



STATEMENT OF PROPOSAL TO REVOKE A BYLAW FOR SELWYN DISTRICT COUNCIL "COUNTY OF ELLESMERE BYLAW 1944"

(This statement is made for the purposes of sections 83 and 86 of the Local Government Act 2002)

Nature of the Proposal

This is a statement of proposal by the Selwyn District Council (The Council) to review the current "County of Ellesmere Bylaw 1944". This review will result in revoking of this bylaw.

Throughout this report, the process will be referred to as the review of the current bylaw ("the current bylaw").

The proposal to review the bylaw is made pursuant to:

The Local Government Act 2002 section 158(2)(a) states that the current bylaw must be reviewed no later than 1 July 2008 (if the bylaw was made prior to 1 July 2003).

Reasons for this Proposal

To review, and update and revoke as necessary, the current bylaw in accordance with the requirements of the Local Government Act 2002.

This bylaw was originally adopted to prevent landowners from creating road crossings over drainage without prior consent of Council, and to document Council authority to undertake drain works.

The Council proposes to revoke the current bylaw as there are provisions within the Local Government Act 1974, Land Drainage Act 1908, the Resource Management Act 1991 and the District and Regional plans. All constrain works or activities which have a potential affect on drains.

The statutory requirements for introducing a bylaw

- **Appropriateness**

Once this bylaw has expired, there is no clear mandate for ensuring ongoing compliance.

Sets clear guidelines and provides information to the public.

- **Options Available to Council**

1. **Do nothing** – failure to review the current bylaw by 1 July 2008 will result in its lapse by 2010 and a new process would need to be implemented.

2. **Revoke the current bylaw and rely on other methods** – there are provisions within the Local Government Act 1974, Land Drainage Act 1908, the Resource Management Act 1991 and the District and Regional plans. All constrain works or activities which have a potential affect on drains.
3. **Proceed with the review.** Review of the current bylaw will ensure it is up to date with relevant legislation and also update it in terms of current management and operating best practices.

This Statement of Proposal has been prepared on the basis that Council wishes to proceed with Option 2: **Revoke the current bylaw and rely on other methods**

The following mechanisms are considered to provide appropriate control for Land Drainage activities:

- The Local Government Act 1974, Part 29, includes provision form the Council to require the occupier of the relevant land to remove any obstruction from a drainage channel, or to undertake such work itself and recover the cost from the owner. The Land Drainage Act 1908 includes a provision, at Section 26, which makes it an offence for any person to interfere with a drain or watercourse and at Section 62 provides local authorities with power to require obstructions to be moved from watercourses or drains.
- The relevant provisions of the Local Government Act 1974, and the Land Drainage Act 1908, are subject to the Resource Management Act 1991. That Act includes numerous mechanisms by which the Council could ensure that drainage works in the district are protected. This enforcement provisions include the availability of abatement notices and enforcement orders as methods of preventing activities which may have an adverse effect on the environment, including interfering with drains.
- There is the requirement to obtain resource consent from either the Regional Council or the District Council, or both, prior to earthworks or other activities being undertaken within specified distances from a water body or for activities which may impact on the quality or quantity of water.
- Based on the points listed above, it is proposed that the bylaw is revoked as there are provisions with the Local Government Act 1974, the Land Drainage Act 1908, the Resource Management Act 1991, and the District and Regional Plans which all constrain works or activities which may have a potential effect on drains.

Consultation

The following groups and organisations will also be consulted on the proposed revoking of the current bylaw:

- Land Drainage Committees
- Ward Advisory Boards
- Te Taumutu Rununga
- Adjoining Local Authorities (Christchurch, Waimakariri, Ashburton)
- Environment Canterbury

Provide Maori the opportunity to contribute:

The Council considers that the public notification and opportunity for submission process in February 2008 will provide adequate opportunity for public response, including Maori.

NZ Bill of Rights:

Section 155(2) ((b) of the Local Government Act 2002 requires that any new bylaw not be inconsistent with the NZ Bill of Rights Act 1990. Council have obtained legal advice to ensure that the proposed revoking of the current bylaw is consistent with the NZ Bill of Rights Act 1990.

The review of the current bylaw is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions and the final consideration being made by an elected Council.

The proposed timeline for the revoking of the bylaw is:

Timeline	Selwyn District Council County of Ellesmere Bylaw 1944
13 February 2008 (Council Meeting)	<ul style="list-style-type: none"> Adoption to revoke the County of Ellesmere Bylaw 1944
16 February 2008 Bylaw advertised	<ul style="list-style-type: none"> Advertise for public submissions to the draft bylaw
17 March 2008 Submissions close	<ul style="list-style-type: none"> Written submissions close 4:00pm at SDC service centres
11 April 2008 Submissions hearing	<ul style="list-style-type: none"> Hearing of the bylaw submissions by a subcommittee at the Council Rolleston Headquarters at Norman Kirk Drive, Rolleston commencing at 9 am
14 May 2008 (Council Meeting)	<ul style="list-style-type: none"> Adoption to revoke the County of Ellesmere Bylaw 1944 at its ordinary Council Meeting
17 May 2008	<ul style="list-style-type: none"> Public notification to revoke the County of Ellesmere Bylaw 1944 by Council and its date at which it will discontinue
11 June 2008* (Council Meeting)	<ul style="list-style-type: none"> Adoption to revoke the County of Ellesmere Bylaw 1944 by Council at its ordinary Council Meeting
1 July 2008	<ul style="list-style-type: none"> The date at which the County of Ellesmere Bylaw 1944 is revoked

* It is viewed that written submissions should be reviewed and heard if requested by an appointed subcommittee of Council staff and Councillors. From this process, further information will be supplied for the consideration of Council to revoke the bylaw at its meeting of 14 May 2008. If it is the view of the subcommittee that the bylaw cannot be presented at that time to confirm the bylaw is revoked, or if there are further considerations identified by the Council at the meeting of 14 May 2008, this shall be reported back to Council including recommendations on how to proceed at the meeting of 11 June 2008.

Submissions

Submissions are invited on the proposal to revoke the current "County of Ellesmere Bylaw 1944".

At its meeting on 13 February 2008 the Council passed a resolution approving the proposed revoking of the bylaw for the purposes of public consultation through the special consultative procedure prescribed in the Local Government Act 2002.

The current County of Ellesmere Bylaw 1944 can be viewed (and downloadable in PDF Format) on our website www.selwyn.govt.nz. Hard copies are also available during ordinary office hours at the Selwyn District Council Service Centres in Darfield (Darfield Service Centre, South Terrace), Leeston (Leeston Library, High Street), Lincoln (Lincoln Service Centre, Gerald Street) and Rolleston (Norman Kirk Drive, Rolleston).

Copies can also be requested by phoning 347 2800 or 318 8338.

Submissions on this proposal may be made until **4:00pm, Monday 17 March 2008**.

Submissions on this proposal can be made either via the online submission form on the Council website www.selwyn.govt.nz, or in writing. In order for a submission to be accepted it must state:

- your name, postal address, phone or fax and email address;
- whether you support or oppose the proposal or particular aspects of it;
- your reasons;
- any changes that you wish us to make; and
- Whether you wish to speak at a hearing.
- Signed (if posted or faxed) and dated

Submissions in writing shall be addressed to:

**The Bylaw Analyst
County of Ellesmere Bylaw 1944
Selwyn District Council
P O Box 90
Rolleston 7643**

Or similarly faxed to 03 347 2799

On receipt of your submission, Council will send an acknowledgement that your submission has been received.

Any person making a submission may request to be heard in person in support of their submission. If required, the **hearing will be held on 11 April 2008** starting at 9:00am in the Rolleston Service Centre, Norman Kirk Drive, Rolleston. These details will be further confirmed in advance of any hearing as required.

For more information please contact Keri Harrison, Bylaw Analyst, 03 347 2800.

Related documents:

County of Ellesmere Bylaw 1944
Plan of the Land Drainage District