

## REPORT

**TO:** Chief Executive  
**FOR:** Council Meeting – 14 February 2018  
**FROM:** Asset Manager – Water Services  
**DATE:** 5 February 2018  
**SUBJECT:** **Review of Water Supply Bylaw 2008**

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### 1. RECOMMENDATION

That the Council:

- (a) **Approve the adoption, for the purposes of public consultation, the attached revised form of water supply bylaw (the "Amended Bylaw") and corresponding statement of proposal.**
- (b) **Use the special consultative procedure in respect of the Amended Bylaw in accordance with section 156(1) of the Local Government Act 2002 (the "Act").**
- (c) **Appoint a sub-committee consisting of Councillors X and Y and supported by Council Staff ("Sub-Committee") to consider submissions on the Amended Bylaw and report back to Council at the 18 April 2018 Council meeting for adoption of the Amended Bylaw.**

### 2. PURPOSE

The purpose of this report is to:

- a) Present the Amended Bylaw for consideration and seek Council approval of the special consultative procedure necessary to amend the Water Supply Bylaw 2008 (the "**Existing Bylaw**") so that it is in the form of the Amended Bylaw.
- b) Recommend the appointment of the Sub-Committee supported by Council staff to hear and consider any submissions made on the Amended Bylaw.

### 3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The intention to review the Existing Bylaw has been assessed against the Council's Significance and Engagement Policy. The Existing Bylaw and the Amended Bylaw are of significant interest to the public as they potentially affect a strategic asset (being the Council's water supply network). It is therefore appropriate to adopt the special consultative procedure in relation to the review of the Existing Bylaw and the adoption of the Amended Bylaw.

#### **4. HISTORY/BACKGROUND**

Council adopted the Existing Bylaw on 13 September 2000 as the *Water Supply Bylaw 2000*. The Existing Bylaw was reviewed and renamed the *Water Supply Bylaw 2008* by the Council on 11 June 2008.

Under section 159 of the Act, Council must review the Existing Bylaw within ten (10) years of its last review.

#### **5. PROPOSAL**

The proposal is that the Existing Bylaw should be reviewed and amended as set out in the Amended Bylaw.

The Existing Bylaw controls water supply in the Selwyn District (with the exception of water supplies to and from the Council's water race network). The Existing Bylaw has operated well and without major issue since 2008. However, the provision of water supply within the Selwyn District has advanced in a number of respects since the Existing Bylaw was last reviewed in 2008. The Existing Bylaw now contains a number of outdated practices and references.

To better protect the water supply system and provide customers with certainty regarding their obligations and responsibilities in respect of their water supply, Council staff considered the bylaw review an opportune time to:

- address and update Council's practices in respect of the supply of water;
- address any operational issues that have arisen in respect of the Council's management and protection of the water supply system;
- make various general technical, structural and legal improvements to the Existing Bylaw where possible; and
- remove any content from the bylaw that does not require regulation via a bylaw.

The key areas that have been taken into account in drafting the Amended Bylaw are:

- Council's updated practices in respect of overseeing the water supply system;
- the degree of flexibility required by Council to approve applications to connect to the water supply system and enforce customer obligations;
- the need to place responsibility and obligations on customers rather than the Council in certain circumstances; and
- the need for the bylaw to be easy to read, use and understand.

Overall, the aim is to update, condense and modernise the Existing Bylaw to allow the Council to effectively manage its water supply system and to protect that system.

The above key areas have been considered by Council's solicitors, and where appropriate, included in the Amended Bylaw. The legal review process also included a review of the Existing Bylaw to ensure that it reflects current statutory requirements and that the controls included in the Existing Bylaw were still reasonable and necessary.

For ease of reference, a summary of the key changes from the Existing Bylaw is attached as Appendix Four to this Report.

## 6. OPTIONS

As part of the special consultative procedure, a statement of proposal and summaries of Information for the Amended Bylaw need to accompany the release of the Amended Bylaw detailing the nature, reasons, statutory requirements, benefits/costs, options, and the consultation and submissions process pertaining to the Amended Bylaw. This enables the public to be fully informed about the process leading to the final adoption of the Amended Bylaw. The draft statement of proposal for the proposed Bylaw is attached to this report (Appendix Five).

The draft statement of proposal details the options available to Council in reviewing the Existing Bylaw.

### Options available to Council:

Option	Advantages	Disadvantages
<b>Option 1 – Do nothing / review but make no amendments to Existing Bylaw</b>	<ul style="list-style-type: none"> <li>Failing to review the Existing Bylaw would breach the statutory requirement of a ten-year review.</li> <li>A failure to review the current bylaw by 11 June 2018 will result in a lapse of the Existing Bylaw by 11 June 2020</li> <li>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</li> <li>Any operational issues and outdated practices arising from the Existing Bylaw that are adversely affecting the community will not be addressed</li> <li>Not considered a reasonably practicable option in accordance with section 77(1)(a) of the Act</li> </ul>	
<b>Option 2 – Revoke the Existing Bylaw (and do nothing further)</b>	<ul style="list-style-type: none"> <li>Reduces Council's enforcement requirements</li> </ul>	<ul style="list-style-type: none"> <li>The Council will have reduced ability to protect and regulate the water supply system</li> <li>The bylaw review process has indicated that the Existing Bylaw is, by and large, working well (subject to some minor operational and technical changes)</li> <li>Not considered a reasonably practicable option in accordance with section 77(1)(a) of the Act</li> </ul>

<b>Option 3 – Review and amend the Existing Bylaw</b>	<ul style="list-style-type: none"> <li>• Updates the Existing Bylaw for clarity and ensures that the Amended Bylaw addresses any key problems and complies with the relevant legislation</li> <li>• Ensures the Amended Bylaw is up to date in terms of current management and environmental best practice and legal requirements</li> </ul>	<ul style="list-style-type: none"> <li>• New Bylaw provisions may cause confusion in the community (but given there are no substantive policy changes to the Existing Bylaw this issue may not arise)</li> </ul>
<b>Option 4 – Revoke the Existing Bylaw replace with a new bylaw.</b>	<ul style="list-style-type: none"> <li>• No advantages identified</li> </ul>	<ul style="list-style-type: none"> <li>• Any issues that have arisen from the operation of the Existing Bylaw could also be addressed by a bylaw review</li> <li>• The new bylaw would need to be reviewed in five years as it would be considered a "new" bylaw</li> </ul>

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

## Proposed Timeline for Consultation

Consultation on the Amended Bylaw will be carried out as follows:

<b>Timeline</b>	<b>Selwyn District Council Water Supply Bylaw</b>
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.
2/3 April 2018 (to be confirmed) Submissions hearing	Hearings of submissions on the Amended Bylaw by the Water Supply Bylaw Sub-Committee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
18 April 2018 (to be confirmed) (Council Meeting)	Adoption of the Amended Bylaw at its ordinary Council Meeting
25 April 2018 (to be confirmed)	Public notification of the adoption of the Amended Bylaw and its commencement date
1 May 2018	Commencement date of the Amended Bylaw.

## **7. VIEWS OF THOSE AFFECTED/CONSULTATION**

### **a) Views of those affected**

The general public will be invited to make submissions on the Amended Bylaw. Specific groups and organisations who are identified by the Council as being directly impacted or relevant to the Amended Bylaw will be invited to make submissions directly to Council.

### **b) Consultation**

Public consultation on the Amended Bylaw will be undertaken between 21 February 2018 and 21 March 2018.

Public notification of the Amended Bylaw and calls for submissions will be advertised via:

- public notices in the Press;
- Council Call;
- The Council website;
- and other local community papers,

The above public notification measures are considered appropriate.

On receipt of submissions on the Amended Bylaw, the Water Supply Bylaw Sub-Committee consisting of Councillors X and Y (and supported by Council staff) will convene to consider and hear the submissions Amended Bylaw as appropriate. Based on these deliberations, the Amended Bylaw will be amended as necessary and reported to Council.

### **c) Maori implications**

A copy of the Existing Bylaw was provided to Te Taumutu Rūnanga on the 28 November 2017 to seek feedback and inform the Rūnanga of the bylaw review process prior to bringing this report to Council. The Council has not yet received any direct feedback from Te Taumutu Rūnanga on the Amended Bylaw.

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 Rūnanga will be directly notified of this consultative process.

## **8. RELEVANT POLICY/PLANS**

Council policies and plans have been considered as part of the review process and no inconsistencies have been identified.

## **9. COMMUNITY OUTCOMES**

The preparation of the Amended Bylaw promotes the following key community outcomes under the Council's Long Term 2015/2015 Plan:

- a healthy community;
- a prosperous community; and
- a rural district.

## **10. NEGATIVE IMPACTS**

The Amended Bylaw is unlikely to negatively impact on the community as a whole or on the Council's activities. Rather, the Amended Bylaw will assist in the long-term sustainable management of Council's water supply schemes.

## **11. LEGAL IMPLICATIONS**

Under sections 155 and 156 of the Act, a local authority must, commencing the process to review a bylaw, consider the following three questions:

*a) Is a bylaw still the most appropriate way to deal with the perceived problems arising from or in connection with water supplies?*

Council staff consider that the bylaw is still the most appropriate way to deal with the perceived problems arising from water supplies because:

- The Water Supply regime remains much the same as it was in 2008 when the Existing Bylaw was reviewed.
- The regulatory drivers remain the same as they were in 2008.

*b) Is the Amended Bylaw in the most appropriate form to deal with Water Supplies?*

Council staff consider that the Amended Bylaw is in the most appropriate form to address perceived problems arising from or in relation to water supplies. The bylaw

review process has provided Council Staff and the Council's solicitors with an opportunity to identify the key issues arising from the operation of the Existing Bylaw and address these issues in the preparation of the Amended Bylaw.

c) *Does the Amended Bylaw give rise to any issues arise under the New Zealand Bill of Rights Act 1990 ("NZBORA")?*

- Section 155(2)(b) of the Act requires that the Amended Bylaw must not be inconsistent with NZBORA. Council has obtained legal advice which confirms that the Amended Bylaw is consistent with NZBORA.
- The Bylaw will be made in a democratic manner by Council by publicly notifying its intentions, the taking and hearing of submissions and the final decision upon whether to adopt the Amended Bylaw being made by elected members of Council.

## 12. FUNDING IMPLICATIONS

There are not expected to be any operational or capital costs to the Council as a result of adopting the Amended Bylaw.

## 13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS OR THIRD PARTIES BEEN CONSIDERED?

The Amended Bylaw has been developed by the Asset Manager – Water Services in conjunction with other Council staff and Council's Solicitors (Buddle Findlay).



**MURRAY ENGLAND – ASSET MANAGER – WATER SERVICES**

**ENDORSED FOR AGENDA**



**MURRAY WASHINGTON – ASSET MANAGER**

APPENDIX ONE	Selwyn District Council Water Supply Bylaw 2008 (Existing Bylaw)
APPENDIX TWO	LGA provisions
APPENDIX THREE	Amended Bylaw
APPENDIX FOUR	Key changes to the Existing Bylaw
APPENDIX FIVE	Statement of proposal

**APPENDIX ONE**

**Selwyn District Council Water Supply Bylaw 2008 (Existing Bylaw)**



## **SELWYN DISTRICT COUNCIL WATER SUPPLY BYLAW 2008**

### **1. TITLE**

- 1.1 A Bylaw of the Selwyn District Council by way of Special Order pursuant to the provisions of the Local Government Act 2002 and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Water Supply Bylaw 2008.

### **2. DATE OF COMMENCEMENT**

- 2.1 This Bylaw comes into force on 1 July 2008.

### **3. REPEALS**

- 3.1 As from the day this Bylaw comes into force, all other bylaws in force which cover matters now covered by this bylaw are hereby revoked.

### **4. APPLICATION OF BYLAW**

- 4.1 This Bylaw applies to water supplies under the care, control and management of the Selwyn District Council, except for water supplies subject to the Selwyn District Council Stock Water Race Bylaw.

### **5. SCOPE**

- 5.1 This Bylaw is made under the authority of the Local Government Act 2002 for the supply of water to its customers by the Council. The supply and sale of water by the Council is subject to:
- (a) Statutory Acts and Regulations
    - (i) Building Act 2004
    - (ii) Fire Service Act 1975
    - (iii) Health Act 1956
    - (iv) Local Government Act 2002 ("LGA 2002")
    - (v) Local Government (Rating) Act 2002
    - (vi) Resource Management Act 1991
    - (vii) Water Supplies Protection Regulations 1961; and
  - (b) Consideration of the Relevant Codes and Standards
    - (i) Drinking Water Standards for New Zealand 2005
    - (ii) BS EN 14154-3:2005 Water meters. Test methods and equipment.
    - (iii) SNZ PAS 4509:2003 New Zealand Fire Service Fire Fighting Water Supplies Code of Practice
    - (iv) NZWWA Backflow Code of Practice 2006
    - (v) NZWWA Water Meter Code of Practice 2003

## 6. DEFINITIONS

References to a repealed enactment include its replacement.

For the purpose of this Bylaw, unless the context otherwise requires:

**“Air Gap Separation”** means a minimum vertical air gap between the outlet of the water supply fitting which fills a storage tank, and the highest overflow water level of that storage tank

**“Approved”** means approved in writing by the Council, either by resolution of the Council or by any officer of the Council authorised for that purpose

**“Backflow”** means the unplanned flow of water or mixtures of water and contaminants, in a reverse direction to the normal water supply flow

**“Council”** means the Selwyn District Council or any officer authorised to exercise the authority of the Council

**“Customer”** means a person who uses, or has obtained the right to use or direct the manner of use of, water supplied by the Council

**“Detector check valve”** means a check (non-return) valve which has a positive closing pressure and a metered bypass to measure flows typically associated with leakage or unauthorised use on a dedicated fire supply

**“Domestic and food preparation supply”** has the same meaning as defined in the Health (Drinking Water) Amendment Act 2007

**“Drinking water standards”** has the same meaning as defined in the Health (Drinking Water) Amendment Act 2007

**“Excavation”** means any works including tunnelling, thrust boring, cultivation, post driving, and/or any disturbance to the land.

**“Fees and charges”** means the list of items, terms, and prices for services associated with the supply of water as adopted by the Council from time to time in accordance with the LGA 2002 and the Local Government (Rating) Act 2002

**“Level of service”** means the measurable performance standards on which the Council undertakes to supply water to its customers

**“Meter”** means a device to measure or control the flow of supplied water.

**“Non Standard supply”** is a category of on demand supply including all purposes for which water is supplied other than standard supply and which may be subject to specific conditions and limitations

**“Ordinary use”** means use of water for domestic purposes which may include use in a fire sprinkler system to NZS 4517, washing down a car or boat, garden watering by hand, and garden watering by a fixed or portable sprinkler and for stock water purposes where permitted.

**“On demand supply”** means a supply which is available on demand directly from the point of supply subject to the level of service



**“Person”** means a natural person, corporation or a body of persons whether corporate or otherwise

**“Point of supply”** means the point on the water pipe leading from the water main to the premises, which marks the boundary of responsibility between the customer and the Council, irrespective of property boundaries

**“Potable”** means drinking water that does not contain or exhibit any determinands to any extent that exceeds the maximum acceptable values (other than aesthetic guideline values) specified in the drinking-water standards

**“Premises”** means:

- (a) A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued; or
- (b) A building or part of a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available; or
- (c) Land held in public ownership (e.g. reserve) for a particular purpose

**“Public notice”** has the same meaning as in the Local Government Act 2002

**“Restricted flow supply”** means a type of water supply connection where a small flow is supplied through a flow control device, and storage is provided by the customer to cater for the customer’s demand fluctuations

**“Restrictor”** means a flow control device fitted to the service pipe to limit the flow rate of water to a customer’s premises

**“Roading authority”** means a territorial authority or Transit New Zealand

**“Service pipe”** means the section of water pipe between a water main and the point of supply

**“Service valve”** means the valve at the customer’s end of the service pipe

**“Standard supply”** means a category of on demand supply used solely for domestic purposes.

**“Standard Use”** means use of water for domestic purposes but does not include filling a spa or swimming pool which exceeds 10 m<sup>3</sup> in capacity, or fixed garden irrigation systems

**“Storage tank”** means any tank having a free water surface under atmospheric pressure to which water is supplied across an air gap separation

**“Supply pipe”** means the section of pipe between the point of supply and the customer’s premises through which water is conveyed to the premises

**“Tank supply”** means a type of water supply connection where flow is to the property’s tank but flow from the Council supply to the property’s tank is not continuous. Connections can be metered or un-metered.

**“Water supply system”** means all the components of the water supply network between the point of abstraction from the natural environment and the point of supply. This includes but is not limited to: wells, infiltration galleries, intake structures, open raw water storage ponds and/or lakes, falling mains, treatment plants, treated water reservoirs, trunk mains, service

mains, rider mains, pump stations and pumps, valves, hydrants, scour lines, service pipes, boundary assemblies, meters, backflow prevention devices and tobies

**“Water unit”** means a volume of 1 m<sup>3</sup> of water delivered at a constant rate over 24 hours.

## **7. Protection of water supply**

### **7.1 Water supply system**

#### **7.1.1 Access to system**

No person other than the Council and its authorised agents may access any part of the water supply system, except to operate the service valve or to connect to the point of supply when such connection is authorised by the Council.

#### **7.1.2 No person to connect to, or interfere with a water supply system**

No person may make any connection to, or otherwise interfere with, any part of the water supply system except;

- a) trained fire fighters, who may access fire hydrants for fire fighting purposes, including training and testing, or
- b) upon prior written authorisation of the Council

#### **7.1.3 Working around buried services**

Any person proposing to carry out excavation work must, prior to undertaking such work, establish whether any part of the water supply system is located in the vicinity of the proposed excavation work, and notify the Council in writing of an intention to excavate in the vicinity of the water supply system, at least five working days prior to commencing such work. No such work may be undertaken, except in an emergency, until approval in writing is obtained from the Council.

7.1.4 The Council keeps accurate records ('as-builts') of the location of its buried services. This information is available for inspection at no cost. Charges may be levied to cover the costs of providing copies of this information.

7.1.5 On approval, the Council may impose such restrictions on excavation work as it considers necessary to protect the water supply system. When the Council considers it appropriate, it will mark out the ground to indicate the location of the water supply system to within ±0.5 m in residential areas and to within ±2.5m in rural areas. The Council may impose a fee for this service

7.1.6 Any person excavating and working around the water supply system must exercise care not to damage the system, and must reinstate bedding and backfill in accordance with the Council's specification.

7.1.7 Any damage to the water supply system must be reported to the Council immediately. The person causing the damage will be required to reimburse the Council for all costs associated with repairs, and any other costs incurred as a result of the damage.

*NOTE [not forming part of this bylaw]– Excavation within roadways is also subject to the permit process of the appropriate roading authority*



## **7.2 Protection of source water**

### **7.2.1 Open catchments**

In open, uncontrolled catchment areas, whether designated or not, there will generally be no restriction on activities other than any provisions of the regional or district plan and the National Environmental Standard.

### **7.2.2 Spillages and adverse events**

In the event of a spillage, or any event which may have an adverse effect on the water supply, the person responsible must advise the Council immediately. This requirement is in addition to any other notification required to be given.

## **8. Conditions of supply**

### **8.1 Application for supply**

#### **8.1.1 Initial application**

8.1.2 A person may apply to the Council for a supply of water or a supply of additional water units. An application should be made in writing using the standard application form and must be accompanied by the prescribed fee.

8.1.3 Within 10 working days of receipt of an application, the Council will, either:

- (a) Approve the application and inform the applicant of the type of supply, the level of service, the size of the connection and any particular conditions applicable; or
- (b) Refuse the application, refund the prescribed fee and notify the applicant of the decision giving the reasons for refusal.

8.1.4 The Council will supply and install the service pipe up to the point of supply within 14 days of approval of an application and upon payment of the prescribed fee for this service.

8.1.5 The applicant must have the authority to act on behalf of the owner of the premises for which the supply is sought, and must produce written evidence of such authority if required.

8.1.6 An approved application for supply will lapse within six months of the date of approval of the application unless given effect to or unless an extension of time has been approved by the Council. Any refund of fees and charges is at the discretion of the Council.

### **8.2 Change of use**

Where a customer seeks a change in the level of service or end use of water supplied, and/or the type of supply changes from standard to non standard or vice versa, a new application for supply must be made.

### **8.3 Prescribed charges**

Charges applicable at the time of connection may include:

- (a) Payment to the Council for the cost of the physical works required to provide the connection as detailed in the schedule of fees prevailing at that time for that scheme and type of supply.;
- (b) A development contribution charge determined in accordance with the Local Government Act 2002;

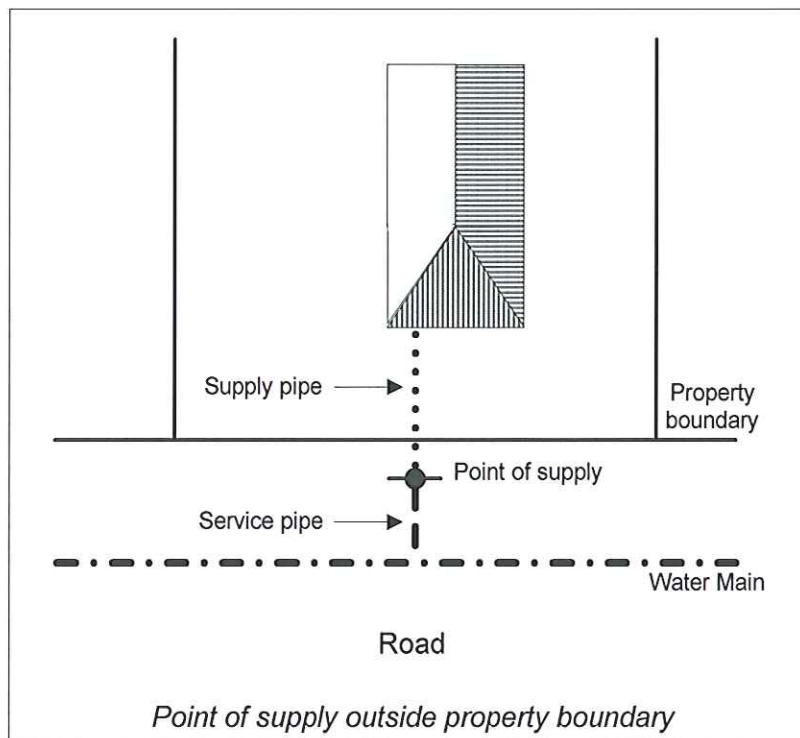
### **8.4 Point of supply**

#### **8.4.1 Responsibility for maintenance**

The Council owns, and is responsible for maintenance of the service pipe and fittings up to the point of supply. The customer owns, and is responsible for maintenance of the supply pipe beyond the point of supply.

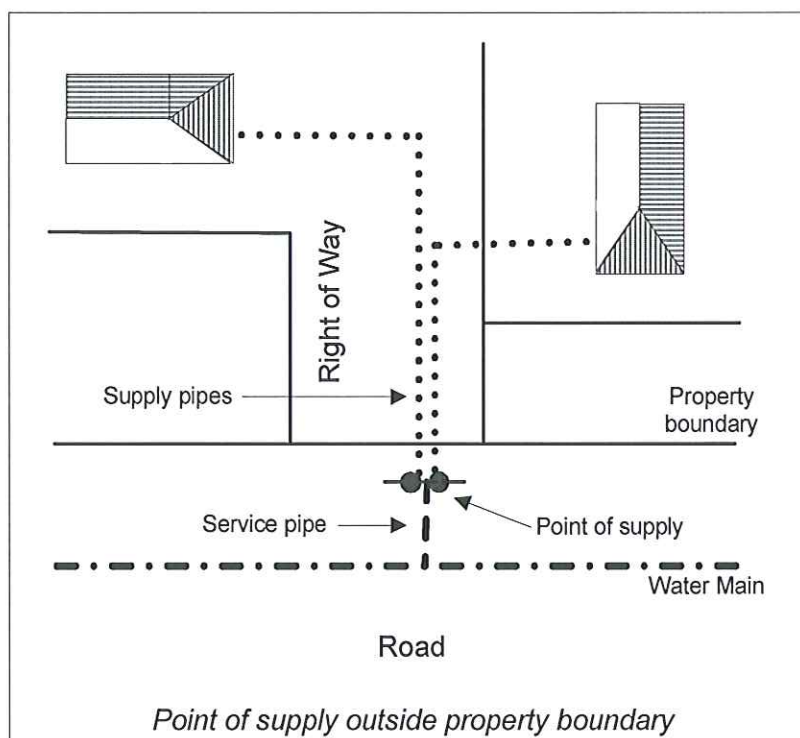
### **8.5 Single ownership**

- 8.5.1 For individual customers the point of supply is located generally in accordance with figure 1, 2 or 3 whichever is applicable or as close as possible to that point if other permanent structures present an obstruction.
- 8.5.2 **There is only one point of supply for each customer, unless otherwise approved by the Council.**
- 8.5.3 The typical layout at a point of supply is generally in accordance with figure 4 except;
  - (a) for Hororata, Glentunnel, Coalgate, and Whitecliffs where the typical layout is shown in figure 1
  - (b) for restricted connections to "on farm" tanks where the typical layout is shown in figure 5.



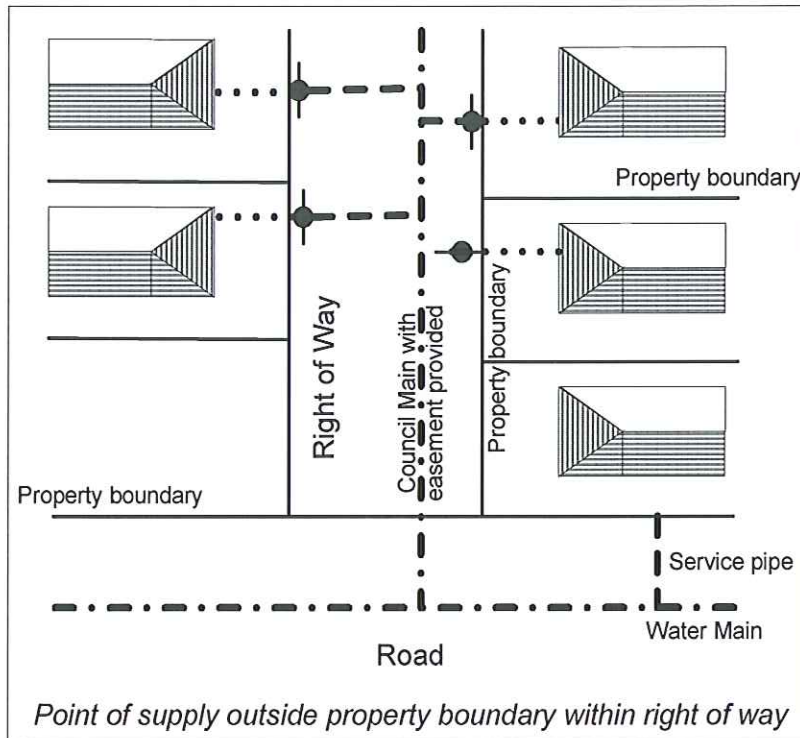
**Figure 1: Typical layout at point of supply location – Individual customers**

NOTE – Point of supply is tail piece of boundary box, meter, or service valve regardless of property boundary



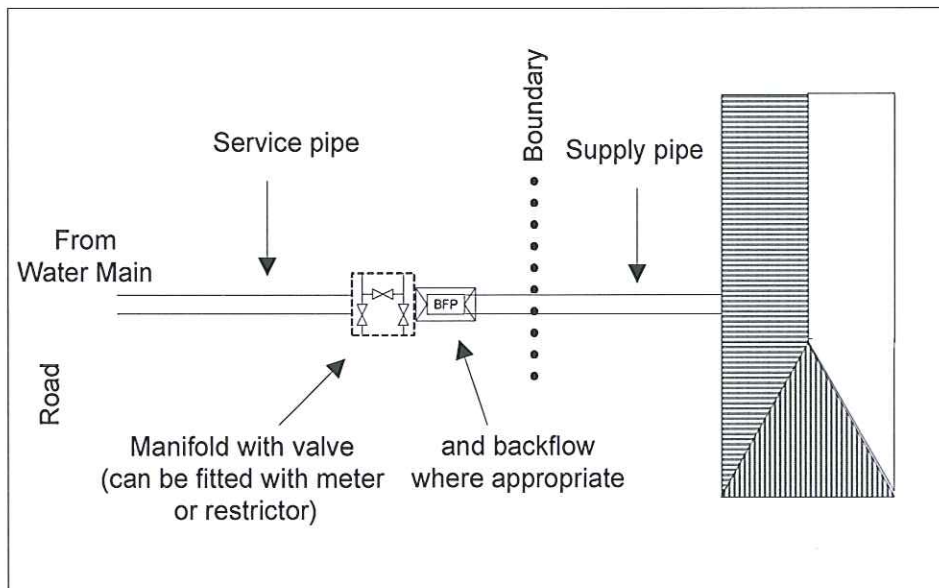
**Figure 2: Typical layout at point of supply for up to 4 properties on Right of Way**

NOTE – Point of supply is tail piece of boundary box, meter, or service valve regardless of property boundary



**Figure 3 Typical layout at point of supply for 5 or more properties on Right of Way**

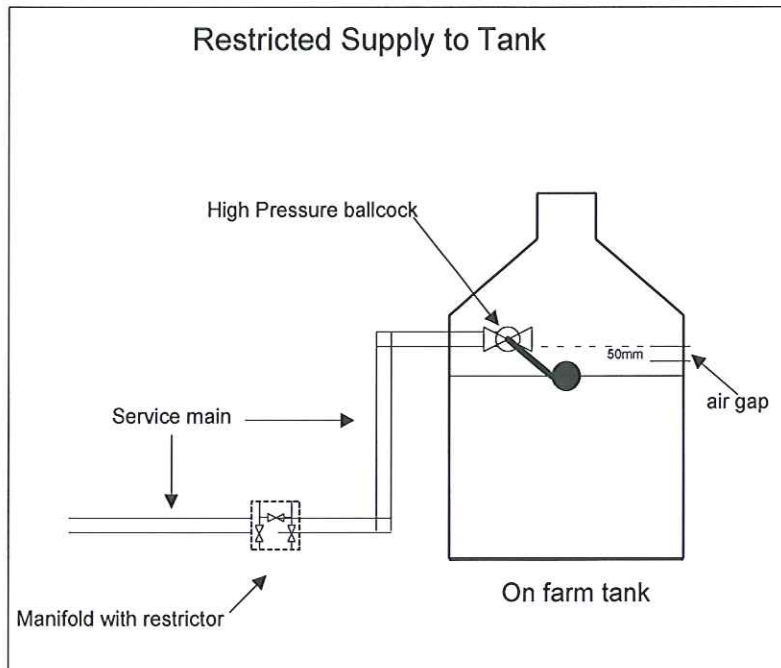
NOTE – Point of supply is tail piece of boundary box, meter, or service valve regardless of property boundary. Where Council holds an easement over the Right of Way connection points will be permitted within the Right of Way.



**Figure 4: Typical layout at Point of Supply for Standard Connection**

NOTE – Point of supply is tail piece of boundary box, meter, or service valve regardless of property boundary





**Figure 5: Typical layout of restricted supply to tank**

NOTE – Point of supply is at the outlet of the ballcock

- 8.5.4 The Council does not guarantee the serviceability of the service valve. The customer may use the service valve to isolate the supply to the customer's premises. If the Service valve is damaged by the customer the Council may charge the Customer for the cost of repair.

## 8.6 Multiple ownership

The point of supply for the different forms of multiple ownership of premises and/or land is:

- (a) For properties that have multiple owners but only one valuation number – a single connection to the property
- (b) For properties that have multiple owners and multiple valuation numbers – a single connection per valuation
- (c) For properties that have multiple owners, where the supply was in existence prior to the commencement of this Bylaw, the point of supply is in accordance with the arrangement existing at that time, or as determined by agreement with the Council for any individual case.

## **8.7 Access to, and about point of supply**

### **8.7.1 Rights of access**

If the point of supply is on private property, an authorised officer of the Council may go onto that property to access the point of supply between 7.30 am and 6 pm on any working day for the purpose of:

- (a) Meter reading without notice; or
- (b) Checking, testing and maintenance work.

Outside these hours (such as for night time leak detection) the Council will give notice to the customer.

8.7.2 If a Council officer is prevented from having access to the property at any of the above times and a return visit is required, the Council may charge a fee for that visit.

8.7.3 In an emergency, such as a Civil Defence Emergency or when there is a fault requiring immediate rectification, the customer must allow authorised Council officers free and unimpeded access to the property and the point of supply at any hour.

### **8.7.4 Maintenance of access**

The customer must maintain the area in and around the point of supply by keeping it free of soil, vegetation or other matter which obstructs convenient access to the point of supply.

Where the customer:

- (a) Does not maintain the area in and around the point of supply; and
- (b) Has been given notice by the Council to maintain that area; and
- (c) The period of 14 days has elapsed since the Council gave that notice and that area has still not been maintained, then

The Council may undertake that maintenance at the expense of the customer.

## **8.8 Types of supply**

### **8.8.1 General**

Supplies are classified as 'on demand', 'restricted flow' or "tank supply". The use of water from the supply is either 'standard' or 'non standard'.

#### **8.8.2 On demand supply and tank supply**

Every premises is entitled to a standard supply of water subject to the following conditions:

- (a) Payment of a full or half charge water supply rate;
- (b) Payment of other charges or costs associated with subdivision or development and provided the required resource consent conditions are fulfilled, and
- (c) Any other relevant conditions in this Bylaw.

The Council is under no obligation to provide a non standard supply of water.

#### **8.8.3 Restricted flow supply**

Restricted flow supply is available to premises within a Restricted Water Supply area, or in any area within an On Demand supply area which the Council may designate as a Restricted Zone from time to time at its discretion, or under special conditions set by the Council.

The water supply is restricted so as to deliver the allocated number of water units specified in the level of service for that premises.

The Council may charge for the restricted flow supply by the number of water units allocated.

For restricted flow supplies ordinary use includes water for stock use.

### **8.9 Metering**

#### Non universal metering

Ordinary use of water is not normally metered. The Council may fit a meter and charge a fee for the use of water.

If a meter is fitted at the customer's request the fee for such use is calculated in accordance with the provisions of the Local Government (Rating) Act 2002.

A non standard use may be metered and charged for. Where the non standard use is for fire protection only, the supply will not normally be metered.

#### Universal Metering

All connections are metered and levied as rates, as prescribed in the Local Government (Rating) Act 2002, sections 9, 15 to 19, and sections 101 to 103.

### **8.10 Level of Service**

The Council will make every reasonable attempt to achieve the level of service specified for the provision of water in the Long Term Council Community Plan.



## **8.11 Continuity of supply**

### **8.11.1 Supply**

Nothing in this bylaw affects the Council's obligations and powers under sections 130, 131, 192, 193 and 194 of the LGA.

Due to practical and physical limitations the Council cannot guarantee an uninterrupted or constant supply of water in all circumstances, or the continuous maintenance of any particular pressure.

### **8.11.2 Uninterrupted service**

If a customer has a requirement for an uninterrupted level of service (flow, pressure, or quality), which exceeds the normal level of service, it is the responsibility of that customer to provide any storage, back-up facilities, or equipment necessary to provide that level of service and inform the Council of the customer's needs. Where possible the Council will take into consideration the customer's needs if it is shown that medical or financial hardship will occur.

### **8.11.3 Demand management**

The customer must comply with any restrictions imposed by the Council to manage high seasonal or other demands. Such restrictions will be advised by public notice.

When restrictions apply the Council will take all practicable steps to ensure that an adequate supply for domestic and food preparation supply purposes is provided to each point of supply.

### **8.11.4 Emergency restrictions**

During an emergency the Council may restrict or prohibit the use of water, subject to the provisions of the LGA. Such restrictions will be advised by public notice. .

### **8.11.5 Maintenance and repair and other works**

The Council will make every reasonable attempt to notify the customer of a scheduled maintenance shutdown of the supply or shutdown when other works are required, before the work commences. Where immediate action is required and notification is not practical, the Council may shut down the supply without notice.

## **8.12 Liability**

The Council will endeavour to meet the Level of service, but is not liable for any loss, damage or inconvenience which the customer (or any person using the supply) may sustain as a result of deficiencies in, or interruptions to, the water supply.

## **8.13 Fire protection connection**

### **8.13.1 Connection application**

A person may apply to the Council for a supply of water for fire protection. An application must be made in writing using the standard application form and must be accompanied the prescribed fee.

Any such connection is subject to the conditions specified by the Council.

#### **8.13.2 Design**

It is the customer's responsibility to ascertain, in consultation with the Council, and monitor, whether the supply available is adequate for the intended purpose. It is the customer's responsibility to confirm in writing to the Council the adequacy of the supply for the customer's purpose.

The Council is under no obligation to provide fire protection supply at any particular flow or pressure.

#### **8.13.3 Fire protection connection metering**

Where the supply of water to any premises is metered the Council may allow the supply of water for the purposes of fire fighting to be made in a manner which bypasses the meter, provided that:

- (a) The drawing of water is possible only in connection with the sounding of an automatic fire alarm or the automatic notification of the fire brigade; or
- (b) A Council approved detector check valve has been fitted on the meter bypass.

Any unmetered connection provided to supply water to a fire protection system must not be used for any purpose other than fire fighting and testing the fire protection system.

Where a connection has been installed for a supply of water for fire fighting and water may be drawn from the connection for purposes other than firefighting, the Council may require the supply to be metered.

#### **8.13.4 Fire hose reels**

Where the supply of water to any premises is metered, fire hose reels must be connected only to the metered supply, not to the fire protection system. The water supply to fire hose reels must comply with the requirements of NZS 4503.

#### **8.13.5 Charges**

Water used for the purpose of extinguishing fires is supplied free of charge. Where the fire protection connection is metered and water has been used for fire fighting purposes, the Council may estimate the quantity of water used, and credit to the customer's account an amount based on such an estimate.

#### **8.13.6 Ongoing testing and monitoring**

Customers intending to test fire protection systems in a manner that requires a draw-off of water, must obtain the approval of the Council prior to testing. Water used for routine flushing and flow testing does not constitute waste but the quantity of water used may be assessed and charged for by the Council.



## **8.14 Backflow prevention**

### **8.14.1 Customer responsibility**

The customer must (under the Health Act 1956 and the Building Act 2004) take all necessary steps on the customer's side of the point of supply to prevent water which has been drawn from the water supply system from returning to the water supply system. These steps include:

- (a) Backflow prevention either by providing an adequate air gap, or by the use of an appropriate backflow prevention device;
- (b) The prohibition of any cross-connection between the water supply system and
  - (i) Any other water supply (potable or non-potable)
  - (ii) Any other water source
  - (iii) Any storage tank
  - (iv) Any other pipe, fixture or equipment containing chemicals, liquids, gases, or other substances.

NOTE – Fire protection systems that include appropriate backflow prevention measures would generally not require additional backflow prevention, except in cases where the system is supplied by a non-potable source or a storage tank or fire pump that operates at a pressure in excess of the water supply system's normal minimum operating pressure.

### **8.14.2 Backflow prevention device**

The Council may install a backflow prevention device on the Council side of the point of supply if it considers it is desirable or necessary to do so. The Council may charge the customer for the installation of a backflow prevention device.

### **8.14.3 Annual Testing**

The Council may undertake annual backflow testing on point of supply backflow prevention devices. The owner of the property at which the backflow prevention device is installed may be charged for such testing. The Council will keep appropriate records of testing.

## **8.15 Council equipment and inspection**

### **8.15.1 Care of water supply system**

The customer must take all reasonable steps not to damage any part of the water supply system, including but not limited to pipe-work, valves, meters, restrictors, chambers, and backflow prevention devices.

### **8.15.2 Inspection**

Subject to the provisions of the Local Government Act 2002, an authorised officer of the Council may go onto the property for the purposes of determining compliance with this bylaw.

## **8.16 Meters and flow restrictors**

### **8.16.1 Installation**

Meters for on demand supplies, and restrictors for restricted flow supplies, are supplied, installed and maintained by the Council, and remain the property of the Council.

Where on demand supplies are not universally metered, the Council where it considers water use is unusually high, may fit a meter at the customer's cost, and charge accordingly.

### **8.16.2 Location**

Meters and restrictors will be located in a position where they are readily accessible for reading and maintenance, and if practicable immediately on the Council side of the point of supply

### **8.16.3 Accuracy**

The Council may test meters as and when required or as prescribed in OIML R49 (International Organisation of Metrology R49). The maximum permissible error for the upper flow rate zone ( $Q_2 < Q < Q_4$ ) is  $\pm 2\%$ , for temperatures from  $0.3^{\circ}\text{C}$  to  $30^{\circ}\text{C}$  and the maximum permissible error for the lower flow rate zone ( $Q_1 < Q < Q_2$ ) is  $\pm 5\%$ . This accuracy must be applied to all water meters with  $Q_3 < 100 \text{ m}^3/\text{h}$  and may be applied to water meters with values of  $Q_3 > 100 \text{ m}^3/\text{h}$ . The flow restrictors must be accurate to within  $\pm 10\%$  of their rated capacity.

NOTE – Where Q is the flow rate:

Q1 is the minimum flow rate;

Q2 is the transitional flow rate;

Q3 is the permanent flow rate; and

Q4 is the overload flow rate as defined in OIML R49-1.

Any customer may apply to the Council for the accuracy of a meter or restrictor to be tested provided at least three months has elapsed since the last test. If the test shows, the meter or flow restrictor is accurate the customer will be charged for the test and all costs associated with the test. Otherwise, the Customer will not be charged for the test.

Meters must be tested as prescribed in OIML R 49-2 and the test report made available as prescribed in OIML R 49-3.

The variation in the error curve must not exceed 3% for flow rates in the lower zone and 1.5% for flow rates in the upper zone. For the purpose of determining these requirements the mean values of the errors (of indication) at each flow rate, shall apply.

The curves must not exceed a maximum error of  $\pm 6\%$  for flow rates in the lower zones and  $\pm 2.5\%$  for flow rates in the upper zones.

Restrictors must be tested using an electronic water meter with the appropriate accuracy by measuring the quantity that flows through the restrictor to an accuracy of  $\pm 5\%$  at the average operating pressure. A copy of independent certification of the test result will be made available to the customer on request.



#### **8.16.4 Adjustment**

If any meter, after being tested, is found to register a greater or lesser consumption than the quantity of water actually passed through such a meter, the Council will make an adjustment in accordance with the results shown by such tests, backdated for a period at the discretion of the Council but not exceeding 12 months, and the customer must pay a greater or lesser amount according to the adjustment.

Where a meter is under-reading by more than 20% or has stopped, the Council reserves the right to charge for the amount of water assessed as having been used over the past billing period, taking into account any seasonal variations in demand.

Where a meter is over-reading, the Council must make appropriate adjustments to the customer's invoice(s), based on a period of similar use and backdated for a period at the discretion of the Council but not exceeding 12 months.

#### **8.16.5 Estimating consumption**

Should any meter be out of repair or cease to register, or be removed, the Council may estimate the consumption for the period since the previous reading of such meter, (based on the average of the previous four billing periods charged to the customer) and the customer must pay according to such an estimate. Provided that when by reason of a large variation of consumption due to seasonal or other causes, the average of the previous four billing periods would be an unreasonable estimate of the consumption, the Council may take into consideration other evidence for the purpose of arriving at a reasonable estimate, and the customer must pay according to such an estimate.

The customer is liable for the cost of water which passes through the meter regardless of whether this water is used or is wasted as the result of leakage.

Where the seal or dial of a meter is broken, the Council may declare the reading void and estimate consumption as described above.

#### **8.16.6 Incorrect accounts**

Where the recorded consumption does not accurately represent the actual consumption on a property, the account may be adjusted using the best information available to the Council. Such situations include, but are not limited to, misreading of the meter, errors in data processing, meters assigned to the wrong account, and unauthorised supplies.

Where an adjustment is required, whether in favour of the Council or the customer, it may not be backdated more than 12 months from the date the error was detected.

### **8.17 Plumbing system**

Quick-closing valves, pumps, or any other equipment which may cause pressure surges or fluctuations to be transmitted within the water supply system, or compromise the ability of the Council to maintain its stated levels of service must not be used on any piping beyond the point of supply. In special circumstances such equipment may be approved by the Council.



**8.18 Prevention of waste**

The customer must not intentionally allow water to run to waste from any pipe, tap, or other fitting, trough, tank, plant and including any water feature whatsoever nor allow the condition of the plumbing within the property to deteriorate to the point where leakage or wastage occurs.

The Council provides water for consumptive use not as an energy source. The customer must not use water or water pressure directly from the supply for driving lifts, machinery, eductors, generators, or any other similar device, unless specifically approved by the Council.

The customer must not use water for a single pass cooling system or to dilute trade waste prior to disposal, unless specifically approved by the Council.

**8.19 Payment**

The customer is liable to pay for the supply of water and related services in accordance with the Council fees and charges prevailing at the time.

The Council may recover all unpaid water charges as prescribed in the Local Government (Rating) Act 2002, sections 57 to 82.

**8.20 Transfer of rights and responsibilities**

The customer may not transfer to any other party the rights and responsibilities set out in this Bylaw.

A supply pipe may serve only one customer, and must not be extended by hose or any other pipe beyond that customer's property.

**8.21 Change of ownership**

When a premises changes ownership the Council must record the new owner as being the customer at that premises. Where a premises is metered the outgoing customer must give the Council five working days notice to arrange a final meter reading.

**8.22 Disconnection at the customer's request**

The customer must give 20 working days notice in writing to the Council of the requirement for disconnection of the supply. Disconnection is at the customer's cost.

**9. Breaches and infringement offences**

9.1 Every person who fails to comply with this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 or as set out in section 242 of the Local Government Act 2002. A decision to prosecute does not prevent the Council from seeking an injunction under section 162 of the Local Government Act 2002 or otherwise restraining the person from committing a breach of this bylaw.

**9.2 Every person commits an offence who:**

- (a) Submits an incorrect application for supply which fundamentally affects the conditions of supply or decision to approve the application;
- (b) As a customer, fails to comply with any conditions of supply for that customer's premises as determined by the Council;

- (c) Fails to comply with any obligation placed on the customer under all current Acts and Regulations;
- (d) Fails to pay the appropriate charges by the due date
- (e) Fails to repair a leak
- (f) Wilfully allows water to run to waste, or to be misused
- (g) Fits any equipment which may cause pressure surges or fluctuations in the water supply system, or compromise the ability of the Council to maintain its stated levels of service
- (h) Fails to prevent backflow
- (i) Fails to comply with water use restrictions or prohibitions imposed by the Council
- (j) Uses water or water pressure directly from the supply for driving lifts, machinery, eductors, generators, or any other similar device, unless specifically approved by the Council
- (k) Uses water for a single pass cooling or heating system, or to dilute trade waste prior to disposal, unless specifically approved by the Council
- (l) Extends by hose or any other means a private water supply beyond a customer's property
- (m) Makes a connection to the water supply without formal written approval from the Council
- (n) Uses a fire hydrant in contravention of this bylaw or without formal written approval from the Council
- (o) Fails to install water conservation fittings when required to do so by the Council in accordance with the council's water conservation policy
- (p) Bypasses or tampers with a Council's water meter
- (q) Interferes with the water supply system
- (r) Introduces or allows to be introduced any contaminant into the water supply system

In the event of a breach, the Council may serve notice on the customer advising the nature of the breach, remedial steps required and the period within which those remedial steps must be taken.

If, the customer persists in the breach, the Council may reduce the flow rate of water to the customer without notice provided that the flow rate may not be reduced below that sufficient for domestic and food preparation use. The full service of the supply may be reestablished, only after payment of the appropriate fee and remedy of the breach to the satisfaction of the Council.

### 9.3 Interference with equipment

Any tampering or interfering with Council equipment, either directly or indirectly, is an offence under this bylaw.

If a meter or restrictor has been tampered with the Council may estimate and charge for the additional water consumption not recorded or allowed to pass, and recover any costs incurred.

The **COMMON SEAL** of the  
**SELWYN DISTRICT COUNCIL**  
was hereunto affixed, in accordance  
with the Special Order made by the  
Council on 11th June 2008  
in the presence of: )  
)  
)  
)  
)  
)



[Signature] Mayor

[Signature] Chief Executive



## APPENDIX TWO

### LGA provisions

#### *Procedure for making bylaws*

#### **155 Determination whether bylaw made under this Act is appropriate**

(1AA) This section applies to a bylaw only if it is made under this Act or the [Maritime Transport Act 1994](#).

- (1) A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.
- (2) If a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw—
  - (a) is the most appropriate form of bylaw; and
  - (b) gives rise to any implications under the [New Zealand Bill of Rights Act 1990](#).
- (3) No bylaw may be made which is inconsistent with the [New Zealand Bill of Rights Act 1990](#), notwithstanding [section 4](#) of that Act.

Section 155 heading: amended, on 28 June 2006, by [section 16\(1\)](#) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 155(1AA): inserted, on 28 June 2006, by [section 16\(2\)](#) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 155(1AA): amended, on 23 October 2013, by [section 90](#) of the Maritime Transport Amendment Act 2013 (2013 No 84).

#### **156 Consultation requirements when making, amending, or revoking bylaws made under this Act**

- (1) When making a bylaw under this Act or amending or revoking a bylaw made under this Act, a local authority must—
  - (a) use the special consultative procedure (as modified by [section 86](#)) if—
    - (i) the bylaw concerns a matter identified in the local authority's policy under [section 76AA](#) as being of significant interest to the public; or
    - (ii) the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of, the bylaw; and
  - (b) in any case in which paragraph (a) does not apply, consult in a manner that gives effect to the requirements of [section 82](#).
- (2) Despite subsection (1), a local authority may, by resolution publicly notified,—
  - (a) make minor changes to, or correct errors in, a bylaw, but only if the changes or corrections do not affect—
    - (i) an existing right, interest, title, immunity, or duty of any person to whom the bylaw applies; or
    - (ii) an existing status or capacity of any person to whom the bylaw applies;
  - (b) convert an imperial weight or measure specified in a bylaw into its metric equivalent or near metric equivalent.

Section 156: substituted, on 28 June 2006, by [section 17](#) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 156 heading: replaced, on 8 August 2014, by [section 48\(1\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 156(1): replaced, on 8 August 2014, by [section 48\(2\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 156(2): amended, on 8 August 2014, by [section 48\(3\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

## **159 Further reviews of bylaws every 10 years**

A local authority must review a bylaw made by it under this Act, the [Maritime Transport Act 1994](#), or the [Local Government Act 1974](#) no later than 10 years after it was last reviewed as required by [section 158](#) or this section.

Section 159: substituted, on 28 June 2006, by [section 19](#) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 159: amended, on 23 October 2013, by [section 90](#) of the Maritime Transport Amendment Act 2013 (2013 No 84).

## **160 Procedure for and nature of review**

- (1) A local authority must review a bylaw to which [section 158](#) or [159](#) applies by making the determinations required by [section 155](#).
- (2) For the purposes of subsection (1), [section 155](#) applies with all necessary modifications.
- (3) If, after the review, the local authority considers that the bylaw—
  - (a) should be amended, revoked, or revoked and replaced, it must act under [section 156](#);
  - (b) should continue without amendment, it must—
    - (i) consult on the proposal using the special consultative procedure if—
      - (A) the bylaw concerns a matter identified in the local authority's policy under [section 76AA](#) as being of significant interest to the public; or
      - (B) the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed continuation of the bylaw; and
    - (ii) in any other case, consult on the proposed continuation of the bylaw in a manner that gives effect to the requirements of [section 82](#).
- (4) For the purpose of the consultation required under subsection (3)(b), the local authority must make available—
  - (a) a copy of the bylaw to be continued; and
  - (b) the reasons for the proposal; and
  - (c) a report of any relevant determinations by the local authority under [section 155](#).
- (5) This section does not apply to any bylaw to which [section 10AA](#) of the Dog Control Act 1996 applies.

Section 160: substituted, on 28 June 2006, by [section 19](#) of the Local Government Act 2002 Amendment Act 2006 (2006 No 26).

Section 160(3)(b): replaced, on 8 August 2014, by [section 49\(1\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 160(4): amended, on 8 August 2014, by [section 49\(2\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

**APPENDIX THREE**

**The Amended Bylaw**

## SELWYN DISTRICT COUNCIL WATER SUPPLY BYLAW 2008

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## 1. TITLE AND COMMENCEMENT

- 1.1 This bylaw is the Selwyn District Council Water Supply Bylaw 2008.
- 1.2 This bylaw was reviewed and amended in 2018 and comes into effect in its amended form on 1 May 2018.

## 2. APPLICATION OF BYLAW

- 2.1 This bylaw applies to water supplies under the care, control and management of the Selwyn District Council, except for water supplies subject to the Selwyn District Council Water Race Bylaw.
- 2.2 Nothing in this bylaw shall limit the application of any other enactments, rules or codes or regulations made under any other enactment.

## 3. PURPOSE

- 3.1 The purpose of this bylaw is to:
  - (a) manage and protect the Water Supply System;
  - (b) protect, promote and maintain public health and safety;
  - (c) promote the efficient use of water in the Selwyn District and protect against waste or misuse of water from the Water Supply System; and
  - (d) assist in the provision of reliable, safe and efficient water supply services in the Selwyn District.

## 4. DEFINITIONS AND INTERPRETATION

- 4.1 References to a repealed enactment include its replacement.
- 4.2 Unless the context otherwise requires, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act.
- 4.3 Any headings, explanatory notes and attachments are for information purposes only and do not form part of this bylaw.
- 4.4 For the purpose of this bylaw, unless the context otherwise requires:
  - (a) "**Act**" means the Local Government Act 2002;
  - (b) "**Approve, Approval or Approved**" means the prior written approval of the Council;
  - (c) "**Backflow**" means the unplanned flow of water, or a mixture of water and contaminants, in a reverse direction to the normal water supply flow;
  - (d) "**Buried Services**" means all public mains, valves, pump stations and other underground utilities for which the Council or other utility service providers are responsible;
  - (e) "**Connection**" means:
    - (i) the installation of a Service Pipe and associated fittings to provide water to any Premises from the Water Supply System; or



- (ii) connecting to or drawing water from the Water Supply System;
- (f) **"Council"** means the Selwyn District Council and, where the context permits or requires, any person(s) delegated or authorised to act on its behalf;
- (g) **"Customer"** means a person who uses, or has obtained the right to use, water from the Water Supply System in accordance with an Approval;
- (h) **"Disconnect"** means to cut-off or seal a Supply Pipe to prevent a Premises from using water from the Water Supply System and **"Disconnection"** has a corresponding meaning;
- (i) **"Fire Protection System"** means a fixed system of sprinklers, pipes, tanks, control valves, outlets and related fixed components which are used to control or extinguish fires with water from the Water Supply System;
- (j) **"Meter"** means a device, electronic or mechanical, which is fitted on to a Service Pipe to quantify and record the volume of water passing through it and **"Metered"** has a corresponding meaning;
- (k) **"Network Equipment"** means any apparatus, equipment, Meter, valve or device which form part of a Connection at, or on the Water Supply System side of, the Point of Supply;
- (l) **"Point of Supply"** means the location on the Water Supply System where the responsibility for ownership, maintenance and repair passes from the Council to the Customer;
- (m) **"Premises"** means:
- (i) a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued;
  - (ii) a building or part of a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available; or
  - (iii) land held in public ownership (e.g. reserve) for a particular purpose;
- (n) **"Restrictor"** means a flow control device which is fitted on to a Service Pipe to limit the flow rate of water to a Premises;
- (o) **"Service Pipe"** means the section of water pipe between the Water Supply System and the Point of Supply;
- (p) **"Service Valve"** means the valve at the Point of Supply;
- (q) **"Supply Pipe"** means the section of pipe between the Point of Supply and a Premises through which water is conveyed to the Customer's Premises; and
- (r) **"Water Supply System"** means all the components of the water supply system between the point of abstraction from the natural environment and the Point of Supply including but not limited to, wells, infiltration galleries, intake structures, open raw water storage ponds and/or lakes, falling mains, treatment plants, water reservoirs, trunk mains, service mains, rider mains, pump stations and pumps, valves, hydrants, scour lines, service pipes, boundary assemblies, meters, backflow prevent devices and Service Valves.

## **5. APPLICATION TO CONNECT OR DISCONNECT FROM THE WATER SUPPLY SYSTEM**

5.1 Subject to clause 22.6;

- (a) no person may make any Connection to, or otherwise interfere with, any part of the Water Supply System; and
- (b) without limiting the generality of clause 5.1(a), no person may gain access to, or draw water from, fire hydrants,

without Approval.

5.2 An application for an Approval to connect to the Water Supply System must be made in writing on the relevant Council form for any:

- (a) new or altered Connection to the Water Supply System;
- (b) activation of an existing but unused Connection to the Water Supply System;
- (c) change to the:
  - (i) type of supply;
  - (ii) the use or terms and conditions of supply;
  - (iii) location of the Point of Supply;
  - (iv) level of service of water supply,from the Water Supply System;
- (d) additional Point of Supply or supply of water from the Water Supply System; or
- (e) temporary water supply from the Water Supply System (including fire hydrants) for an event or a particular purpose.

5.3 Following consideration of an application for an Approval to connect to the Water Supply System, the Council shall either:

- (a) Approve the application and inform the applicant of the type of supply, the level of service, the size of the Connection and any other terms and conditions that must be complied with as part of the Approval; or
- (b) decline the application, and notify the applicant of the decision giving the reasons for that decision.

5.4 Council shall supply and install or allow the applicant for Approval to supply and install (under the Council's supervision) the Service Pipe up to the Point of Supply following the later of:

- (a) Approval of an application by the Customer to Connect to the Water Supply System;
- (b) payment of the appropriate fees or charges (including the Council's reasonable costs of supplying and installing or supervising the installation of the Service Pipe) in respect of that Approval; and
- (c) confirmation that all relevant Approval conditions have been satisfied.

- 5.5 An Approval to connect to the Water Supply System that has not been given effect to within six (6) months from the date of Approval will lapse unless the Council has Approved an extension of time for such Connection.

**Explanatory note:** *Granting an Approval or permitting any Connection or Disconnection under this bylaw does not relieve any person from any obligations to obtain any other consent or permission for the Connection or Disconnection under any other statutory requirement or any other obligation.*

- 5.6 The Council may charge a prescribed fee equivalent to the Council's reasonable costs incurred in respect of connecting the Customer's Premises to the Water Supply System.

**Explanatory note:** *Other fees and charges, for example development contributions or financial contributions may also be charged at the time of the Connection in accordance with the provisions of the Resource Management Act 1991, the Act and the Council's development contribution policy. Water rates must also be paid in accordance with the Local Government (Rating) Act 2002. The Council may impose penalties on and recover all unpaid water rates in accordance with the Local Government (Rating Act 2002).*

## **6. CUSTOMER RESPONSIBILITIES UPON CONNECTION**

- 6.1 A Customer must comply with the requirements of this bylaw, any terms and conditions of an Approval made under this bylaw and any other lawful directions of the Council.
- 6.2 Unless an Approval or this bylaw specifies otherwise, a Customer must not allow water to be taken from their Point of Supply by another person or supply water to any other party or Premises.

## **7. DISCONNECTION FROM THE WATER SUPPLY SYSTEM**

- 7.1 A Customer must not Disconnect from the Water Supply System without Approval.
- 7.2 A Customer must give twenty (20) working days' notice in writing to the Council if it wishes to Disconnect from the Water Supply System.
- 7.3 Prior to Disconnection, the Council may require a final Meter reading and charge the Customer a prescribed fee equivalent to the Council's reasonable costs of taking such reading.

## **8. TRANSFER OF RIGHTS AND RESPONSIBILITIES**

- 8.1 Any Approval granted under this bylaw will issue in respect of a particular Premises and cannot be transferred to another Premises without Approval.
- 8.2 Any Customer selling Metered Premises who requires a final Meter reading for the purpose of any apportionment of water rates must give the Council five (5) working days to arrange such a reading. The Council may charge the Customer a prescribed fee equivalent to the Council's reasonable costs of taking such reading.

## **9. CONTINUITY OF SUPPLY**

- 9.1 The Council does not guarantee an uninterrupted or constant supply of water or the continuous maintenance of any particular pressure from the Water Supply System.

- 9.2 The Council is not liable for any loss, damage, or inconvenience that any person may sustain because of deficiencies in or restrictions, prohibitions or interruptions to the supply of water from the Water Supply System.

## **10. RESTRICTIONS ON SUPPLY**

- 10.1 In addition to the Council's powers under section 193 of the Act and subject always to section 69S of the Health Act 1956, the Council may by notice:

- (a) prohibit or restrict water supply if, in its opinion, such action is necessary for the purposes of:
  - (i) planned maintenance or improvement; or
  - (ii) emergency repairs; or
- (b) where the Council considers that because of drought or for any other reason an adequate supply of drinking water may be at risk and that measures are necessary in order to conserve the available water supply, restrict or prohibit the use of water for any specified purpose or for any specified period.

- 10.2 Any restriction or prohibition under clause 10.1 may apply to the whole of the District or a portion only of the District.

- 10.3 No person may use any water, or allow any water to be used in contravention of any restriction or prohibition made under clause 10.1.

## **11. POINT OF SUPPLY**

- 11.1 The Customer shall own, maintain and repair the Supply Pipe and any associated fittings on the Customer's side of the Point of Supply.

- 11.2 Unless an Approval specifies otherwise:

- (a) the Point of Supply shall be located generally in accordance with the diagrams attached as schedule one to this bylaw; and
- (b) each Premises may only have one Point of Supply; and
- (c) the Point of Supply must be located within road reserve.

- 11.3 The Council may change the location of a Point of Supply if its location becomes unviable or where such a change to the location of the Point of Supply is reasonably required because:

- (a) there is a significant change in water demand from the Water Supply System; or
- (b) the public water supply is at risk.

- 11.4 Where maintenance work on the Service Pipe is required, the Customer may use the Service Valve to isolate the water supply to the Customer's Premises. If the Customer damages a Service Valve, the Council may charge the Customer for the Council's reasonable costs to repair the Service Valve.

## **12. MULTIPLE OWNERSHIP**

### **12.1 Unless an Approval specifies otherwise:**

- (a) if a Premises has multiple owners and one valuation number, the Premises may only have one Connection and associated Point of Supply; and
- (b) if a Premises has multiple owners and more than one valuation number, the Premises must have one Point of Supply for each valuation number.

## **13. DAMAGE OR OBSTRUCTION OF THE WATER SUPPLY SYSTEM**

- 13.1 No person may damage, stop, obstruct, modify, tamper or otherwise interfere with the Water Supply System or any device, fitting or Network Equipment connected to the Water Supply System.
- 13.2 The Customer must ensure that any Meters or Restrictors are readily accessible for reading, maintenance and servicing at all times.
- 13.3 If a Meter or Network Equipment is damaged, tampered or interfered with, the Council may declare any readings from that Meter, device or Network Equipment to be void and estimate the quantity of water used by the Customer.

## **14. MAINTENANCE IN OR AROUND THE POINT OF SUPPLY**

- 14.1 The Customer must maintain the area in or around the Point of Supply by keeping it free of soil, vegetation (including trees and shrubs) or other matter that obstructs reasonable access to the Point of Supply.

## **15. PLUMBING SYSTEMS**

- 15.1 No person may, without Approval, use quick-closing valves or any other equipment that may cause pressure surges or fluctuations to be transmitted within the Water Supply System or compromise the ability of the Council to maintain the level of service which would otherwise be provided by the Water Supply System.

## **16. PROTECTION OF THE WATER SUPPLY SYSTEM**

- 16.1 No person may access any part of the Water Supply System without Approval except to operate the Service Valve.
- 16.2 The Customer must take all reasonable steps not to damage any part of the Water Supply System.
- 16.3 If there is a spillage, or any event which may have an adverse effect on the Water Supply System, the person responsible for the spillage, event or associated works must, in addition to any notification required in respect of such spillage or event, advise the Council immediately.
- 16.4 Any person proposing to carry out excavation work must, prior to undertaking such work:
  - (a) establish whether any part of the Water Supply System is located in the vicinity of the proposed excavation; and
  - (b) except in the case of an emergency:

- (i) notify the Council in writing of an intention to excavate in the vicinity of the Water Supply System at least five (5) working days prior to commencing such work; and
  - (ii) obtain Approval for such works.
- 16.5 The Council generally has access to as-built records in relation to the location of its Buried Services. The Council may charge the Customer a prescribed fee equivalent to the Council's reasonable costs in respect of providing such records to the Customer or the Customer's agent or contractor.
- 16.6 On Approval, the Council may impose such restrictions on excavation work as it considers reasonably necessary to protect the Water Supply System. When the Council considers it appropriate, it will mark out the ground to indicate the location of the Water Supply System to within  $\pm 0.5$  m in residential areas and to within  $\pm 2.5$  m in rural areas. The Council may charge the Customer a prescribed fee equivalent to the Council's reasonable costs incurred in respect of providing such a service.
- 16.7 Any person carrying out excavation work must exercise care not to damage the Water Supply System and must reinstate bedding and backfill in accordance with the Council's specification.
- 16.8 A person must immediately report any damage to the Water Supply System to the Council. The person who is causing, or has caused the damage, may be required to reimburse the Council for the reasonable cost of repairing such damage.

## **17. SERVICE VALVES**

- 17.1 The Council does not guarantee the serviceability of any Service Valve. The Customer may use the Service Valve to isolate the supply to the Customer's Premises. If the Customer damages the Service Valve, the Council may charge the Customer the Council's reasonable costs incurred to repair the damage.

## **18. PROTECTION OF WATER QUALITY**

- 18.1 Any person who uses water from the Water Supply System must use such water in a manner that does not:
  - (a) give rise to a risk to public health; or
  - (b) have an adverse effect on the Water Supply System.
- 18.2 No person may contaminate or pollute, or do any act likely to contaminate or pollute the Water Supply System.

## **19. PREVENTION OF WASTE AND LEAKAGES**

- 19.1 The Customer must not:
  - (a) intentionally allow water to run to waste from any pipe, tap, or other fitting, trough, tank, plant, garden or lawn watering system or water feature nor allow the condition of the plumbing within the Customer's Premises to deteriorate to the point where leakage or wastage occurs;
  - (b) use water for a single pass cooling system; or

(c) dilute trade waste prior to disposal without Council Approval.

19.2 A Customer must not use water or water pressure from the Water Supply System for driving lifts, machinery, eductors, generators, or any other similar device without Approval.

## **20. BACKFLOW PREVENTION**

20.1 The Customer must take all steps required by the Council to prevent water that has been drawn to the Customer's Supply Pipe from returning to the Water Supply System including but not limited to (and at the Council's discretion):

- (a) installing a backflow prevention device; or
- (b) providing an adequate air gap separation.

20.2 A Customer must not cross-connect between the Water Supply System and any other:

- (a) water supply;
- (b) water source;
- (c) storage tank; or
- (d) pipe, fixture or equipment that contains chemicals, liquids, gases, or other substances.

20.3 The Council may:

- (a) install a backflow prevent device on the Service Pipe if it considers it is desirable or necessary to do so; and
- (b) charge the Customer the Council's reasonable costs of installing the backflow prevention device.

20.4 The Council may undertake an annual backflow test on any backflow prevention device. The Council may charge the Customer a prescribed fee equivalent to the Council's reasonable costs of testing the backflow prevention device.

**Explanatory note:** Fire protection systems that include appropriate backflow prevention measures generally do not require additional backflow prevention, except in cases where the system is supplied by a non-potable source or a storage tank or fire pump that operates at a pressure in excess of the Water Supply System's normal minimum operating pressure.

## **21. METERING**

21.1 A Premises must only have one Meter unless otherwise Approved by the Council.

21.2 The Council will own and maintain any Meters or Restrictors.

21.3 Meters will be read at such intervals as the Council may determine.

21.4 If a Customer requests a Meter reading, the Council may charge the Customer a fee for the Council's reasonable costs of conducting the Meter reading.

21.5 If a Customer disputes the accuracy of a Meter or Restrictor, the Customer must apply to the Council to have the Meter or Restrictor tested if at least three (3) months has lapsed since the last

Meter or Restrictor Test. If the test shows that the Meter or Restrictor is accurate, the Council may charge the Customer a prescribed fee equivalent to the Council's reasonable costs of conducting the test.

## **22. FIREFIGHTING**

22.1 Unless an Approval states otherwise, a Connection to a Fire Protection System (including fire hydrants) may only be used for the purpose of:

- (a) firefighting; and
- (b) subject to first obtaining Approval, the testing of a Fire Protection System.

22.2 Unless an Approval states otherwise, a Fire Protection System must be constructed, installed and operated so that the water cannot be used for any purpose other than the Fire Protection System and must be independent of any other water Connection on the Premise.

22.3 The Council will not charge for water used to extinguish fires.

22.4 If water is used to extinguish a fire and passes through a Meter, the Customer may estimate the quantity of water used to extinguish the fire and apply to the Council to have this quantity credited (where charging is based on water used) to their water charges or rates.

22.5 Water that is used for routine flushing and flow testing through a Fire Protection System may be Metered and charged for by the Council.

22.6 Notwithstanding clause 5.1, any:

- (a) authorised person; or
- (b) FENZ personnel,

(as those terms are defined in the Fire and Emergency New Zealand Act 2017) may access fire hydrants for firefighting, testing or training purposes without Approval.

## **23. FEES AND CHARGES**

23.1 Where this bylaw provides for the Council to issue a certificate, permit or consent or gives its Approval for anything, or to carry out an inspection, the Council may require the payment of a prescribed fee equivalent to the Council's reasonable costs of issuing such certificate, permit or consent.

23.2 The fees referred to in clauses 5.6, 7.3, 8.2, 16.5, 16.6, 20.4, 21.5 and 23.1 will be prescribed by the Council from time to time following consultation in a manner that gives effect to the requirements of section 82 of the Act.

## **24. ENFORCEMENT, BREACHES AND PENALTIES**

24.1 Fees and charges payable under this bylaw are recoverable by the Council as a debt.

24.2 If the Customer fails to pay any charges or fees under this bylaw, the Council may cancel the Approval to which those charges or fees relate.



24.3 Every person commits an offence who:

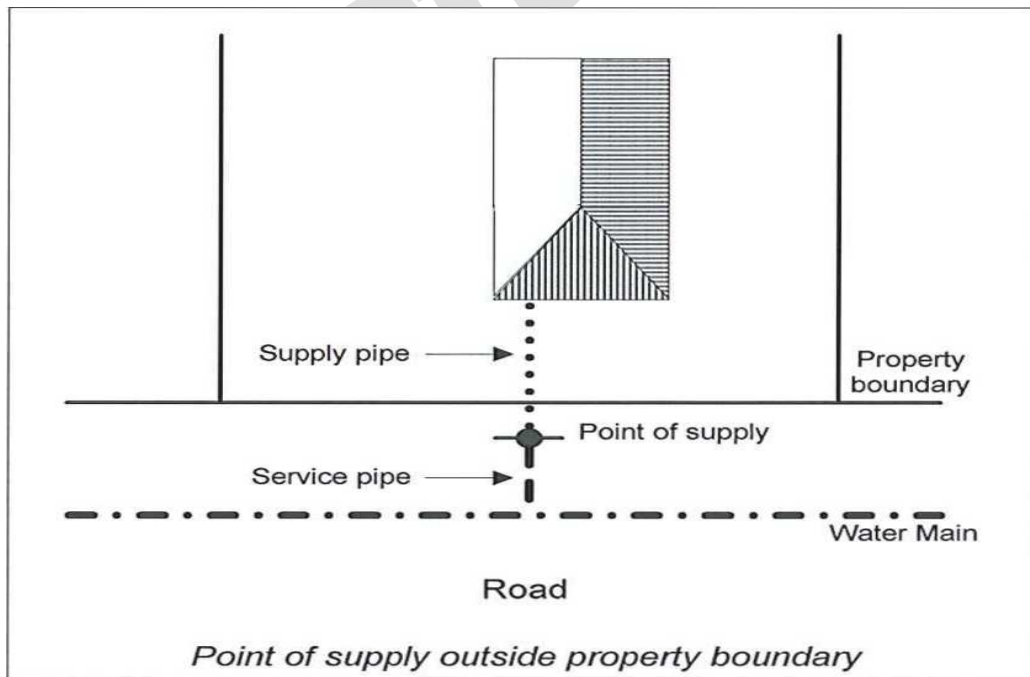
- (a) fails to do or perform any act, or thing, that he or she is required to do by this bylaw;
- (b) permits, allows, or does, any of the acts that are prohibited in this bylaw; or
- (c) breaches this bylaw.

24.4 The Council may use its powers under the Act, the Health Act 1956 or any other applicable legislation in order to enforce this bylaw, including the powers under the statutory provisions listed in schedule two of this bylaw.

24.5 Every person who fails to comply with this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000 or such other amount as may be provided for under sections 239 and 242 of the Act and is liable to enforcement action by the Council.

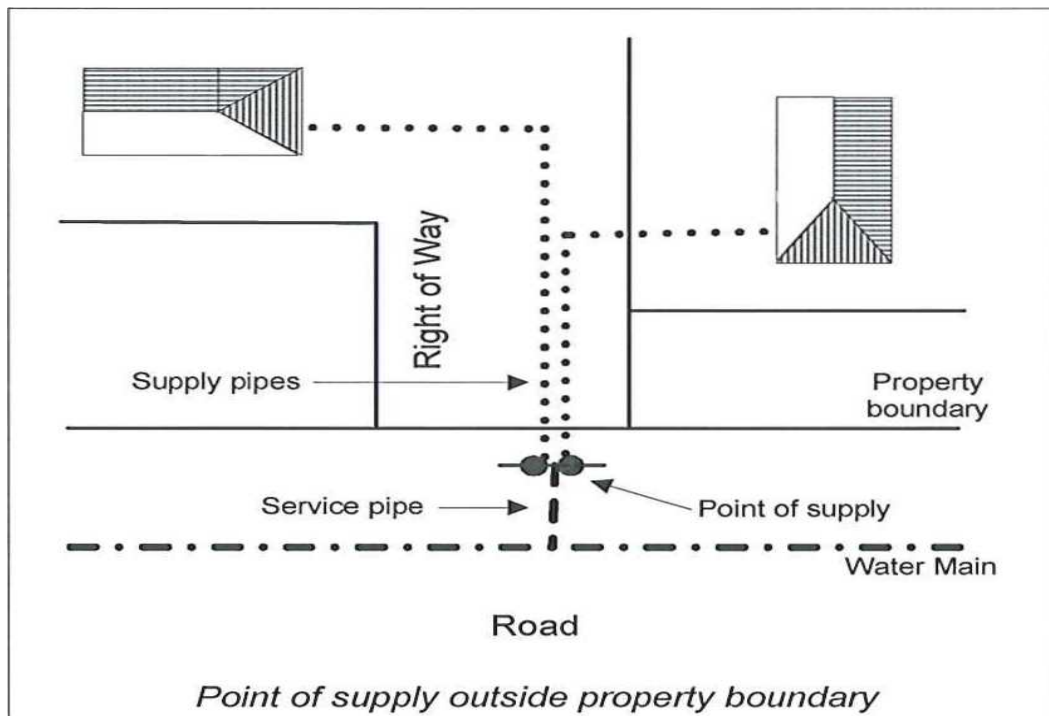
24.6 The Council may require, by the giving of written notice, that the Customer remedy any breach of this bylaw.

## SCHEDULE ONE – POINT OF SUPPLY DIAGRAMS



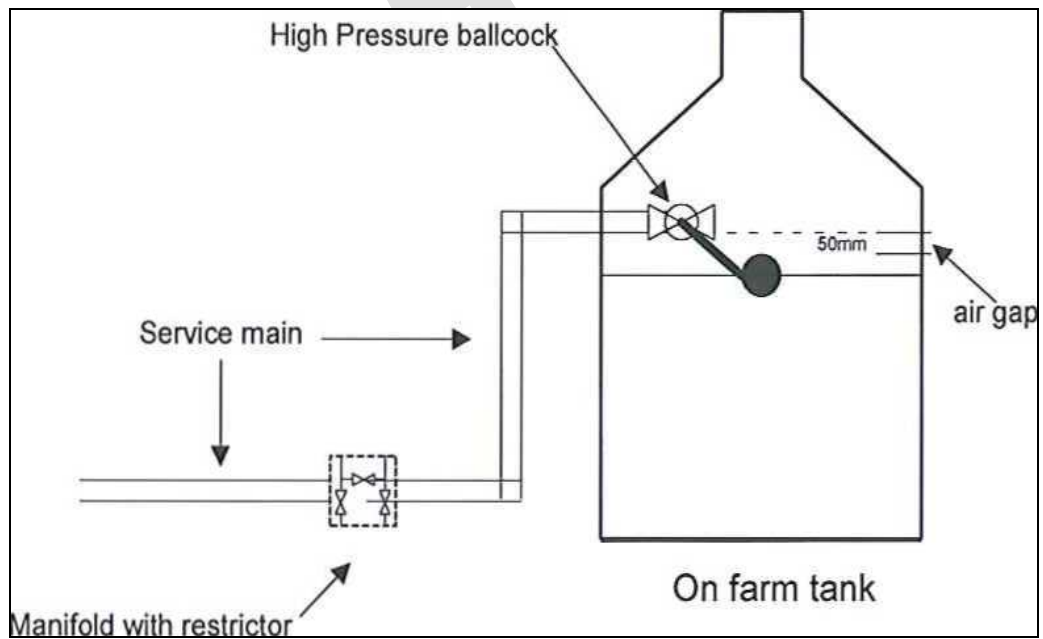
**Figure 1: Typical layout at point of supply location - Individual customers**

NOTE - Point of Supply is tail piece of boundary box, meter, or service valve regardless of property boundary



**Figure 2: Typical layout at point of supply for up to four (4) properties on Right of Way**

NOTE - Point of Supply is tail piece of boundary box, meter, or service valve regardless of property boundary



**Figure 3: Typical layout of restricted supply to tank**  
NOTE - Point of Supply is manifold with restrictor

## SCHEDULE TWO - ENFORCEMENT POWERS AND RELATED LEGISLATION

Legislative Provision	Relevant section and description
Subpart 2 of the Local Government Act 2002	<p>section 162 – injunctions restraining commission of offences and breaches of bylaws.</p> <p>section 163 – removal of works in breach of bylaws.</p> <p>section 164 – seizure of property not on private land.</p> <p>section 165 – seizure of property from private land.</p> <p>section 168 – power to dispose of property seized and impounded.</p> <p>section 171 – general power of entry on to private land.</p> <p>section 172 – power of entry for enforcement purposes.</p> <p>section 175 – power to recover for damage by wilful or negligent behaviour.</p> <p>section 176 – costs of remedying damage arising from breach of bylaw.</p> <p>section 178 – enforcement officers may require certain information.</p>
Subpart 3 of Local Government Act 2002	<p>section 183 – removal of fire hazards.</p> <p>section 185 – occupier may act if owner of Premises makes default.</p> <p>section 186 – local authority may execute works if owner or occupier defaults.</p> <p>section 187 - recovery of cost of works by local authority.</p> <p>section 188 – liability for payments in respect of private land.</p>
Subpart 4 of the Local Government Act 2002	<p>section 193 – power to restrict water supply to a person's land or buildings</p>
Health Act 1956	<p>section 34 – power to abate nuisance without notice</p> <p>section 69S – duty of suppliers in relation to provision of drinking water</p>

**APPENDIX FOUR**

**Key changes to the Existing Bylaw**

## SELWYN DISTRICT COUNCIL WATER SUPPLY BYLAW 2008 - SUMMARY OF THE KEY CHANGES

Clause	Provision	Notes – summary of change
	<b>Formatting</b>	We have made a number of changes to the general layout and format of the bylaw. This includes the insertion of automatic numbering and cross-references, avoiding duplication, use of appropriate section headings, and using consistent defined terms.
	<b>Re-ordering</b>	We have re-ordered the operative provisions of the bylaw to ensure that the bylaw follows a chronological order for bylaw users.
	<b>Prescribed Charges</b>	<p>We have inserted a number of clauses allowing the Council to charge a prescribed fee for a service or connection. Under section 150 of the Local Government Act 2002 (the "<b>Act</b>") where Council wants to impose a fee or charge:</p> <ul style="list-style-type: none"> <li>• it must be expressly prescribed or stated in the bylaw;</li> <li>• the fee or charge must not exceed the Council's corresponding reasonable costs; and</li> <li>• the prescription of fees and charges (if not contained in the bylaw itself) must be prescribed by the Council in accordance with the requirements of section 82 of the Act (see clause 23).</li> </ul>
Clause 5 of the Existing Bylaw	<b>Scope</b>	We have removed the "scope" provision (formerly clause 5) of the Water Supply Bylaw 2008 (the " <b>Existing Bylaw</b> ") which set out the various statutory enactments, regulations and codes that the Council must comply with as a water supply authority. We think that bylaws should not be used to restate the Council's powers or obligations (in this case, as a water supply authority). There is also the risk that certain enactments, codes and regulations are not listed, but may apply depending on the circumstances. We have, however, included a schedule of statutory provisions which may be relevant – see schedule two.
Clause 3	<b>Purpose section</b>	We have inserted a purpose section. The benefit of a purpose section is that it forms an operative provision of the bylaw and allows the Council to assess a person's compliance with the bylaw against the degree to which their activities are compliant with the stated purposes of the bylaw.
Clause 4	<b>Definitions and interpretation</b>	<p>We have removed a number of redundant definitions that are not used in the bylaw, or, that have their ordinary meaning in the bylaw.</p> <p>The following definitions have been <u>amended</u> for clarity:</p> <ul style="list-style-type: none"> <li>• Water Meter</li> <li>• Supply Pipe</li> <li>• Service Pipe</li> </ul>

		<p>The following definitions have been <u>added</u>:</p> <ul style="list-style-type: none"> <li>• Premises</li> <li>• Connection and Disconnection</li> <li>• Network Equipment</li> <li>• Fire Protection System</li> </ul>
Clause 5	<b>Application to connect to, or discharge or disconnect from the water supply system</b>	<p>For the avoidance of doubt, we have expanded this clause to include that an application must be made to the Council to connect to the water supply system in a number of circumstances (<u>in addition to a new connection</u>), including:</p> <ul style="list-style-type: none"> <li>• a new or altered connection to the water supply system; and</li> <li>• a change to the type of supply, the use or terms and conditions of supply, the location of a point of supply, or the level of service.</li> </ul> <p>We have removed any timeframes on the Council to respond to, or action, an application to connect to the water supply system. We do not think it is necessary or desirable for the bylaw to constrain, or place any positive obligations on the Council. Rather, such matter might be better dealt with in Council's policies (with less risk and more flexibility for the Council to change its approach should that be desirable).</p>
Clause 6	<b>Customer responsibilities upon Connection</b>	<p>We have inserted a clause which provides that a customer must:</p> <ul style="list-style-type: none"> <li>• comply with the requirements of the bylaw, including any terms and conditions of an approval to connect to the water supply system and any other reasonable directions of the Council; and</li> <li>• not allow water to be taken from their point of supply by another person, or supply water to another party or Premises.</li> </ul>
Clause 7	<b>Disconnection from the water supply system</b>	<p>We have clarified the process that a customer must follow if he/she/it wishes to disconnect from the water supply system.</p>
Clause 10	<b>Restrictions on supply</b>	<p>We have included a clause allowing the Council to prohibit or restrict supply in certain circumstances (subject, obviously, to the Council's statutory duties, particularly those duties which relate to the provision of drinking water).</p>
Clause 11	<b>Point of supply</b>	<p>We have inserted that, <i>unless the Council approves otherwise</i>, the point of supply to a premise will generally be located in accordance with the point of supply diagrams contained in the bylaw. By including this proviso, the Council is not restricted to locating the point of supply as per the diagrams (which, in some circumstances, may not be viable or appropriate).</p> <p>We have appended the point of supply diagrams to the bylaw so they do not form an "operative" provision of the bylaw, but rather, are to be</p>



		<p>utilised as a guidance note for the location of the point of supply.</p> <p>We have removed Figure 3 and Figure 4 from the Existing Bylaw as these diagrams are no longer accurate.</p>
Clause 21	<b>Metering</b>	<p>We have removed the vast majority of provisions relating to metering from the Existing Bylaw. By and large, the metering provisions under the Existing Bylaw were "informative" (i.e. they set out the general process that the Council will follow in respect of meter reading, estimating accounts, inaccuracy etc.) and do not need to be included in the bylaw. Clause 21 (Metering) now only covers matters which place a positive obligation or responsibility on Customers of the water supply system.</p>
Clause 22	<b>Firefighting</b>	<p>Clause 22 addresses use of water from the Council's system for firefighting and fire protection systems together with access to fire hydrants by Fire and Emergency New Zealand personnel.</p>
Clause 24	<b>Enforcement, Breaches and Penalties</b>	<p>We have condensed the breaches and penalties provisions of the bylaw. We do not think it is necessary to set out the various circumstances in which a customer will be in breach of the bylaw. This un-necessarily lengthens the bylaw and gives rise to the risk that particular circumstances that may give rise to a breach of the bylaw are not included. As a replacement, we have included clause 24, which provides that every person commits an offence, who:</p> <ul style="list-style-type: none"> <li>• fails to do or perform any act, or thing, that he or she is required to do by these bylaws;</li> <li>• permits, allows or does any of the acts that are prohibited in the bylaw; or</li> <li>• breaches the bylaw.</li> </ul> <p>As a reference tool, we have inserted a table of the Council's enforcement powers as schedule two of the bylaw.</p>
Clause 6.2 of the Existing Bylaw	<b>Open catchments</b>	<p>We have removed any provisions relating to open catchments. These provisions stated that there is no restriction on activities in uncontrolled catchment areas. We considered these provisions to be "permissive" rather than "restrictive" and therefore did not consider these appropriate to include in the bylaw (as discussed above, the fundamental purpose of the bylaw is to impose positive restrictions or obligations on customers of the water supply system).</p>
Clause 7.8 of the Existing Bylaw	<b>Types of Supply</b>	<p>We have removed all provisions that relate to the type of supply (e.g. tank supply, restricted flow supply, on-demand supply, standard supply and non-standard supply). We think this complicates the bylaw. The type of supply (and any corresponding restrictions or obligations) can be set out in the terms and conditions of the Council's approval to connect to the water supply system.</p>

**APPENDIX Five**

**Statement of proposal**



## **STATEMENT OF PROPOSAL FOR THE REVIEW OF THE SELWYN DISTRICT COUNCIL WATER SUPPLY 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 Supply 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 Supply 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 supply network.

Council considers that there is a need to ensure that its water supply 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 supply 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 Supply 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 supply network within the Selwyn District. The Amended Bylaw will:

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

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

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 supply 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:**

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

<b>Timeline</b>	<b>Selwyn District Council Water Supply Bylaw</b>
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.
2/3 April 2018 (to be confirmed) Submissions hearing	Hearings of submissions on the Amended Bylaw by the Water Supply Bylaw Sub-Committee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
18 April 2018 (to be confirmed) (Council Meeting)	Adoption of the Amended Bylaw at its ordinary Council Meeting
25 April 2018 (to be confirmed)	Public notification of the adoption of the Amended Bylaw and its commencement date
1 May 2018	Commencement date of the Amended Bylaw.

### **Submissions:**

Submissions are invited on the Amended Bylaw to be called the "**Selwyn District Council Water Supply 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](http://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 either via the online submission form on the Council website [www.selwyn.govt.nz](http://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 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 Supply Bylaw  
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 2 and 3 April 2018 at 9 am** 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 Supply Bylaw
- Report to Council