



**WHANGANUI
DISTRICT COUNCIL**
Te Kaunihera a Rohe o Whanganui

Statement of Proposal

Review of Water Supply Bylaw 2014

1. SUMMARY OF INFORMATION

Whanganui District Council (“the Council”) is seeking feedback on the review of the Water Supply Bylaw 2014. Council is proposing to retain the existing bylaw with changes to the drafting to improve the clarity and usability (“the amended bylaw”).

Council has considered the amended bylaw and determined that the proposed bylaw:

- is the most appropriate way to address the problems identified, and
- is the most appropriate form of bylaw, and
- does not give rise to implications under the New Zealand Bill of Rights Act 1990

2. INTRODUCTION

The Water Supply Bylaw 2014 was made on 28 July 2014. The Council is required to review a bylaw no later than five years after the date on which it was made following the s155 tests of the Local Government Act 2002 (LGA 2002) which are used for making a bylaw.

The purpose of the Water Supply Bylaw 2014 is to:

- to protect the public water supply system from damage, misuse and interference;
- to assist in the provision of reliable, safe and efficient water supply; and
- to protect the environment and the health of people using the water supply.

The Council has reviewed the Water Supply Bylaw and considers that the rules covering the management and protection of Council’s reticulated water network are working well however the drafting of the existing bylaw could be improved by:

- Redrafting the bylaw to follow the Parliamentary Counsel Office Drafting Manual;
- Adding a purpose section to the bylaw;
- Updating the relevant codes of practice; and
- Including additional assessment criteria when Council considers applications for connection to, and works in proximity to, Council’s water supply network.

3. REASONS FOR PROPOSAL

Background

The Water Supply Bylaw 2014 was made on 28 July 2014. Under s158 of the LGA 2002 Council must review a bylaw no later than five years after the date on which the bylaw was made.

In reviewing the bylaw Council must determine (s160(2) and s155) whether or not a bylaw is:

- the most appropriate method of addressing the perceived problem;
- the most appropriate form of a bylaw; and
- not inconsistent with the New Zealand Bill of Rights Act 1990.

Following the review of the bylaw Council must consult using the special consultative procedure and decide to either retain, amend or revoke the bylaw.

Appropriateness

In determining whether or not a bylaw is the most appropriate method for addressing the perceived problem one needs to first define the issue/or problem. While the existing bylaw does not expressly state the purpose of the bylaw, the provisions of the bylaw indicate the following policy objectives:

- to protect the public water supply system from damage, misuse and interference;
- to assist in the provision of reliable, safe and efficient water supply; and
- to protect the environment and the health of people using the water supply.

In the absence of some form of water supply bylaw the Council could manage its reticulated water supply network through a combination of easements, land owner powers as the road controlling authority and customer contracts. While it is noted that this option may be partially effective for new connections¹, the majority of connections to Council's network are existing connections without contracts and are directly funded through rates. A non-regulatory approach to the management of the Council water supply network is likely to be less efficient and effective than utilising a bylaw.

¹ New connections could include the requirement to enter into a contract.

Form of the bylaw

The 'form of the bylaw' refers to the structure of the bylaw and the drafting of the individual clauses. As delegated legislation, Council has adopted the Parliamentary Counsel Office Drafting Manual as a best practice guide for drafting legislation.

Council has reviewed the Water Supply Bylaw 2014 and considers that while the rules applying to Council's water supply network are sound, the clarity of the drafting should be improved by:

- adding a purpose section to the bylaw;
- updating the relevant codes of practice; and
- including additional assessment criteria when Council considers applications for connection to, and works in proximity to, Council's water supply network.

The amended Water Supply Bylaw 2014 is attached as Attachment 1.

Consistency with the New Zealand Bill of Rights Act 1990

The New Zealand Bill of Rights Act 1990 guarantees a number of rights and freedoms including freedom from unreasonable search and seizure and discrimination; and freedom of expression, association, peaceful assembly and movement.

The existing bylaw is considered to be not inconsistent with the New Zealand Bill of Rights Act 1990. The amendments discussed above are also considered not to be inconsistent with the New Zealand Bill of Rights Act 1990.

Following the prescribed special consultative procedure set out in section 83 of the Local Government Act 2002 (LGA 2002) the Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights Act 1990 implications, if any.

Options**Option 1 – Retain the Water Supply Bylaw 2014 (Status-quo)**

Under this option Council would retain the existing Water Supply Bylaw 2014.

The committee should select this option if it considers that a bylaw is the most appropriate method to manage and protect Council's reticulated water supply network and that the existing bylaw is the most appropriate form of the bylaw.

Advantages	Disadvantages
<ul style="list-style-type: none"> • A regulatory approach to the management of Council's water supply network is likely to be the most efficient and effective method. 	<ul style="list-style-type: none"> • The existing bylaw does not follow best practice for the drafting of legislation. • The clarity of the drafting of the existing bylaw can be improved.

Option 2 – Amend the Water Supply Bylaw 2014 (Recommended)

Under this option Council would amend the Water Supply Bylaw 2014.

The committee should select this option if it considers that a bylaw is the most appropriate method to manage and protect Council's reticulated water supply network but that the existing form for the current bylaw is not the most appropriate form of the bylaw.

Advantages	Disadvantages
<ul style="list-style-type: none"> • A regulatory approach to the management of Council's water supply network is the most efficient and effective method. • The amendments to the drafting of the bylaw follow best practice and will increase the clarity of the usability of the bylaw. 	<ul style="list-style-type: none"> • None

Option 3 – Revoke the Water Supply Bylaw 2014

Under this option Council would revoke the Water Supply Bylaw 2014 and manage its reticulated water supply network through a combination of easements, land owner powers as the road controlling authority and customer contracts.

The committee should select this option if it considers that a bylaw is not the most appropriate way to manage and protect Council's reticulated water supply network.

Advantages	Disadvantages
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • A non-regulatory approach to the management of Council's water supply network is likely to be less efficient and effective than utilising a bylaw.

4. CONSULTATION AND SUBMISSION

In making, amending, or revoking a bylaw, Council must use the Special Consultative Procedure set out in section 83 of the LGA 2002. Council has prepared and adopted the proposed bylaw for public consultation. Any person can make a submission on the proposed bylaw.

A copy of the Statement of Proposal, including the proposed bylaw and information about making a submission can be obtained from the Council website www.whanganui.govt.nz

You can make a submission online at www.whanganui.govt.nz/haveyoursay or alternatively submission forms are available from the Whanganui District Council Customer Service counter at the main municipal building located at 101 Guyton Street, the Davis Central City Library and Gonville Library. Please indicate whether you would like to speak to your submission and include contact details. People who wish to be heard by Council will be given the opportunity to do so. The time and venue for the hearing of submissions is yet to be confirmed.

For any queries please contact Justin Walters, Policy Analyst on (06) 349 0001.

The period for making submissions is from **4 March 2019 until 12 April 2019**.

5. ATTACHMENTS

Attachment 1 – Proposed Amended Water Supply Bylaw 2014