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Environment Committee
Parliament Buildings
Wellington

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Water New Zealand Submission on the The Urban Development Bill

Introduction and overview

1. Water New Zealand is a national not-for-profit sector organisation comprising approximately 1,900 corporate and individual members in New Zealand and overseas. Water New Zealand is the principal voice for the water sector, focusing on the sustainable management and promotion of the water environment including drinking water, wastewater, and stormwater.
2. Water New Zealand understands that the Urban Development Bill (**the Bill**) is intended to provide the Crown entity Kāinga Ora - Homes and Communities (**Kāinga Ora**) with functions, powers, rights, and duties in order to enable its urban development functions. Provision of drinking, waste, and storm waters is a key aspect of the Bill's purpose.
3. Water New Zealand supports the general intent of the Bill however as drafted the Bill does not appropriately provide for the input from water service providers upon whom the ultimate responsibility for water provision falls. While, with the exception of Auckland, water service providers currently sit within territorial authorities (with whom Kāinga Ora must consult) it is still imperative that specific reference to water services providers is included. This is particular the case for Auckland, as noted, and in light of the various changes to the water sector that will be occurring over the coming months and years as a result of the Water Services legislation currently in train.
4. Water New Zealand is concerned that the Bill grants Kāinga Ora additional development powers but is unclear about organisational water service responsibilities and roles. Water New Zealand does not support the current drafting which grants Kāinga Ora powers enabling the development of water infrastructure without any requirements for consultation with, or considering the needs of, water service providers. Water New Zealand is concerned this lack of role clarity and awareness of industry constraints could lead to infrastructure development for which water service providers lack the capacity to deliver appropriate water services.

5. In order to address these concerns Water New Zealand seeks changes to:
- a) ensure there is a clear link between Kāinga Ora's new powers in relation to water service infrastructure development, and the role and needs of water service providers in providing water services;
 - b) mitigate Kāinga Ora's proposed new development powers as they relate to the unrealistic or unrealisable imposition of obligations on water service providers; and
 - c) enable the water service provider sector to have greater involvement in the Specified Development Projects (**SDP**) planning process.

'Non-roading infrastructure' in the Bill

6. Water New Zealand's areas of interest are broadly covered in the Bill as 'non-roading infrastructure', which is defined in section 147 of the Bill as follows:

non-roading infrastructure means infrastructure associated with, or necessary for, any of the following:

- (a) the supply of reticulated **drinking water**:
- (b) **sewage and wastewater** removal, or treatment, or both:
- (c) **stormwater** drainage:
- (d) **supply of water** through water races:
- (e) **trade wastes disposal**:
- (f) **land drainage** and **rivers clearance**

[emphasis added]

7. The Bill defines 'non-roading powers' as follows:¹
- (a) the power to construct any new non-roading infrastructure on, under, or over any land (including any road):
 - (b) the power to alter (including to connect to) any non-roading infrastructure that Kāinga Ora does not control.
8. The Bill as drafted grants Kāinga Ora these non-roading powers when the development plan becomes operative:²
- On and from the date on which a project's development plan becomes operative, Kāinga Ora has the non-roading powers in relation to existing, and new, non-roading infrastructure—

¹ Urban Development Bill, section 155

² Urban Development Bill, section 156

- (a) within the project area; and
- (b) outside the project area, but only to the extent that existing, or new, non-roading infrastructure connects to or services (or will connect to or service) the project area.

Change Sought: A clearer link made between Kāinga Ora's role in relation to water service infrastructure, and the role and needs of water service providers in providing water services

- 9. Water New Zealand considers there is the possibility that without legislative clarity regarding the roles of Kāinga Ora and water service providers in relation to development and provision of water services, Kāinga Ora could use the new powers conferred by the Bill to undertake projects or developments for which the roles are unclear or the execution impossible.
- 10. Water New Zealand seeks the inclusion in the Bill of a clear link between Kāinga Ora's proposed powers and actions in relation to water service infrastructure, and the role and needs of water service providers in the provision of water services, in order to avoid a situation where the proper role of water service providers is improperly subsumed by Kāinga Ora.
- 11. Water New Zealand proposes some suggested wording to this effect in **Appendix A**.

Change Sought: Mitigation of Kāinga Ora's proposed new development powers as they relate to the imposition of obligations on water service providers

- 12. The breadth of powers proposed for Kāinga Ora is of concern to Water New Zealand as it does not appear to:
 - a) impose a requirement for consultation between Kāinga Ora and water service providers either prior to, or during, any construction or alteration; or
 - b) create any obligation upon Kāinga Ora to consult or discuss any planned actions with water service providers.
- 13. As such, the proposed powers included in the Bill have the potential for Kāinga Ora to impose unrealistic and unfulfillable obligations on water services providers.
- 14. Water New Zealand seeks a requirement in the Bill for Kāinga Ora to consult with water service providers to ascertain the needs and constraints inherent in the proposed infrastructure, and to refrain from developing infrastructure which water service providers are incapable of adequately servicing.
- 15. Water New Zealand proposes some suggested wording to this effect in **Appendix A**.

Specified Development Project process

- 16. The Bill contains an establishment process that SDPs must go through for complex urban development projects prior to accessing the development powers. Subpart 2 sets out the process for preparing and approving a development plan for a SDP.

17. Section 69 requires consideration of various relevant considerations Kāinga Ora must have regards to in preparing a development plan, however as drafted the Bill contains inadequate requirement for involvement of water service providers in the creation of the draft development plan.
18. Section 70 requires Kāinga Ora to consult with a range of specified stakeholders when preparing a draft development plan, however as drafted the Bill contains inadequate requirement for consultation of water service providers in the creation of the draft development plan.
19. Section 74 requires Kāinga Ora to prepare an infrastructure statement that describes the infrastructure matrix in the project area, however does not require consideration of, nor consultation with, the needs of water service providers.
20. Section 77 allows public submissions to Kāinga Ora on a draft development plan, however Water New Zealand considers that reducing water service provider involvement to the public consultation process is inadequate.
21. Neither the Independent Hearings Panel established under section 79, nor the Minister in making their decision on the draft development plan under section 84, is under an obligation to specifically consider the needs and constraints of water service providers in their consideration of the draft development plan.

Change Sought: Greater involvement of water service providers in the Special Development Project planning process

22. Water New Zealand seeks the inclusion of a requirement that Kāinga Ora must consider the needs and constraints of water service providers in developing the draft development plan, and that the Independent Hearings Panel and the Minister must consider the needs and constraints of water service providers in fulfilling the development plan.
23. Water New Zealand proposes some suggested wording to this effect in **Appendix B**.

Submission

24. Water New Zealand appreciates the opportunity to provide a submission on the Bill.
25. Water New Zealand **does not** wish to be heard in support of this submission.

John Pfahlert



Chief Executive
Water New Zealand

Appendix A

[147] Interpretation for this subpart

Water-related non-roading infrastructure means infrastructure intended for the provision of water supply services in regards to the three-waters systems of drinking water, wastewater, and stormwater.

[158A] Limitations on power to operate new non-roading infrastructure

(1) Kāinga Ora's powers in regards to water-related non-roading infrastructure under the development plan is limited to planning and construction powers, and does not extend into operational powers. Water service providers maintain operational powers in relation to water-related non-roading infrastructure.

[158B] Requirement to consult water service providers prior to planning water-related non-roading infrastructure

(1) Kāinga Ora must consult water service providers prior to planning water-related on-roading infrastructure to ensure that the planned infrastructure does not exceed the operational capacity of the water service providers.

[158C] Requirements for consideration of water service providers capacity for proposed water-related non-roading infrastructure

(1) Kāinga Ora must not plan water-related non-roading infrastructure where information provided by water service providers indicates that water service providers will lack the capacity to deliver services for the proposed infrastructure.

Appendix B

70 Consultation

(1) When preparing a draft development plan, Kāinga Ora must consult—

- (a) owners and occupiers of land within the project area; and
- (b) Māori and key stakeholders referred to in section 35(2) and (3); and
- (c) representatives of any organisation that administers a reserve in the project area, or that administered it, before its transfer to Kāinga Ora for the specified development project; and
- (d) any persons appointed under iwi participation legislation to be members of a standing committee of a local authority that has jurisdiction over the whole or part of a project area; and
- (e) any Minister of the Crown who is affected by the specified development project.
- (f) all relevant water service providers.

...

74 Infrastructure statement

Kāinga Ora must prepare an infrastructure statement that—

- (a) describes the infrastructure proposed to be constructed in the project area; and
- (b) describes the effect of the proposed infrastructure on existing infrastructure, both within and outside the project area; and
- (c) states whether Kāinga Ora has entered into any binding agreements with any infrastructure provider; and
- (d) discloses whether Kāinga Ora proposes to construct new infrastructure on land not controlled by Kāinga Ora and whether it has obtained the consent of the owner of that land; and
- (e) states where further information will be available about the progress of the construction of the proposed infrastructure during the course of the specified development project; and
- (f) identifies the expected total costs of construction of the proposed infrastructure for the specified development project.
- (g) identifies all constraints identified regarding operational limits or restriction possibilities arising in relation to the proposed water-related infrastructure and the ability of water service providers to fulfil and manage the proposed water service provision requirements.