

1 February 2024

Hon Judith Collins KC, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Water Services Acts Repeal Bill

1. We have considered whether the Water Services Acts Repeal Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 25951/8.0). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. In 2020, the previous government launched water services reform and passed a series of legislation to establish new water service entities to take over water service delivery and asset ownership from local authorities.
4. The Bill repeals the Water Services Entities Act 2022, the Water Services Legislation Act 2023, and the Water Services Economic Efficiency and Consumer Protection Act 2023. This will end the entity model and reinstate water service delivery and asset ownership in local authorities.
5. The Bill provides for transitional arrangements for local authorities' long-term plans, which would otherwise be required to be completed by 30 June 2024 for the 2024-2034 period. The transitional arrangements are intended to be available to affected territorial authorities to choose from as relevant and appropriate. The options provided for include an extension to the deadline for adoption of the long-term plan to 30 September 2024 and a deferral of the long-term plan by one year. The Bill also allows for the deferral of council review of water services bylaws, if necessary.
6. The Bill will also disestablish the Northland and Auckland Water Services Entity, which is the first, and only, new water service entity to have been set up under the system. These provisions deal with any establishment activities that are in progress or have been completed by the Entity or the National Transition Unit in the Department of Internal Affairs.¹
7. The pre-existing regime in the Water Services Act 2021 will be re-enacted, which will restore powers and responsibilities relating to water service delivery to local government. We are not vetting the Water Services Act 2021 regime; however, we note that the Water Services Bill was deemed to be consistent with the Bill of Rights Act and that advice remains relevant.²
8. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

¹ The National Transition Unit is the unit responsible for executing the Government's decisions on water services reform through a consistent and coordinated nationwide approach to transition.

² Advice to the Attorney-General *Consistency with the New Zealand Bill of Rights Act 1990: Water Services Bill* 14 July 2020.

A handwritten signature in blue ink, appearing to read "Jeff Orr". The signature is stylized with a large, looped "O" and a trailing "m" that suggests the name "Orr".

Jeff Orr
Chief Legal Counsel
Office of Legal Counsel