

3 February 2023

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Finance and Expenditure Committee
Parliament
Wellington

RE: Water Services Legislation Bill

All in Aotearoa should have ongoing full access to safe, affordable and reliable water services. For some whānau, no matter what the price is, any charge for this essential service will be unaffordable. To achieve the goals of this reform, legislation should embed from the get-go that no one will have their water flow restricted or ceased due to an inability to pay.

FinCap welcomes the opportunity to submit on the Water Services Legislation Bill (**the Bill**). As an organisation working to support financial mentors across Aotearoa we know it is normal for whānau to find themselves insolvent. Overcoming the range of financial issues that lead to such situations takes time and this should not mean whānau are at risk of the harm from financial hardship being furthered by the restriction of water flow.

FinCap is also conscious that consultation from providers on investment decisions related to large scale infrastructure can be fraught due to information asymmetry and power imbalance. Community members might be led to believe that over investment at significant cost to all households or underinvestment with excessive cost to future generations is in their interest without realising the consequences. The establishment of sustainably funded professional consumer advocacy to work with community members could go some way to overcoming this issue.

We expand on these comments in our submission below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 200+ local, free financial mentoring services across Aotearoa. These services support more than 70,000 people in financial hardship annually. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

No whānau should have water restricted due to an inability to pay

Drafting in Section 363(f) of the Bill currently empowers water entities to restrict water for non-payment. FinCap strongly recommends that water entities are not empowered to restrict water for non-payment where it has not been established that non-payment is not caused by financial hardship or a barrier to making payment, such as mental health or disability. Taking this action at this point in reform is an opportunity to do the right thing from the get-go.

The experience of washing with a bucket rather than showering or not being able to have water using appliances running concurrently is deliberately demoralising. It does not only impact those

who are directly liable for paying water charges, but also children in the household. While restriction does continue minimal supply necessary for bare minimum 'sanitary conditions'¹ it is a draconian form of debt collection that could deeply impact the wellbeing of a whānau who are simply unable to pay. It is inappropriate that people are punished in this way when they simply cannot pay. Such punishment would only compound the mental health challenges increasingly presenting alongside financial and housing challenges at financial mentor's offices across Aotearoa.

FinCap also understands that flow restriction will have an associated cost of sending someone out to the property to physically install a device to restrict flow. Allocating an entity's resources to flow restrictions in order to chase money that simply cannot be paid without substantial hardship is the height of inefficiency.

Beyond taking away the power to restrict for non-payment in relevant circumstances we are also recommending requirements for effective family violence and payment difficulty support policies in a separate concurrent submission. This submission in response to the Water Services Economic Efficiency and Consumer Protection Bill is attached as *Appendix 1* of this submission.

Recommendation: 363(f) of the Bill is deleted or redrafted so that whānau with inability to pay do not have their full access to essential water services restricted.

Ensure expert community representatives are always available for consumer forums

Sections of the Bill rightfully require water entities to consult water users in consumer forums as to future investment plans. However, the topic of efficient economic investment in water networks can be complex and there is likely to be a power imbalance inherent in the information held and resources of, water entities and community representatives. To counter this leading to water entities pursuing strategies that do not align with community interests, professional and independent consumer advocacy should be available to help represent residential households, challenge poor consultation processes and be funded to contribute expert feedback.

Given the similarities between electricity network price regulation and the equivalent for water network infrastructure it would make sense that the remit of the recently established independent Consumer Advocacy Council² be extended and resourced either by a small levy or another mechanism.

FinCap and other community organisations providing input to consultations generally have limited capacity. FinCap values organisations like the Consumer Advocacy Council being established so we can forward on the systemic issues and community concerns financial mentors report to such experts where we have no capacity for further action otherwise.

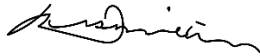
¹ Watercare (2019). *Watercare's debt management code of practice*, p.2. Available at: https://www.watercare.co.nz/CMSPages/GetAzureFile.aspx?path=~\watercarepublicweb\media\watercare-media-library\customer-contract\debt_management_code_of_practice.pdf&hash=c7177209d89f8ebf1bd3e3cd76898875c05572f429f93c29459710bbb536f185

² See: <https://www.cac.org.nz/>

Recommendation: Professional independent experts are funded to contribute consumer advocacy alongside community representatives.

Please contact Senior Policy Advisor Jake Lilley on jake@fincap.org.nz or 027 278 2672 to discuss any aspect of this submission further.

Ngā mihi,



Ruth Smithers
Chief Executive
FinCap

APPENDIX 1

3 February 2023

Finance and Expenditure Committee
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RE: Water Services Economic Efficiency and Consumer Protection Bill

All in Aotearoa should have ongoing full access to safe, affordable and reliable drinking water. For some whānau, no matter what the price is, any charge for this essential service will be unaffordable. This should not mean these whānau do not have ongoing full access to water services. Explicitly requiring water entities to provide consistent and helpful assistance to whānau who are having difficulty paying could make this a reality.

Others will face challenges with family violence and associated harm that will either be compounded or potentially somewhat mitigated depending on the processes in place at their water services entity. Establishing water entities with robust family violence policies as well as setting minimum standards for the assistance that must be offered to whānau having difficulty paying can prevent avoidable harm in our communities.

FinCap welcomes the opportunity to comment on the Water Services Economic Efficiency and Consumer Protection Bill (**the Bill**). We support financial mentors across Aotearoa in their work towards assisting whānau who are facing financial difficulty. Water services are essential to the health, wellbeing and social participation of whānau. Strong consumer protections for access along with efficient pricing of these services can prevent their contributing to financial difficulty in the first place. We have seen examples internationally where many industries take cues from water entities on how to best look after all customers no matter their ability to pay. There is an opportunity for this Bill to not only ensure water entities have robust supports for those facing payment difficulty from their establishment. The entities could also set the standard for other essential services to meet and lift community wellbeing across the board.

FinCap has also observed overseas jurisdictions requiring their water entities to implement family violence policies with strong supports for impacted whānau. We and other stakeholders have observed that many organisations in Aotearoa do not have processes in place to identify family violence in all its forms, including economic harm. Nor do they have processes in place to respond appropriately. Water entities should be required to have family violence policies in place from the start and again set the standard for improvements across other industries.

We expand on these comments in our submission below.

About FinCap

FinCap (the National Building Financial Capability Charitable Trust) is a registered charity and the umbrella organisation supporting the 200+ local, free financial mentoring services across Aotearoa. These services support more than 70,000 people in financial hardship annually. We lead the sector in the training and development of financial mentors, the collection and analysis of client data and encourage collaboration between services. We advocate on issues affecting whānau to influence system-level change to reduce the causes of financial hardship.

Explicitly require water entities to provide consistent and helpful assistance to whānau who are having difficulty paying

“If you are experiencing financial pressure and can't pay your bills, we are here to help.

We can offer support and flexibility to suit your situation. Please call us on 1800 994 789 to discuss how we can help.

You'll speak to one of our team who will work with you for as long as it takes to get back on track...[emphasis added]”³

The above is taken from the ‘Financial help’ webpage for Yarra Valley Water in Australia and represents a clear unlimited commitment of water entities there to assisting those having difficulty paying (as is required by their Essential Services Commission regulator⁴). In FinCap’s desktop research towards this submission, such commitments reflect far better practice than what is currently offered by some areas charging for water services in Aotearoa.

Whānau in Aotearoa deserve similar commitments and the Bill’s drafting needs strengthening to ensure the Commerce Commission will prioritise requiring such supports when forming the service quality code. At present section 70 of the Bill does little to reassure us that the Commerce Commission will see continued support of whānau having difficulty paying for (and therefore accessing) water as a requirement or priority. At its most detailed the Bill currently only sets a penalty rate for those unable to pay, something which may be completely inappropriate where it makes debt that is impossible to pay even more unaffordable.

The overarching purpose of these reforms is that “*All New Zealanders deserve safe, affordable and reliable drinking water, wastewater and stormwater.*” Our recommendation in a concurrent submission attached in *Appendix 1* is that entities are not given the ability to restrict water flow in situations where whānau are having difficulty paying at all.

We also recommend that drafting in Section 70 of this Bill also include that the Commission must form a framework of minimum standards for ensuring ongoing access to water for whānau having difficulty paying as well as defining sufficient penalties to deter entities from failing to meet minimum requirements in day-to-day operations. Drafting should also be included to have the effect of prescribing that the Commerce Commission at least include these well-established better practices as minimum standards:

- That there are as few barriers as possible to accessing assistance and anyone disclosing payment difficulty is believed rather than evidence being required for assistance.
- That water entities must proactively reach out and offer the support available when there are signs that whānau may be facing payment difficulty (either through struggling to make payment, struggling to make payment on time, potentially rationing water at extreme rates or another sign).

³ <https://www.yvw.com.au/help-advice/watercare/financial-help>

⁴ See for example,

- That the entities' staff receive appropriate training on identifying and respectfully assisting people experiencing vulnerability.
- That all whānau have the right to access payment plans that are flexible to their unique situation including a right to be offered a complete pause for any payment recovery where there is simply no capacity to pay.
- That whānau facing payment difficulty are continuously helped despite previous repayment plans not being met and being unsuccessful.
- That late payment charges are always waived where any consumer in the home has a community services card.
- That late payment charges are otherwise waived where payment difficulty or financial hardship is disclosed by any consumer in their home or their representative (such as a financial mentor).
- Referrals are made to Work and Income for relevant assistance where appropriate.
- That all whānau who are facing payment difficulty be offered a referral to community supports (including financial mentors) but this is not a conditional requirement nor a barrier before receiving assistance as is currently the case in some aspects of Watercare's assistance programme.⁵
- That no whānau receiving assistance due to payment difficulty have water flow restricted and that flow is not restricted as the default where a whānau is having trouble keeping up engagement with a water entity.
- That whānau having difficulty paying receive assistance to address leaks where this is causing or compounding payment difficulty.
- That whānau in payment difficulty are offered support to identify whether there are opportunities to safely reduce usage through assessments of current usage.

The Commerce Commission might arrive at these requirements independently of explicit drafting. However, in FinCap's experience we have not found the Commerce Commission to have expertise in this area or have those most at risk of losing access to an essential service as their highest priority while advancing their work related to new Retail Service Quality powers in the telecommunications space. Legislating the requirements will ensure the intent of this reform to ensure all in Aotearoa have access to safe, affordable and reliable water is fulfilled.

Blunt estimates have put forward that there have been over 100,000 households experiencing energy hardship in Aotearoa.⁶ FinCap's Client Voices software recorded 33,132 people worked with a financial mentor in 2022 at the 127 of 190 community service organisations that offer financial mentoring who use that software. 150,400 children (13.1%) were living in severe income poverty in 2021 figures.⁷ The list could go on, but clearly many in Aotearoa are facing payment difficulty and being impacted by associated harm. If the reforms that the changes in this Bill are a part of progress, then many more such whānau may begin receiving direct water bills to juggle on top of the other bills they are already having difficulty paying. Extending the drafting in section 70 of this bill is the best way to ensure they will have the assistance needed or a clear set of expectations to point to as unmet when they, or the financial mentor representing them, raise concerns with a dispute resolution provider.

Recommendation: Section 70 of this Bill also include drafting so that the Commerce Commission must form a framework of minimum standards for ensuring ongoing access to water and ongoing assistance for whānau having difficulty paying. Drafting should also ensure sufficient penalties to deter entities from failing to meet minimum requirements in day-to-day operations.

⁵ See section 4: [Watercare's debt management code of practice](#)

⁶ See page 18: <https://www.mbie.govt.nz/assets/electricity-price-review-final-report.pdf>

⁷ See: <https://www.cpag.org.nz/statistics/latest-child-poverty-figures>

Require water entities to have family violence policies

Aotearoa is ranked as the worst developed country in the OECD for family violence.⁸ FinCap is aware through discussion with Utilities Disputes that they have seen instances where family violence occurs in one person controlling another's access to water. In very serious family violence cases there is also a risk that service providers are manipulated to reveal new contact details for victim-survivors. Effective family violence policies at water entities would set out clear procedures about how staff will be trained to identify signs of family violence before following clear procedures about how the entity should respond.

The Bill should add additional drafting that instructs the Commerce Commission to include requirements for water entities to implement policies to assist people experiencing family violence in service quality code. This should ensure, at a minimum, that entities have policies and procedures on how they will identify and respond to all forms of family violence. The regulator should also ensure that water entities:

- Are informed about the complexities and signs of family violence and seek advice to tailor their approach to best support their customers.
- Avoid requiring evidence of family violence, so that responses are timely and prioritise the safety of the survivor-victim.
- Avoid repeat disclosure of circumstances. This can be traumatising and potentially creates a barrier to further support being sought. Some examples of solutions for this are referral arrangements and a dedicated phone line to flag the situation.
- Implement systems for smooth referrals to expert support services.
- Safely separate debt between the perpetrator and victim-survivor and implement processes for waiving debt for customers affected by family violence.
- Have effective processes for safety and protection of victim-survivors information. Ensure that information is kept confidential between account holders when it is requested.

We are aware of the Essential Services Commission in Victoria requiring such policies as well as offering guidance for entities.⁹ Also, some banks and electricity providers in Aotearoa have shared with FinCap that they have implemented family violence policies. Including this requirement in the Bill has a precedent and will do its bit towards the *Te Puna Ao Te Aorerekura National Strategy to Eliminate Family Violence and Sexual Violence*.

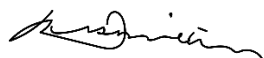
Recommendation: Further drafting in the Bill instruct the Commerce Commission to require entities to have a robust family violence policy in the service quality code. The Commerce Commission should also issue guidance as to what should be contained in an effective family violence policy.

Please contact Senior Policy Advisor Jake Lilley on jake@fincap.org.nz or 027 278 2672 to discuss any aspect of this submission further.

Ngā mihi,

⁸ See: <https://goodshepherd.org.nz/economic-harm/new-zealand-family-violence-and-economic-harm-statistics/#:~:text=New%20Zealand%20is%20ranked%20as,family%20violence%20episodes%20remain%20unreported.>

⁹ See: <https://www.esc.vic.gov.au/water/codes-and-guidelines/customer-service-codes/customer-service-code-review-2017-royal-commission-family-violence>



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