect and promote drinking water and related public health outcomes"

**Clause 11 Functions of Taumata Arowai**

25. We are concerned that the legislation should provide flexibility as to how Taumata Arowai exercises its monitoring and enforcement duties locally. While the long term aim may be for Taumata Arowai to replicate the current monitoring and enforcement workforce currently based in the 12 current public health units we anticipate there will initially be significant limitations on the agency capacity at the local and regional level.
26. Equally important is the immediate need to maintain critical designated officer capacity within Public Health Units until such time as the current dual role Health Protection Officer/Drinking Water Assessor workforce can be rebuilt. Critical current health protection activities such as: control of a measles outbreak, border control in relation to Coronavirus, or enforcement of new vaping regulations, would be seriously compromised were the designated officer/DWA workforce to be immediately transferred to Taumata Arowai. These problems are also likely to be most acute in smaller centres where there are both very limited health protection resources and large numbers of drinking water supplies needing to be improved.
27. We note that the regulatory impact assessment on the proposal to establish a drinking water regulator was silent on the impacts on other public health regulation. However, we believe this was an oversight that can now be rectified. By providing for the local regulatory function to be exercised through a delegated authority any unintended impacts on other public health regulatory functions can be managed as the public health workforce is rebuilt. We note that the final report of the Health and Disability Services Review is due next month. This report is expected contain recommendations concerning the provision of public health regulatory services. Again we believe the legislation establishing Taumata Arowai needs to be sufficiently flexible to enable relevant recommendations to be implemented.

***Amendment Requested:***

We submit that clause 11 (e) is amended as follows:

**Monitor and enforce, either directly or through a delegated enforcement agency, compliance with relevant drinking water legislation and standards, and other regulatory requirements for which Taumata Arowai has responsibility;**

28. The government inquiry part two report devoted an entire chapter to the role of regional collaboration groups. It was clear that one of the key causes for the failure to recognise the risks in Havelock's water supply was there had been a failure of information exchange between agencies. In particular the inquiry heard evidence that the regional council was aware that abstraction of water from one of the supplies main bores was affecting a nearby stream. Had the Drinking Water Assessor or Medical Officer of Health been aware of this information they would have been more sceptical of the ground water security assessment for this bore. Similarly the DWA and water supplier were aware of transgressions in the network but this information was not available to the regional council.
29. It is our view that for the kind of collaboration envisaged by the Government Inquiry to be effective there will continue to be a need for participation by both the regulator and by the public health service responsible for the investigation of waterborne illness.
30. Should Taumata Arowai not have enough staff resources to be able to regularly participate in regional collaboration groups the agency at a minimum should provide guidance and support for regional collaboration as recommended in the Inquiry part 2 report. Regional regulatory interests could also be provided by agreement with local Public Health Units.

***Amendments Requested:***

We submit that an additional function is added under clause 11 as follows:

**To participate in and support drinking water collaboration groups within each regional council region.**

We seek clarification of the intent of clause 11 (g) around "build and maintain the capability of drinking water suppliers" – is this to be as an influencer, an accreditation agency or in a sector controlling capacity?

**Clause 12 Board**

31. Clause 12(2) lists the desired knowledge, experience and skill sets that the Board of Taumata Arowai must possess as a collective. We consider that these skills fall short of the full list of capabilities the governing body of a water regulator should possess. We seek the addition of three further skill sets as requirements for the Board.
32. Firstly, it will be essential for Taumata Arowai to develop strong working relationships with local government for several reasons: councils are co-regulators; councils are major owners, operators and funders of drinking water infrastructure and other water management assets; and councils are the home of local democracy. It would be appropriate and helpful for the Board to have representation from the local government sector and our preference would be to have someone with operational experience in the provision of water supplies.

33. Secondly the Bill requires Taumata Arowai to engage early and meaningfully with Maori and meaningfully with stakeholders. It would be appropriate and helpful to the Board to have expertise in community engagement among the desired set of expertise. Alternatively a formal Advisor appointment could assist around engagement with tangata whenua and
34. Thirdly the provision of safe and adequate drinking water is the most fundamental public health measure any country can undertake to assure the health of its citizens. The Director of Public Health is the key official within government in respect to public health matters and the Government Inquiry noted that insufficient use had been made of this role to ensure the safety of drinking water in NZ. While the establishment of Taumata Arowai transfers much of the responsibility for drinking water safety out of the Ministry of Health it is our view that this does not remove the responsibility of the Director of Public Health for drinking water. Furthermore, maintaining a statutory role for DPH at the board table would serve to ensure an effective relationship is maintained between the Ministry of Health and Taumata Arowai.

**Amendments Requested:**

We submit that clause 12(1) be amended as follows:

"The board consists of not fewer than \*, and not more than \*\*, members with a balance of political and operational capacity and capability.

We submit that section 12 (2) is amended as follows:

- Add subclause "knowledge and experience of, and capability in .... Local government"
- Add subclause "knowledge and experience of, and capability in .... Community and stakeholder engagement"
- Replace current 12 (2) (b) with "the Director of Public Health or an appropriate delegate as agreed by the Minister".

**Schedule 1 Part 1**

35. Clause 1 (1) (a) – we submit that the word "entity" is more appropriate in this context than the word "person".
36. We thank the Select Committee for the opportunity to make comments on the Bill. We wish to be heard in respect of our submission.
37. The contact person as an address for service in relation to this submission is:

Liz Lambert, Group Manager Regulation  
Hawke's Bay Regional Council  
Private Bag 6006, Napier 4142  
email: [liz@hbrc.govt.nz](mailto:liz@hbrc.govt.nz)

Yours faithfully



Garth Cowie  
Chairman  
Hawke's Bay Drinking Water Joint Governance Committee





**Verbal submission on Taumata Arowai****11 March 2020**

Mōrena Madam Chair and members of the Committee

Thank you for the opportunity to speak to the submission of the Hawke's Bay Drinking Water Joint Governance Committee. I am the independent Chair of the Committee, having first been appointed in 2018 and I was re-appointed to the role at the first meeting of the Committee following the 2019 local body elections.

I have been advised that you have had an opportunity to read our submission and I wish to focus on one or two points in further detail. We will welcome questions on our submission.

Our submission is made from the perspective of the agencies who were at Ground Zero for the Havelock North water contamination event in August 2016.

The Government Inquiry which followed the campylobacter outbreak in Havelock North identified a range of recommendations to firstly, address the reinstatement of a safe public drinking water supply to Havelock North and secondly, to take a more holistic, forward-looking and relationship-building approach to the provision of safe drinking water in Hawke's Bay.

One of the key weaknesses noted from Havelock North was a lack of precision around the roles and responsibilities for the various agencies, and around the requirements for notification of issues between agencies. As noted in paragraph 28 of our written submission a range of omissions by agencies with various responsibilities, together with natural climatic events, combined to produce the scenario whereby *E. coli* was transmitted via a public drinking water network to an urban area of over 13,000 population. Many of the points of our written submission derive from our agencies' learnings from this experience.

The establishment of Taumata Arowai as a centralised drinking water regulator is supported in our submission and we endorse both its role in evidence based decision making and its ability to use compliance and enforcement powers. We know that this all matters because we all want to maintain and improve public health outcomes as they relate to the various waters, including drinking water.

What we have a concern about is the potential for the loss of critical mass in public health responsibilities and the loss of a public health focus with the transfer of drinking water

management from public health officials to Taumata Arowai. While we expect that public health units throughout the country will submit in more detail on this, in a region such as Hawke's Bay, the current public health workforce may be undermined by the needs of Taumata Arowai for local capacity. We therefore seek the flexibility in the legislation to allow for the ability of Taumata Arowai to delegate its compliance and enforcement functions to a third party, specifically a third party with experience in monitoring compliance with public health drinking water standards.

In a similar vein to the public health issue we are concerned that the recruitment of technical expertise to Taumata Arowai will negatively impact the capability of drinking water suppliers, typically territorial authorities, to deliver to the required standards. We note that this issue is acknowledged in the Cabinet paper released by the Minister of Local Government on 30 September 2019. While we accept that solutions to this issue cannot be legislated for, other than generically through clause 11 (g), we highlight loss of capability by drinking water providers as a risk to achieving the outcomes sought by both this legislation and the legislation to come providing more detail on actual regulations. We encourage Taumata Arowai to be innovative in its engagement with drinking water technical experts, to maximise the use of technical advisory groups drawn from the sector as an alternative to permanent employees and to be held accountable for its efforts in building and maintaining the capability of drinking water suppliers.

Finally I wish to reiterate our overall support for the establishment of Taumata Arowai. We have seen first-hand the impact of what happens when things go wrong with our drinking water supplies. The level of activities and engagement within and between relevant agencies that have occurred in Hawke's Bay since 2016 has underscored for us the importance that an ongoing relationship between Taumata Arowai and other tranches of the water supply community will be critical. Above all there is a need for a strong and open working relationship/collaboration between the regulator and the delivery agencies at the local/regional level.

Madam Chair we wish you and the Committee well in your deliberations and thank you once again for the opportunity to speak to our submission.



## HAWKE'S BAY DRINKING WATER GOVERNANCE JOINT COMMITTEE

Monday 03 August 2020

**Subject: DISCUSSION OF MINOR ITEMS NOT ON THE AGENDA**

### Reason for Report

1. This document has been prepared to assist Joint Committee members to note any Minor Items of Business Not on the Agenda to be discussed as agreed in Agenda Item 5.

Topic	Raised by