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Infrastructure New Zealand's Submission to the Governance and Administration Committee - Water Services Entities Amendment Bill

1. Introduction

- 1.1 Infrastructure New Zealand (INZ) welcomes this opportunity to submit to the Governance and Administration Committee on the Water Services Entities Amendment Bill.
- 1.2 INZ is New Zealand's membership organisation for the infrastructure sector. We promote best practice in national infrastructure development through research, advocacy and public and private sector collaboration. Our members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

2. General Remarks

- 2.1 As we have outlined previously, INZ is a key proponent for reform to New Zealand's three waters sector. We consider that the status quo is falling well short of meeting community expectations and that the case for reform has been made.
- 2.2 The water sector is facing a significant challenge and the existing regime with the need for high levels of investment in critical infrastructure over the next 50 years. The repeated rejection of this necessary investment by many council owners is extremely concerning. This current state is unsustainable, and change is urgently needed. The ability to debt fund long term assets is necessary and the sooner it can be implemented the better.

- 2.3 While we are disappointed to see the initial reform proposals diluted, INZ supports the government's decision to reshape the proposal and continue to progress with the establishment of the new water entities to ensure critical mass and capability of the skilled workforce, as well as the new operating environment with wider charging tools and investment obligation.
- 2.4 We, however, have concerns with the legislation proposed. This current omnibus bill adds to the existing and complex strands of various water-related legislation.
- 2.5 An extremely rushed legislative process, with a condensed public submission process, is not good legislation making. There has not been sufficient time for proper consideration or robust debate of proposals. This bill's introduction so soon following the report back of the previous water-related legislation makes it a difficult environment in which to navigate and fully understand the amendment of already recently amended legislation which hasn't been finalised.
- 2.6 While supportive of the overall need for reform, INZ is concerned about how these provisions will be implemented in practice. Of particular concern is how these reforms will interact with the current Resource Management bills, and any future consideration and implementation of the Future for Local Government review reports recommendations.

3. (Part 1) Amendments to Water Services Entities Act 2022

- 3.1 The following comments are made on this omnibus bill. The very nature of this bill which amends recently passed legislation, means it is difficult to interpret in places and hard to fully understand the extent of the changes being made.

(Clause 5) New Section 6A inserted (entity establishment date)

- 3.2 INZ supports the earliest commencement of the new water entities. The allowance of a variety of commencement dates, to be set by an Order in Council, is a pragmatic approach and caters for the different arrangements and circumstances across the motu. While we support the legislation, INZ urges the National Transition Unit to work constructively with councils to transition to the need water entity arrangements as quickly as possible.

Recommendation 1

- 3.3 INZ supports clause 5.

Clause 7 Functions of water services entities (section 13 amended)

- 3.4 Clause 7 provides for the water entities to enter into shared services arrangements for any of its functions. This is strongly supported and should be encouraged as the entities look to build capability and capacity and utilise scale to deliver more efficient services to their customers.

Recommendation 2

3.5 INZ supports clause 7.

4. (Subpart 1) A Merger of Water service entities

Clause 9 Merger of Water Services Entities and Schedule 2A

4.1 Clause 9A provides for anticipated mergers of water entities and this is supported. Schedule 2A outlines the merger proposal process and decision making. INZ supports both the consensus voting requirement for regional representatives, and the additional provision for less than 100% agreement where the merger request is made by the Crown body. A 50% threshold seems low though and risks widespread local government and central government division.

Recommendation 3

4.2 INZ supports clause 9a and Schedule 2A but recommends consideration be given to a threshold above 50% for regional representative agreement.

Clause 14 Section 131 amended

4.3 New provisions for Community priority statements for water services are provided for and can be made by a wide range of interested parties. This provides a mechanism for community engagement and is supported. Similar to te Mana o te Wai Statements, the scope of these statements could be very wide ranging. The Water Entity should be required to consider the statement and respond but this may not go as far as a plan in all situations.

5. Additional issue to be addressed

5.1 INZ is aware of concern with the reported back provisions in the Water Services Legislation Bill (WSLB) that grant water services entities access to carry out work in relation to water service infrastructure on private property. INZ is concerned that the provisions as they stand will lead to delays, additional costs and inefficiencies in the operation of the new water services entities. The powers provided are more limited than current access powers provided under the Local Government Act 2002.

5.2 The Water Services Legislation Bill provisions require the WSE to notify both the landowner and occupier at least 15 working days prior to any work being carried out on their property and provide at least 15 working days' notice to any change in the date or time. (Ref Clauses 201 and 202.). This is not always practical or feasible. On current drafting, the bill gives WSEs a much more difficult and onerous process to construct or place important water services infrastructure than is currently given to local authorities. This will greatly impede the ability of WSEs to achieve their objectives under the bill.

- 5.3 INZ supports a further amendment to this bill that adopts the status quo for land access in the Local Government Act 2002. This is critical so that water service entities can carry out their functions in a timely and efficient manner.

Recommendation 4

INZ recommends proposes the insertion of a clause akin to section 171 of the LGA (with changes relevant to the WSE):

171 General power of entry

(1) *For the purpose of doing anything that the Water Services Entity is empowered to do under this Act or any other Act, a Water Services Entity representative may enter any land or building other than a dwellinghouse*

OR

(2) *For the purposes of carrying out maintenance, emergency repairs and routine inspections of water assets, a Water Services Entity representative may enter any land or building other than a dwellinghouse.*

(3) *If a Water Services Entity exercises the power under subsection (1) (or 2) to enter unoccupied land or unoccupied buildings, the local authority must notify the owner—*

- (a) *not less than 24 hours in advance of the intended entry if it is reasonably practicable to do so; or*
- (b) *as early as reasonably practicable, whether before or after entry has been made.*

6. Conclusion

- 6.1 We thank the Governance and Administration Committee for the opportunity to submit on Water Services Entities Amendment Bill.



Michelle McCormick
Policy Director
Infrastructure New Zealand

Annex 1: Full summary of recommendations

#	Reference	Recommendation
1	Clause 5	INZ supports clause 5
2	Clause 7	INZ supports clause 7.
3	Clauses 17-20	INZ supports clause 9a and Schedule 2A but recommends consideration be given to a threshold above 50% for regional representative agreement.
4	Additional point regarding Water Services Legislation Bill	<p>INZ recommends proposes the insertion of a clause akin to section 171 of the LGA (with changes relevant to the WSE):</p> <p>171 General power of entry</p> <p>(4) <i>For the purpose of doing anything that the Water Services Entity is empowered to do under this Act or any other Act, a Water Services Entity representative may enter any land or building other than a dwellinghouse</i></p> <p>OR</p> <p>(5) <i>For the purposes of carrying out maintenance, emergency repairs and routine inspections of water assets, a Water Services Entity representative may enter any land or building other than a dwellinghouse.</i></p> <p>(6) <i>If a Water Services Entity exercises the power under subsection (1) (or 2) to enter unoccupied land or unoccupied buildings, the local authority must notify the owner—</i></p> <p>(c) <i>not less than 24 hours in advance of the intended entry if it is reasonably practicable to do so; or</i></p> <p>(d) <i>as early as reasonably practicable, whether before or after entry has been made.</i></p>