



STATEMENT OF PROPOSAL FOR THE REVIEW OF THE SELWYN DISTRICT COUNCIL WATER RACE BYLAW (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 Selwyn District Council Water Race Bylaw 2008.

Reasons for this Proposal:

All bylaws made under the Local Government Act 2002 (the "**Act**") must be reviewed every 10 years. The Selwyn District Council Water Race Bylaw 2008 (the "**Existing Bylaw**") is due for review by June 2018.

The Proposal is that the Existing Bylaw should be reviewed and amended by June 2018.

The Existing Bylaw is made under the Act and allows the Council to set controls and restrictions on the use of Council's water race network. The primary objective of the water race network is to provide drinking water to stock animals within the district. Secondary objectives include providing water for firefighting services, commercial and non-commercial irrigation and the enhancement of amenity and ecological values of the Selwyn District.

Council considers that there is a need to ensure that the water race network is managed in a way that is appropriate for both the community and the wider environment and to provide regulatory powers to the Council. Council therefore considers that the bylaw review process as an opportune time to amend the Existing Bylaw to address any issues that have arisen in respect of the water race network since 2008 and to make various general improvements to the Existing Bylaw where possible.

It is considered that the attached draft Selwyn District Council Water Race Bylaw (incorporating a number of amendments to the Existing Bylaw) (the "**Amended Bylaw**") is the most appropriate form of bylaw, and that the Amended Bylaw is consistent with the New Zealand Bill of Rights Act 1990.

Statutory requirements for reviewing a bylaw:

(a) Appropriateness

A review of the Existing Bylaw has been undertaken.

The Amended Bylaw has been determined to be the most appropriate mechanism to control the Water Race network within the Selwyn District. The Amended Bylaw will:

- ensure that the water race network is managed in a way that is appropriate for both the community and the wider environment;
- set clear guidelines and provide information to the public;
- remedy any issues with the Existing Bylaw which have arisen since it was last reviewed in 2008;
- ensure consistency and clarity for water race users; and
- protect Council infrastructure from damage and misuse.

(b) NZ Bill of Rights:

Section 155(2)(b) of the Act requires that any new or reviewed bylaw must be consistent with the NZ Bill of Rights Act 1990. Council has obtained legal advice to ensure that the Amended Bylaw is consistent with the NZ Bill of Rights Act 1990.

The Amended Bylaw is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions from the public and the final consideration of the Amended Bylaw being made by elected members of the Council.

(c) Options Available to Council

Option	Advantages	Disadvantages
Option 1 – Do nothing / review but make no amendments to Existing Bylaw	<ul style="list-style-type: none">• Failing to review the Existing Bylaw would breach the statutory requirement of a ten-year review.• A failure to review the current bylaw by 11 June 2018 will result in a lapse of the Existing Bylaw by 11 June 2020• Section 160(3) of the Act requires a special consultative procedure in respect of any Council proposal (following bylaw review) that a bylaw concerning a matter of significant interest to the public <u>not</u> be amended• Any operational issues and outdated practices arising from the Existing Bylaw that are adversely affecting the community will not be addressed• Not considered a reasonably practicable option in accordance with section 77(1)(a) of the Act	
Option 2 – Revoke the Existing Bylaw (and do nothing further)	<ul style="list-style-type: none">• Reduces Council's enforcement requirements	<ul style="list-style-type: none">• The Council will have reduced ability to protect and regulate the water race system• The bylaw review process has indicated that the Existing Bylaw is, by and large, working well (subject to some minor operational and technical changes)• Not considered a reasonably practicable option in accordance with section 77(1)(a) of the Act
Option 3 – Review and amend the	<ul style="list-style-type: none">• Updates the Existing Bylaw for clarity and	<ul style="list-style-type: none">• New Bylaw provisions may cause confusion in the community (but

Existing Bylaw	<p>ensures that the Amended Bylaw addresses any key problems and complies with the relevant legislation</p> <ul style="list-style-type: none"> • Ensures the Amended Bylaw is up to date in terms of current management and environmental best practice and legal requirements 	<p>given there are no substantive changes to the Existing Bylaw this issue may not arise)</p>
Option 4 – Revoke the Existing Bylaw replace with a new bylaw.	<ul style="list-style-type: none"> • No advantages identified 	<ul style="list-style-type: none"> • Any issues that have arisen from the operation of the Existing Bylaw could also be addressed by a bylaw review • The new bylaw would need to be reviewed in five years as it would be considered a "new" bylaw

This statement of proposal has been prepared on the basis that Council wishes to proceed with **Option 3: Review and amend the Existing Bylaw.**

Benefits and Costs of the Amended Bylaw:

Benefits of the Amended Bylaw include:

- operation of the Amended Bylaw under current legislation and management practices;
- protection of the Council's staff and contractors and the general public;
- addressing all aspects of the Water Race network including issues arising from legislation and amendments thereto;
- protection of infrastructure from damage and misuse; and

- clarification and simplification of the Amended Bylaw to make it more easily understood by the general public, and to assist Council staff in achieving compliance in a fair and straight forward manner.

Costs of the Amended Bylaw:

- The cost of non-compliance with the bylaw (i.e. the cost of a breach of the Amended Bylaw, will be met by those who damage or misuse the asset).

Consultation:

The following groups and organisations (both internal and external stakeholders) will also be consulted on the Amended Bylaw:

- Council Elected Members and Committees;
- Te Taumutu Rununga;
- Adjoining Local Authorities (Christchurch, Waimakariri, Ashburton); and
- Environment Canterbury.

Council staff and the Water Race Sub-Committee have provided feedback on the direction of the Amended Bylaw and the matters considered. The views of the public will be sought through the special consultative procedure.

Provide Māori the opportunity to contribute:

The Council considers that the public notification and opportunity for submission process will provide appropriate opportunity for Māori contribution to the decision making process. Local Rūnunga will be directly notified of the consultation process.

Submissions at meetings may also be made in Māori as prescribed under the Act.

The proposed timeline for the introduction of the bylaw is:

The consultation for the proposed Selwyn District Council Water Race Bylaw is being carried out in conjunction with the proposed Selwyn District Council Stormwater and Drainage Bylaw and the Water Supply Bylaw.

Timeline	Selwyn District Council Water Race Bylaw
14 February 2018 (Council meeting)	Adoption of the Amended Bylaw for consultation.
21 February 2018 Bylaw advertised	Advertise for public submissions to the Amended Bylaw.
21 March 2018 Submissions close	Written submissions on Amended Bylaw close at 4:00pm at the Council's service centres.
9/11 April 2018 (currently scheduled for) Submissions hearing	Hearings of submissions on the Amended Bylaw by the Water Race Bylaw Sub-Committee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
9 May 2018	Adoption of the Amended Bylaw at its ordinary Council Meeting

Timeline	Selwyn District Council Water Race Bylaw
(currently scheduled for)	
16 May 2018 (currently scheduled for)	Public notification of the adoption of the Amended Bylaw and its commencement date
1 June 2018	Commencement date of the Amended Bylaw.

Submissions:

Submissions are invited on the Amended Bylaw to be called the "**Selwyn District Council Water Race Bylaw 2008.**"

At its meeting on 14 February 2018 the Council passed a resolution approving the Amended Bylaw for the purposes of public consultation through the special consultative procedure prescribed in the Act.

The Amended Bylaw can be viewed (and is 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.

Submissions on this proposal may be made until **4:00pm, 21 March 2018.**

Submissions on this proposal can be made in writing. In order for a submission to be accepted it must state:

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

Submissions in writing shall be addressed to:

Alicia Paulsen
Amended 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 9 and 11 April 2018** 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 Alicia Paulsen, Water Services Support Planner, 03 347 2800.

Related documents:

- Draft Selwyn District Council Water Race Bylaw
- Report to Council