Council roles in the new regime for drinking water service

The package of reforms responding to the Havelock North water contamination event are getting much closer to coming into force.

Those reforms include:

- Creating a new regime for managing and monitoring private and public drinking water supplies;
- Establishment of a new water services regulator (Taumata Arowai); and
- Reform of the National Environmental Standard for Sources of Human Drinking Water (a regulation made under the Resource Management Act 1991).

Taumata Arowai

The new Crown entity Taumata Arowai was established in March 2021, and will take over from the Ministry of Health as water services regulator after the Water Services Bill 2020 (the Bill) commences.

Taumata Arowai will have a Ministerial-appointed Board and a Maori Advisory Group. At present it has a core executive and growing number of technical staff.

Taumata Arowai will set, promote, monitor, and enforce the national standards for drinking water. It will also set environmental performance measures for wastewater and stormwater operators and report annually on performance.

Alongside the regulatory powers it holds in place of the Ministry of Health, Taumata Arowai will also have new powers to take enforcement steps to ensure all drinking water suppliers (big and small) are complying with the Bill.

Within 12 months of commencement Taumata Arowai will publish a compliance, monitoring, and enforcement strategy, and this strategy must be reviewed at least every 3 years.

District and City Council water supplies

Under this new regime District and City Councils will continue to have significant duties as large drinking water suppliers (500+ connections). All large drinking water suppliers will be expected to:

- Provide safe drinking water, meet drinking water standards, and act when drinking water is not safe, or when drinking water fails to meet standards;
- Ensure that there is a sufficient quantity of drinking water to support the ordinary needs of consumers;
- Register drinking water supplies with Taumata Arowai, and keep key details of each water supply updated each year;
- Have a drinking water safety plan; and
- Notify Taumata Arowai and take action where there are risks to public health.

All supplies on the existing drinking water register at present will be transferred to the new drinking water register. Suppliers will have 12 months following commencement to register if they own an unregistered supply, and/ or to supply new details to comply with new registration requirements under the Bill.

Drinking water supplies serving 500 or more consumers for at least 60 days per year will have 12 months following commencement to finalise a drinking water safety plan that complies with new requirements

Smaller or private drinking water supplies

The Bill creates significant new obligations on small drinking water suppliers. Private persons or entitles will be caught by these new requirements where they are responsible for a drinking water supply:

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Council roles in the new regime for drinking water service (Continued)

- To two or more dwellings; and/or
- To a commercial or other non-residential premises.

Small drinking water supplies will have 5 years following commencement to meet the additional administrative and safety requirements prescribed in the Bill.

Territorial authorities will be responsible for overseeing how these smaller suppliers comply with these new requirements.

Amendment to the LGA 2002

An amendment to the Local Government Act 2002 will place new responsibilities on territorial authorities including requirements to:

- Consider and assess the access that communities in their district have to drinking water services every 3 years, and specifically consider the implications for local government planning requirements;
- Work with a supplier, consumers of a supply, and Taumata Arowai to find a solution if a drinking water supplier is failing or at risk of failing (such as ceasing to operate, or providing a service in such a way as to pose serious public health risks), and ensure that consumers continue to have access to drinking water services—whether provided by the territorial authority itself, or by another supplier.

Additional responsibilities for Regional Councils

Regional Councils will also have new responsibilities including:

- Reporting on source water quality annually; and
- Assessing the effectiveness of ways to manage risks or hazards to source water every three years.

Select committee report due 11 August 2021

The Bill is currently being considered by the health select committee, with the select committee report due to be released on 11 August 2021.

Many councils around the country, either individually or collectively, made submissions on the Bill. Some of the issues raised include:

- Ensuring councils have sufficient resources to manage and upgrade their own water supplies, while also overseeing the operations of smaller suppliers;
- Clarification of the division of responsibility between local councils, regional councils, and Taumata Arowai;
- The significant additional responsibilities for councils if required to take over the management of private supplies that are failing or at risk of failing; and
- The broad definition of drinking water supplier and the impact this has on the scope of the regulatory regime.

It is open to the select committee to make changes to the Bill at this stage of the process. We would expect any amendments will be made alongside the select committee report, with reasons given for making such changes (or not).

Because of the strong and detailed responses that were made in submissions to the select committee, we would be surprised if the Bill is not amended prior to its second reading. We will provide a further update on any substantial changes following release of the report.

Want to know more?

If you have any questions about the Water Services Bill 2020, please contact our specialist Environment, planning and natural resources team.

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