

# Hon Kieran McAnulty

Minister for Emergency Management  
Minister of Local Government  
Minister for Racing  
Minister for Regional Development  
Minister for Rural Communities  
Deputy Leader of the House



REF: COR3518

Gillian Blythe  
Chief Executive, Water New Zealand  
By email: [gillian.blythe@waternz.org.nz](mailto:gillian.blythe@waternz.org.nz)

Dear Gillian

Thank you for your letter dated 30 June 2023, regarding the land access provisions in the Water Services Legislation Bill.

In response to your concerns, I have reviewed the land access provisions in the Water Services Legislation Bill as they relate to the placement or construction of new water services infrastructure on private land. In doing so I have considered the needs water services entities will have for land access to place or construct new infrastructure and also the rights and interests of private landowners.

The Cabinet policy decisions on which the provisions were drafted involved a balancing of the need for water services entities to access private land with the rights of landowners to the enjoyment of their land. Cabinet also considered differences between the land access provisions in the Local Government Act 2002 for water services and those in other legislation for other utility operators. In its policy decisions Cabinet, agreed to provide for water services entities to have access to private land in a way similar to what councils have under the provisions of the Local Government Act, with updating to align when desirable to do so, with land access provisions for other infrastructure.

I agree with Water New Zealand's view that the provisions in the Legislation Bill are more constraining than those in the Local Government Act. I also agree that water services infrastructure is different to electricity and telecommunications infrastructure in that it will not always be practicable for new network infrastructure to follow road transport or other public corridors because of the importance of gravity for the flow of water and the constraints of local topography.

Because of this, I agree that some amendment is needed to ensure the workability of the provisions while still providing for the interests of private landowners.

In providing for the interests of private landowners, I think it is important to recognise that water services entities will have narrower purposes than councils and will not be subject to the same democratic checks and balances as councils. Because of this, it will be important to ensure that water services entities consider options for the placement and construction of new water services infrastructure with a view to minimising impacts for private landowners. I also think it important that a private landowner should be able to place reasonable conditions on a water services entity's access to their land such as requirements to shut gates, or make good of damage caused to private land and property caused by the construction process. I

agree that any disputes regarding land access should be resolved quickly and at the lowest level possible.

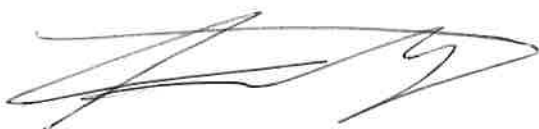
To achieve this, I have agreed to make changes to the Water Services Legislation Bill to provide for a hearing process, similar to that provided for in Schedule 12 of the Local Government Act, to make determinations on land access when either a landowner refuses consent or places unreasonable conditions on access. This process will be quick and low level and will provide access if there is no other reasonable alternative for the placement or construction of new water services infrastructure. The amended provisions will,

- Continue to provide water services entities with rights to construct or place water services infrastructure on private land,
- Provide for water services entities to access private land for the purpose of constructing new infrastructure by either (a) getting a landowner's consent, or (b) following a process based on the current process in schedule 12 of the Local Government Act, which would include,
  - Notifying the landowner of the proposed work
  - Providing for the landowner to agree to the work and to impose reasonable conditions for access
  - providing for a water services entity to conduct a hearing in the event that a landowner refuses consent or imposes unreasonable conditions, to determine access, based on the procedure currently provided for by Schedule 12 of the Local Government Act 2002.
- Provide for a landowner to appeal the outcome of a hearing to the District Court, who would then determine whether access is needed based on a water services entity's consideration practical alternatives.
- Continue to provide for compensation to private landowners under the provisions of the Public Works Act (this is already provided for in the Legislation Bill).

In addition to the above changes to the access provisions, I have directed my officials to monitor the workability of the land access provisions on their implementation, with a view to later amendments to the provisions if they become problematic.

Thank you again for writing and for your ongoing work in promoting the professionalisation of the water services sector.

Yours sincerely



Hon Kieran McAnulty  
**Minister of Local Government**