



STATEMENT OF PROPOSAL TO REVIEW A BYLAW FOR SELWYN DISTRICT COUNCIL WATER RACE BYLAW 2008

(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 "Water Race Bylaw 2000", which was adopted by the Council on 13 September 2000. This review will result in the 2008 version becoming the new 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 current bylaw was originally adopted as pursuant to sections 439 and 684 of the 1974 Local Government Act.

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 as necessary, the current bylaw in accordance with the requirements of the Local Government Act 2002 and to ensure that this bylaw conforms with Environment Canterbury Resource Consents for the use of stock water.

The proposed new bylaw is to be known as the **Selwyn District Council Water Race Bylaw 2008** ("the proposed new bylaw").

The statutory requirements for introducing a bylaw

- **Appropriateness**

The current bylaw exists to assist in the compliance with current legislation. 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** – the Council will then have no statutory authority to protect the public asset which is passing through private property.
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 3: **Proceed with the review** to formulate a proposed new bylaw

Benefits/Costs

- That the proposed new bylaw will operate under current legislation and management practices.
- To protect the infrastructure from damage and misuse.
- Define terms not previously made clear, and to bring further clarity to the proposed new bylaw by means of simplification where possible to make it easier to understand by the general public, and to assist Council staff in achieving compliance in a fair and straight forward manner.
- The proposed new bylaw will align with current Council policies and best practices
- In line with the provisions of the Local Government Act 2002, the proposed new bylaw will utilise penalties for non compliance of up to \$20,000.
- The cost of non compliance, i.e. a breach of the proposed bylaw, will be met by those who damage or misuse the asset.
- To ensure that the cost of compliance is met by the users of the scheme.
- A proposed bylaw has been determined to be the most appropriate mechanism to regulate water races in the District. It is considered that the proposed Water Race Bylaw 2008 is the most appropriate form of bylaw, and that the amended draft bylaw is consistent with the New Zealand Bill of Rights Act 1990.

Consultation

The following groups and organisations will also be consulted on the proposed new bylaw:

Ward Advisory Boards
Department of Conservation
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 the bylaw not be inconsistent with the NZ Bill of Rights Act 1990. Council have obtained legal advice to ensure that the proposed new 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 introduction of the bylaw is:

Timeline	Selwyn District Council Water Race Bylaw 2008
13 February 2008 (Council Meeting)	<ul style="list-style-type: none"> Adoption of draft Selwyn District Council Water Race Bylaw 2008
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
17/18 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 of the Selwyn District Council Water Race Bylaw 2008 Council at its ordinary Council Meeting
17 May 2008	<ul style="list-style-type: none"> Public notification on the adoption of the Selwyn District Council Water Race Bylaw 2008 by Council and its commencement date
11 June 2008* (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Water Race Bylaw 2008 by Council at its ordinary Council Meeting
1 July 2008	<ul style="list-style-type: none"> Commencement date of new bylaw

* 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, amendments or changes to the draft bylaw can be incorporated for the consideration of Council to adopt the bylaw at its meeting of 14 May 2008. If it is the view of the subcommittee that the draft bylaw cannot be presented at that time for adoption 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 review the current "Water Race Bylaw 2000", adopted by the Council on 13 September 2000. This review will result in the 2008 version becoming the new bylaw.

The proposed bylaw is to be known as the **Selwyn District Council Water Race Bylaw 2008** ("the proposed bylaw").

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

The proposed new bylaw 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
Proposed Water Race Bylaw 2008
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 17 and 18 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:

Water Race Bylaw 2000
Draft Water Race Bylaw 2008
Plan of the Water Race District