

Changes for Access to Private Land for Water Services Providers

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Introduction

The **Local Government (Water Services) Act 2025 (LGWSA 2025)** was introduced as part of the Government's Local Water Done Well policy following longstanding issues that council ownership and delivery of water services being financially unsustainable and failing to meet quality standards.

The LGWSA 2025 enables councils to deliver water services by Council-Controlled Organisations (**CCO**), which can be financially independent or consumer trust-owned entities.

As part of this reform, the LGWSA introduces new land access provisions that replace the general, less prescriptive powers previously used by territorial authorities under the **Local Government Act 2002 (LGA 2002)**. Since water services can now be delivered by CCOs, the process has been updated to be more prescriptive, similar to the rules followed by other non-local authority network utility operators, such as electricity distributors.

With these changes, the Government has sought to provide more protections and certainty for private landowners; but risks creating a new regime that stifles the delivery of critical infrastructure.

This article will summarise the key legislative changes for land access and their implications for landowners and water services providers (**WSPs**).

Summary of Key Procedural Shifts

The table below outlines the key differences between the former and current legislation regarding access to land.

Procedural Requirement	LGA 2002 (Prior Framework)	LGWSA 2025 (New Mandate for WSPs)
Notice Period (New Infrastructure)	Prior written notice was required, but there was no specified minimum period or a strict requirement for the land owner to consent, provided the process is Schedule 12 was followed.	Ten (10) working days' for inspecting or carrying out certain works on existing infrastructure or an overland flow path (operate, maintain, complete, alter or renew). At least 30 working days' notice for the first entry to install new infrastructure.

Landowner Response Deadline	Landowner had one month to serve a written objection on the territorial authority.	Landowner must serve notice (consent, refusal, or conditions) within 10 working days of receiving notice.
Dispute Trigger (Initial Step)	Landowner objection triggered a hearing conducted by the territorial authority itself.	Dispute triggers a mandatory internal review process, which must operate independently of the WSP's operational decisions.
Administrative Resolution Time	The LGA 2002 does not specify a determination timeframe following the hearing.	The reviewer must determine the matter and issue the determination within 20 working days. For Māori-owned land, if an owner does not participate in the review process, then the WSP cannot proceed with works and its only recourse is in the Māori Land Court, as opposed to the District Court.
Appeal Jurisdiction	Appeal against the council's determination went to the District Court.	Appeal against the WSP's review determination goes to the District Court (general land) or the Māori Land Court (Māori-owned land) (Factsheet: Arrangements, p. 3).
Māori Owned Land	Did not distinguish between Māori or non-Māori owned land.	The LGWSA 2025 now prescribes notice requirements for Māori-owned land.

Formalising Dispute Resolution and Accountability

The LGWSA 2025 introduces two key mechanisms to formalise accountability:

- **Mandatory Administrative Review:** WSPs must conduct a formal independent review if a landowner declines consent or imposes conditions that the WSP consider are unreasonable. This structured mechanism replaces the previous model where the dispute went directly to a hearing before the territorial authority itself.
- **Strict Time Limits:** Landowners have an obligation to respond to a notice to enter land within 10 working days. Likewise, internal reviews must be determined within 20 working days.

Conclusion

The LGWSA 2025 replaces the LGA 2002 with respect to water services infrastructure and is part of a fundamental shift in how water services can be funded, administered and delivered.

While the LGA 2002 provided wide and general powers of entry, the LGWSA is now much more prescriptive when a WSP seeks to enter Māori or non-Māori land to install new works, or to operate and maintain existing works.

By introducing fixed, short deadlines and a mandatory internal administrative review, the process for resolving land access disputes has been accelerated and formalised, now bearing strong likeness to the access processes followed by Network Utility Operators in New Zealand (many of which are ostensibly public owned, but operated privately).

This shift has critical implications for all involved parties:

- **For Landowners:** You must be aware of the concise 10-working-day window to respond to a formal notice. If you do not, then you have forfeited your opportunity to decline or impose conditions on entry.
- **For WSPs:** Internal processes should be updated to reflect the requirements of the LGWSA 2025. Furthermore, you should consider the potential implications of compensation to Landowners for the installation of new works, or where maintenance or other works to existing infrastructure causes *injurious affection*.

Contact us

If you're a landowner or Council have any questions about how this recent law change might affect you, then reach out to Simon to discuss how Gallaway Cook Allan can support you.



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