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**REPORT 4**  
*(1215/52/IM)*

## **PROPOSED WELLINGTON CITY COUNCIL CONSOLIDATED BYLAW 2012 PART 8 : WATER SERVICES**

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### **1. Purpose of Report**

This report proposes that Council replace the current bylaw with the proposed Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services (the bylaw). Committee agreement is sought on a draft bylaw and the Statement of Proposal required for the special consultative procedure that will be undertaken prior to adopting any new bylaw.

### **2. Executive Summary**

Section 146 Local Government Act 2002 enables Council to make specific bylaws “for the purposes of” ... “managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with 1 or more of the following:

- water races:
- water supply:
- wastewater, drainage, and sanitation.

The Local Government Act 2002 also requires though section 155 that Councils determine that a bylaw is the most appropriate way to address a problem.

Following the 2008 review of the Water Services Bylaw and the subsequent introduction of the Water Charter, it has been determined these have not been able to achieve the desired water services objectives. A new bylaw with the necessary terms and conditions is proposed:

1. To meet the water conservation and efficiency strategies recently adopted by Council.
2. To enable Council water supply policies and procedures to be easily understood, implemented and, if necessary, enforced.

Currently Council operates the Water Supply activity under a bylaw with one condition (certain private fittings not to be used), a Water Charter and the provisions of different Acts (e.g. Local Government Act 2002, Health Act 1953, Public Works Act 1981) that impacts on how water supply authorities manage their respective activities and assets.

In 2011 an internal review of the Water Services Bylaw and Water Charter was undertaken alongside the underlying strategies of the new 'Water Conservation and Efficiency Plan, a draft 'Water Supply Connections Standards' and consideration of water supply practices undertaken by other Councils.

These water management tools available to the Council were reviewed against operational requirements to see if the Bylaw and Charter were assisting or impeding officers in addressing items such as private leaks or wastage. The review concluded that Council is currently operating under a mixture of legislation and voluntary compliance that has proved unhelpful in dealing with day-to-day operational matters. Examples include determining categories of water consumption, utilising demand management techniques such as water restrictions, requirements for commercial metering or addressing wastage.

The review concluded that there are problems to be addressed and that the adoption of a replacement bylaw is the most appropriate way of accomplishing a robust solution. A draft bylaw had been developed that seeks to provide clear and enforceable conditions related to the management of water services.

The recommendation of this report is that the current bylaw be replaced with a new bylaw that is consistent with Councils water conservation objectives and more adequately provides for the effective management, operation, and protection of the city water supply. The existing bylaw would need to be revoked.

### **3. Recommendations**

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Note that the Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services has been reviewed in accordance with section 155 of the LGA 2002.*
3. *Note that the review of the Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services and Water Charter identified the following problems with the current arrangements for water services:*
  - (a) *Inability to require commercial premises to be metered*
  - (b) *Inability to charge commercial customers for consumption*
  - (c) *Inability to enforce water restrictions*
  - (d) *Difficulty in dealing with wastage*
  - (e) *Difficulty in dealing with private leaks*
  - (f) *Difficulty in enforcing Council policies (e.g. establishing water connection, working around buried assets, invoking standards).*

4. *Note officers' assessment that a new Water Services Bylaw is the appropriate option to address the operational issues.*
5. *Note that the Statement of Proposal (attached as Appendix 2) includes proposals to make a new bylaw and revoke the 2008 Water Services Bylaw.*
6. *Note the timelines for consultation and a final Water Services Bylaw to Council per Section 5.9.*
7. *Agree to delegate to the Chief Executive Officer and the Three Waters and Waste Portfolio leader, the authority to amend the proposed Wellington City Consolidated Bylaw 2102 Part 8: Water Services to include any amendments agreed by the Committee and any associated minor consequential edits.*
8. *Recommend to Council that it agree the proposed Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services for consultation (attached as Appendix 1 with any amendments agreed by Committee and minor edits).*
9. *Recommend to Council that it proceed through the special consultative procedure as required in the Local Government Act 2002 to make the new Water Services Bylaw and revoke the existing Water Services Bylaw.*
10. *Recommend to Council that it agree that the proposed Water Services Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.*
11. *Recommend to Council that it agree that the proposed Water Services Bylaw replace the need for the Water Charter.*
12. *Recommend to Council that the Chief Executive Officer and Three Waters and Waste Portfolio leader be delegated the authority to include any amendments agreed by Council and any associated minor consequential edits.*

#### **4. Background**

In 2004 Council reviewed its bylaws in accordance with section 158 of the Local Government Act 2002. As a result Council revoked the existing Wellington City Council Consolidated Bylaw 1991 Part 20 (Water Supply) and replaced it with the Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services.

Also as a result of the review of the water supply bylaw, the Wellington Water Charter was established with the intent of making supplier and customer roles and responsibilities more understandable.

As discussed below, the requirements to ensure that public health and the assets are suitably protected and managed though clear processes are not being

suitably met through the current Water Supply Bylaw and the Water Charter. This situation is exacerbated with increased expectations that demand for our water is managed in a manner that both conserves our current supply capabilities and promotes the efficient use of water across the city.

As the Charter does not constitute a contract between the Council and its customers there is no ability to use the conditions in the document to enforce water restriction, commercial metering requirements or to formally classify types of consumption<sup>1</sup>.

The specifics of water supply asset and demand management that were covered by the 1991 bylaw are no longer covered in either the current Bylaw or the Charter. This leaves Council exposed and unable to require or enforce aspects such as water supply standards and conditions. Nor does it assist in the implementation of some of the conservation measures that were adopted in the 2011 Water Conservation and Efficiency Plan.

An outcome of the Council's Water Conservation and Efficiency Plan was a determination that the use of a water supply bylaw would allow for the efficient application and administration of watering restrictions as well as provide for a consistent approach across the Wellington Region. Accordingly the establishment of a water supply bylaw was proposed as part of the implementation plan of the Water Conservation and Efficiency Plan.

The discussion below more fully covers the various aspects of the draft bylaw.

## **5. Discussion**

### **5.1 *Legal position***

Section 155 of the LGA 2002 provides that a local authority must consider the following matters when proposing a new bylaw or undertaking the review process:

- Determine whether a bylaw is the most appropriate way of addressing the perceived problem;
- Determine whether the proposed bylaw is the most appropriate form of bylaw; and
- That any proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

As discussed this report is the outcome of a decision to review the current Water Services Bylaw in light of demand management initiatives such as the Water Conservation and Efficiency Plan. This review has identified a number of areas where Council and its water supply customers could be better served with a single bylaw that provides for all of the water supply management requirements.

The legal position of the Water Charter was provided by DLA Phillips Fox in 2006 and determined that in its current format would not allow Council to rely on the Charter to enforce any transgressions or provisions.

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<sup>1</sup> Refer DLA Phillips Fox opinion

The reliance of the Charter and different pieces of legislation (e.g. Health Act 1953 and the Local Government Act 2002) to achieve the same outcome as a bylaw has created areas of confusion for customers and operational constraints for Council. This situation has resulted in no enforcement action being taken beyond notification letters and continued requests of customers by Council officers.

It is noted that bylaws are utilised by the majority of New Zealand water supply authorities.

## **5.2 The problem and need for a bylaw**

A wide range of activities occur as a result of the provision of a public water supply. Occasionally, however, some activities such as new connections, changes to existing water supply arrangements, leaks or changes to a building usage may create problems which are required to be addressed by the Council.

These activities may cause:

- health or safety hazards - for example, failure to meet appropriate hygiene or environmental standards associated with the use of water;
- misuse or loss – for example, ensuring no misuse or excessive use of water occurs or to determine the classification of supply (domestic versus commercial);
- water shortages – for example, during dry periods being able to restrict water use, to ensure continuity of supply;
- damage to property or the environment - for example, ensuring the maintenance of a water supply for fire fighting purposes; or
- protection of the public from nuisance – for example, maintenance of the public water supply system to ensure no leaking of water causes damage or disruption to the public.

The problems and resulting potential consequences that led to the recommendation for a water services bylaw, are consistent with the provisions in the LGA 2002 relating to the Council's bylaw-making powers. It is considered that it is necessary to have a comprehensive bylaw relating to water supply for the purposes of:

- protecting the public from nuisance (section 145(a));
- protecting, promoting and maintaining public health and safety (section 145(b));
- managing, regulating against or protecting from, damage, misuse, or loss, or preventing the use of the land, structures, or infrastructure associated with water supply (section 146(b)(ii)).

The proposed bylaw seeks to regulate a wide range of activities undertaken to maintain standards for public health and safety, protect the public from nuisance, and to manage property owned or operated by Council for the wellbeing and enjoyment of the public to supply water.

### **5.3 *Bylaw review conclusions***

In 2011 reviews of both administrative and operational issues arising from operating under a water charter and a limited bylaw confirmed that there were areas that were not being suitably addressed. The review of the administrative aspects looked at how policies were interpreted and applied, and how advice was provided to the public or contractors in relation to the supply of water services.

Operational issues were then reviewed with field staff to determine what options or approaches were currently being used to deal with private leaks, wastage, establishing new connections or undertaking maintenance. It was identified that there were varying interpretations of what legislative options were available once reason or common sense approaches failed.

Field staff are unable to generate the same response from customers with the more general requirements available in other legislation and the Water Charter, as opposed to directing them to a concise or prescriptive document (such as the previous bylaw). The primary conclusion reached from this process was that there is a problem to address with the current arrangement.

### **5.4 *Water Charter***

When Council adopted the current Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services in 2008 it also revoked the Wellington City Council Consolidated Bylaw 1991 Part 20 (Water Supply) and created a Wellington Water Charter.

The replacement 2008 Bylaw only covered the prohibition of quick closing valves. This meant that the former 1991 Bylaw provisions to protect the public health and security of the public water supply, and address the problems outlined above, were lost with the establishment of the Charter and the 2008 Bylaw.

The need to review this position is particularly relevant today with water conservation matters where Council seeks to increase community awareness on conservation and efficiency opportunities. The proposed bylaw is intended to address this situation.

Whilst there is merit in a customer charter to outline the basis of a relationship between customers and Council, it does not have the status of a customer contract nor does it have any powers of enforcement. Therefore is seen as having a complimentary role to a bylaw rather than as a replacement for a bylaw.

Any reference to the Water Charter on Council forms, procedures and policies would be discarded if/when a new Water Services Bylaw is adopted by Council.

## **5.5 Wellington City Council Water Supply Connection Standards**

In the 1991 Bylaw technical issues were included within the bylaw. These technical issues cover engineering requirements associated with the management of the water supply. For clarity these issues are best covered by Water Supply Connection Standards which can be amended, as required, by Council resolution. To retain these technical aspects within the proposed bylaw would require Council to undertake a special consultation procedure if it wishes to make a change.

Establishing Water Supply Connection Standards enables the Council to make changes by resolution pursuant to Section 151(2) LGA. Accordingly the proposed bylaw does not contain these technical issues and these will be contained in the Wellington City Council Water Supply Connection Standards.

## **5.6 Options**

The options that were considered in reaching the recommendations in the report are:

1. Status quo – this would reduce the ability of officers to deal with issues effectively and put Council in the position of being the only Council in the region with a clearly articulated method for dealing with the issues described above.
2. Introduce a Bylaw to formalise the Water Charter – this would require the same level of consultation as per option 3 but also a review of the Charter and extensive communications on its adoption, purpose and intent.
3. Introduce 'new' Water Services Bylaw - this is the preferred option which provides a clear direction and context for both Council and customers as to roles and responsibilities when used against technical standards and policies. The updating of style and context to reflect current and expected issues is supported by Council documents and policies that impact on the water services.

Having established that there is a need to retain a water supply bylaw, it is proposed that Council adopt option three and establish the proposed Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services using the special consultative procedure.

## **5.7 Proposed Bylaw**

The proposed 2012 Bylaw seeks to regulate a wide range of activities associated with the provision of a public water supply system within Wellington City. This will help maintain standards for public health and safety; protect the public from nuisance; manage, regulate or protect from damage or misuse; and manage property owned or operated by Council for the wellbeing and enjoyment of the public in public places.

The existing Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services contains only one clause (clause 5) prohibiting the use of certain quick closing valves. This has been provided for in the Water Supply Connection Standards referred to above.

The proposed Bylaw is based on the previous and now revoked 1991 Bylaw that was adopted under the Local Government Act 1974 but is clearer and more simply worded than the 1991 Bylaw.

Nothing significant has been added to the 1991 Bylaw, however much of the content has been refined to specifically address Council objectives and current operational challenges. The language and structure of the Bylaw has also been simplified and the technical aspects have been taken out of the 1991 Bylaw and placed in the Wellington City Council Water Supply Connection Standards.

Section 3 of the Statement of Proposal (Appendix 2) provides more detail on the purpose of each clause in the bylaw.

### **5.8 Potential focal points during consultation**

Officers consider that the majority of the proposed Bylaw will be seen as an administrative tool that allows Council to manage the establishment of new water connections, administration of water policies and procedures, requiring commercial customers to be metered and enforcing demand management tools such as restrictions on usage or garden sprinkler operating hours.

The area that could cause concern to the public is contained in clause 6.2(f) where Council “reserves the right in “special circumstances” to:

- (i) require the customer to supply and install an approved water meter and pay any prescribed fee; and
- (ii) install a meter or flow restrictor and charge for installation and charge and charge for volume of water consumed.”

“Special circumstances” is defined in the bylaw as “the circumstances that may lead the Council to require an "Ordinary Use" customer to install a water meter. This includes, but is not limited to:

- Known leaks that remain unrepaired
- Where excessive usage is being investigated
- Where water is being wasted
- Where multiple premises are discovered to be supplied by a single connection”

Officers are aware that contrary to Council’s stated position on water metering this may be interpreted by some as a covert entry into universal metering. This is further complicated by the inclusion of an incomplete list of “circumstances’ where an individual property may be metered.

The position maintained by officers that this particular tool is for the exception rather than the norm is clarified by the following legal opinion provided by DLA Phillips Fox:

“We understand that the intention of this part the Bylaw is to enable the Council require an ordinary use customer to install a meter in ‘special circumstances’. It is not practical to attempt to list in the Bylaw every situation that clause 6.2(f) of the Bylaw is intended to apply to. That said, the Councillors can take comfort



from the fact that the ability for the Council to declare a particular situation to be 'special circumstances' is limited (i.e, the Council cannot claim that any situation is a special circumstance). The ability of the Council to expand the application of clause 6.2(f) of the Bylaw is limited to situations that are of the same kind, class or nature of the examples provided in the definition of 'special circumstances' contained in the Bylaw”

## **5.9 Consultation**

It is proposed that the following timetable is used to meet the special consultative requirements of the LGA 2002 in regard to the draft bylaw and its associated documents.

1. Develop a simple Water Services Bylaw explanatory fact file to accompany the draft bylaw and associated documents into the consultation phase. (This will be subject to the approval of the Three Waters Portfolio holder prior to the consultation phase.)
2. Commence consultation in Tuesday 24 January 2012<sup>2</sup> with provisions for written and electronic submissions.
3. Close submissions on Friday 9 March.
4. Hear oral submissions Thursday 29 March 2012.
5. Report back to SPC Thursday 19 April with a final recommendation and associated documentation.

A copy of Statement of Proposal (SOP) with respect to the supply of water in Wellington City is set out in Appendix 2

The Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services will need to be revoked and replaced with the proposed Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services.

## **6. Conclusion**

After reviewing the current water services bylaw and Water Charter it was concluded that there is a problem to address. Frequent operational, development, and enforcement difficulties now being encountered due to the lack of suitable bylaw provisions demonstrate there is a need to reinstate a water supply bylaw. It has been concluded that this is best dealt with by creating the proposed Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services. In most part, this involves including the provisions and conditions of the 1991 bylaw.

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<sup>2</sup> Utilising the 24 January 2012 Our Wellington Page

## Supporting Information

### **1) Strategic Fit / Strategic Outcome**

*The proposed bylaw is consistent with the Councils long term outcome of reducing Wellingtons environmental impact by making efficient use of energy, water, and other resources, and minimising waste (See outcome 4.5 More Sustainable).*

### **2) LTCCP/Annual Plan reference and long term financial impact**

*In order to achieve the outcome noted above, Council considers it necessary to have in place measures to regulate the provision of a public water supply. The proposed bylaw will regulate a range of activities associated with the provision of this service. The proposed bylaw is generally intended to ensure adequate controls and monitoring are retained to meet public expectations of the Council's maintenance and operation of the existing public water supply in Wellington. There are no new financial implications.*

### **3) Treaty of Waitangi considerations**

*None*

### **4) Decision-Making**

*This is not a significant decision. The report recommends the replacement of an existing bylaw and does not constitute a change in policy direction.*

### **5) Consultation**

#### **a) General Consultation**

*The special consultation required by the Local Government Act 2002 is proposed.*

#### **b) Consultation with Maori**

*The special consultation required by the Local Government Act 2002 is proposed.*

### **6) Legal Implications**

*The requirements of the Local Government Act 2002 have been followed with respect to the bylaw review. No provision of the proposed bylaw is inconsistent with the Bill of Rights Act 1990.*

*Philips Fox have reviewed the proposed bylaw.*

### **7) Consistency with existing policy**

*The recommendations of this report are consistent with existing WCC policies on water usage that prioritise water conservation and encourage more efficient use of water.*

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## PROPOSED WELLINGTON CITY COUNCIL WATER SUPPLY BYLAW 2012

### **Introduction**

The Local Government Act 2002 (the Act) enables the Council to make bylaws for the management and protection of water supplies, waste water, drainage and sanitation. These matters are also subject to statutory controls in the Act and other enactments. The need for a bylaw covering these matters is founded upon addressing perceived problems that are not effectively controlled by statute or regulation.

This bylaw is made pursuant to Part 8 of the Act.

### **Title**

The title of this bylaw is the Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services.

### **Commencement**

The bylaw shall be operative from (date). Unless revoked or reviewed sooner, it shall be reviewed no later than (date). If not reviewed by (date) this bylaw is revoked on (date).

### **Bylaws revoked & amended**

From (date) the consolidated bylaw shown in Schedule 1 (Wellington City Council Bylaw 2008 Part 8:Water Services) is revoked.

## **1. Interpretation**

In this part of the bylaw, unless inconsistent with the context, or where otherwise expressly provided:

**"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.

**"Backflow"** means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow.

**"Council Approved Contractors"** are contractors approved in writing by Council from time to time. A current list of these contractors is available from the Council.

**"Customer"** is the owner or occupier of the premises that is being supplied with water.

**"Extraordinary Supply"** is a category of on demand supply including all purposes for which water is supplied other than ordinary supply and which may be subject to specific limitations, terms and conditions).

**"Extraordinary Use"** means the use of water for purposes other than ordinary use and will require a water meter. This includes, but is not limited to:

- (i) domestic spa and swimming pools in excess of 10 cubic metres capacity and fixed garden irrigation systems; or
- (ii) commercial and business uses; or

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- (iii) industrial uses; or
- (iv) horticultural, agricultural and viticultural uses; or
- (v) fire protection systems, other than sprinkler systems installed to comply with NZS4517, which have prior approval of Council; or
- (vi) temporary supply.

**"Level of Service"** means the measurable performance standards on which the Council undertakes to supply water to its customers.

**"On Demand Supply"** A supply which is available on demand directly from the point of supply subject to the agreed level of service.

**"Ordinary Supply"** is a category of on demand supply used solely for domestic purposes.

**"Ordinary Use"** means the use of water solely for domestic purposes in a dwelling and subject to clause 8.3. This includes, subject to prior Council approval, use in a fire sprinkler system installed to comply with NZS4517:2002 and the use of a hose for:

- (i) washing down house, a car, or boat or other domestic vehicle;
- (ii) garden watering by hand; and
- (iii) garden watering with one portable sprinkler per premises.

**"Point of Supply"** - the point on the water pipe leading from the water main to the premises (service pipe) which marks the boundary of responsibility between the customer and the Council, irrespective of property boundaries. This is will generally be determined by a valve or manifold.

**"Potable"** means water that does not contain or exhibit any determinands to any extent that exceeds the maximum acceptable values (other than aesthetic guidelines 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) where a building exists, whether or not a building consent has been issued, that is accepted by Council as meeting the building and planning requirements as detailed on the information for that building deposited with Council; or
- (c) 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
- (d) land held in public ownership, such as a reserve, for a particular purpose.

**"Prescribed Fee"** means any fees or charges approved by the Council for and items or services associated with the supply of water and includes

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any fees/charges adopted by the Council in accordance with the Local Government Act 2002 and the Local Government (Rating) Act 2002.

**"Publicly Notified"** means published on one occasion in one daily or weekly newspaper circulating in the district, or under emergency conditions, in the most effective way to suit the particular circumstances.

**"Restricted Flow Supply"** is where a small continuous flow is supplied by a flow control device across an air gap separation, and storage is provided by the customer to cater for their demand fluctuations.

**"Restrictor"** means a control device fitted to the service pipe or service valve to regulate the flow of water to a customer's premises.

**"Service Pipe"** means that section of water pipe between a watermain and the point of supply. This section of pipe is owned and maintained by the Council.

**"Service Valve (Toby/Manifold)"** means the valve at the customer end of service pipe used to control and/or isolate the supply.

**"Special circumstances"** means the circumstances that may lead the Council to require an **"Ordinary Use"** customer to install a water meter. This includes, but is not limited to:

- Known leaks that remain unrepaired
- Where excessive usage is being investigated
- Where water is being wasted
- Where multiple premises are discovered to be supplied by a single connection.

**"Supply Pipe"** means that section of pipe between the point of supply and the customer's premises through which water is conveyed to the premises. This section of pipe is owned and maintained by the Customer.

**"Termination"** means the physical cutting off of the supply to a premise.

**"Water Supply Area"** means an area formally designated by the Council as an area serviced by a reticulated water supply system with fire fighting capability that is intended to supply water to customers via demand supplies.

**"Water Supply Authority" (WSA)** means an authorised agent of the Council responsible for the supply of water.

**"Water Supply Connection Standards"** means the Council's Water Supply Connection Standards, which is a public document and is available on the Council's website: [www.wcc.govt.nz](http://www.wcc.govt.nz).

**"Water Supply System"** all of the components of the network between the reservoir and the point of supply. This includes but not limited to rising mains, trunk mains distribution mains, rider mains, pump stations and pumps, valves, hydrants, scour lines, service pipes, boundary assemblies, meters, backflow prevention devices, manifolds and tobies.

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**"Water Unit"** means the basis of measurement for a restricted flow supply and equals to a volume of 365 m<sup>3</sup> delivered at the rate of 1 m<sup>3</sup> per day.

## **2. Application of the Bylaw**

**2.1** Any person being supplied with, or who has made application to be supplied with, water by the Council is deemed to accept the terms and conditions contained in this Bylaw, and any subsequent amendments.

**2.2** This Bylaw and its terms and conditions shall come into effect on the date notified by the Council, for customers receiving a supply at that time, and at the date of receipt of supply for customers connected after that time.

## **3. Application for Supply**

**3.1** Any person who wants to:

- (a) obtain a new connection to the water supply; or
- (b) replace an existing connection; or
- (c) alter an existing connection; or
- (d) change the use of the water or level of service,

must make an application on the prescribed form, including all the information required by the Council and pay any prescribed fee. No connection to the water supply, replacement or alteration of existing connections or change of use, shall be made without the prior written approval of the Council.

**3.2** The applicant must be the owner of the premises or have the written authority to act on behalf of the owner of the premises for which the supply is sought.

**3.3** On receipt of a complete application the Council will either:

- (a) approve the application, subject to any conditions the Council considers appropriate; or
- (b) refuse the application; or
- (c) request further information to be supplied by the applicant within a specified time.

The Council will notify the applicant of its decision in writing within 10 working days.

**3.4** New connections, including all pipes, fittings and any other equipment, up to the point of supply, shall only be installed by Council approved contractors and shall be at the cost of the applicant. The applicant shall arrange the Council approved contractor and provide to the Council written confirmation from that contractor that the work was completed by them. No water can be taken from the water supply until that confirmation is received by the Council and acknowledged by the Council.

**3.5** An approved application under clause 3.3, which has not been implemented within six months of the date of application, will lapse unless the Council approves an extension, before the 6

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month period expires. Any refund of fees paid will be at the sole discretion of the Council.

- 3.6** Any water supply connection must comply with any requirements of the Council, including any requirements contained in the Water Supply Connection Standards.

## **4. Point of Supply**

- 4.1** For each customer there shall be only one point of supply, unless otherwise approved by the Council. The service valve (Toby/Manifold) shall be located 450mm from the boundary, in the berm where possible or as close as possible where fences, walls or other permanent structures make it difficult to locate it at the required position. Other positions shall require specific approval.
- 4.2** The point of supply for single dwelling units, for customers on joint rights of way, common access strips and for the different forms of multiple ownership of premises and/or land shall be located as shown in Appendix A unless otherwise agreed by the Council.
- 4.3** For a multiple ownership supply which was in existence prior to this Bylaw coming into effect, the point of supply shall be the arrangements that existed at that time, or as determined by agreement with the Council in any individual case.

## **5. Responsibility for maintenance**

- 5.1** The Council shall own and maintain the service pipe and fittings up to the point of supply, including any water meter where fitted. The customer shall own and maintain the supply pipe beyond the point of supply. Without limiting that obligation on the customer, the customer shall undertake any specific maintenance or repairs on the customer's side of the point of supply, as directed by Council.
- 5.2** The Council gives no guarantee as to the serviceability of the service valve (Toby/Manifold) located on the service pipe.

## **6. On Demand Supply**

- 6.1** An On Demand Supply is a supply which is available on demand directly from the point of supply, subject to the Council's set level of service.

### **Ordinary supply**

- 6.2** Every residential premise shall be entitled to an ordinary supply of water, subject to:
- (a) the premises being within the Water Supply Area, and the Council's reticulated water supply being available and capable of servicing the premises;
  - (b) the exclusion of its use under any restrictions imposed by the Council under clause 8.3 of this Bylaw;
  - (c) payment of any prescribed charges in respect of the premises;

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- (d) compliance with the terms and conditions of this Bylaw or contained within any Council approval;
- (e) payment of any other charges or costs associated with sub-divisional development; and
- (f) Council reserving the right in “special circumstances” to:
  - (i) require the customer to supply and install an approved water meter and pay any prescribed fee; and
  - (ii) install a meter or flow restrictor and charge for installation and charge for volume of water consumed.

## **Extraordinary Supply**

**6.3** The Council is under no obligation to provide an extraordinary supply of water. However, if it does:

- (a) it shall be metered and charged for in accordance with any prescribed fee;
- (b) the customer will meet all costs in relation to the initial installation of the water meter and testing of it if requested by the customer; and
- (c) the Council will retain ownership of the water meter and be responsible for maintaining it

## **7. Restricted flow supply**

**7.1** Restricted flow supply shall only be available to premises within an area and/or under special conditions approved by the Council.

**7.2** The Council reserves the right to require customers to have a meter fitted and to charge any prescribed fee.

**7.3** A Restricted Flow Supply shall be measured on the basis of an agreed number of units supplied at a uniform flow rate.

## **8. Continuity of Supply**

### **Uninterrupted service and maintenance of pressure**

**8.1** The Council does not guarantee an uninterrupted or constant supply of water, nor does the Council guarantee maintenance of an existing pressure and flow.

**8.2** If a customer has a particular requirement for an uninterrupted level of service (flow, pressure or quality), it will be the responsibility of that customer to provide any necessary storage, back up facilities, or equipment.

### **Demand Management**

**8.3** The customer shall comply with any restrictions which may be approved by Council to manage high seasonal or other demands. Any restriction or prohibition will be imposed by resolution and will be publicly notified.



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- 8.4** No person may use any water, or allow any water to be used, in contravention of any restriction or prohibition made by the Council under this Bylaw.

## **Emergency Restrictions**

- 8.5** Where there is an emergency (natural hazards such as floods, drought or earthquake) will result in disruption to the supply of water and the level service may not be maintained.
- 8.6** During an emergency the Council may restrict or prohibit the use of water for any specific purpose, for any specific period and for any or all of its customers. Such restrictions shall be publicly notified. The Council may enact penalties to enforce restrictions. Where an immediate action is required any restriction or prohibition may be imposed by an authorised officer of the Council subject to subsequent Council ratification.

## **Repair and Maintenance**

- 8.6** Wherever practical the Council will make every reasonable attempt to notify the customer of a scheduled repair or maintenance shutdown of the supply before the work commences. Where immediate repair or maintenance is required and notification is not practical, the Council may shut down the supply without notice.

## **Liability**

- 8.7** The Council shall meet level of service requirements 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.

## **9. Fire Protection Connection**

- 9.1** No connection to the water supply for fire protection shall be made without the prior written approval of the Council. Any proposed connection for fire protection shall be the subject of an application (on the prescribed form) to the Council. It shall include all the details required by the Council and be accompanied by the prescribed fee (if any). Any such application may be granted, subject to any conditions the Council considers appropriate, or refused. The Council will notify the applicant of its decision in writing within 10 working days.

Any fire connection must comply with the requirements of the Council, including any requirements contained in the Water Supply Connection Standards.

- 9.2** The Council shall be under no obligation to provide a fire protection supply at any particular flow or pressure.
- 9.3** The Council reserves the right to require the customer to supply and install an approved water meter at any time for water supply for fire protection and pay any prescribed fee. The metering of fire connections shall be as shown in the Water Supply Connection Standards, unless otherwise agreed by the Council.

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- 9.4** Notwithstanding clause 9.3, for a fire connection (including those installed prior to the coming into effect of this Bylaw) which is so constructed or so located that it is likely or possible that the water will be drawn from it (including hydrants) or from any part of it by any person for purposes other than fire fighting, the Council shall require the customer to install a water meter suitable for the purpose, on the connection.
- 9.5** The right to gain access to, and draw water from, fire hydrants shall be restricted to:
- (a) the Council or its authorised officers;
  - (b) Fire Service personnel for the purpose of Fire Service operations; and
  - (c) fire hydrant permit holders, during the period for which the permit has been issued.
- 9.6** To obtain a fire hydrant permit, the applicant must make an application to the Council, including all information required by Council and payment of the prescribed fee (if any). The Council may, in its discretion, grant or decline such an application and if granted, may impose whatever conditions it sees fit, including limiting the time period when water can be drawn from the hydrant.
- 9.7** Where an unmetered connection has been provided to supply water to a fire protection system this shall be used for no other purpose than fire fighting and testing the fire protection system.
- 9.8** Handheld hoses intended for fire-fighting purposes are not to be used for purposes other than fire-fighting or testing of that system
- 9.9** It shall be the customer's responsibility to ascertain and periodically monitor whether the fire protection supply available is adequate for the intended purpose.
- 9.10** Water used for the purpose of extinguishing fires will be supplied free of charge. Where the fire protection connection is metered and water has been used for fire fighting purposes, the Council shall, upon notification, assess the quantity of water used, and a sum based on the estimate at the appropriate charge rate shall be credited to the customer's account.
- 9.11** Customers intending to test fire protection systems in a manner that requires a draw-off of water shall obtain approval from the Council beforehand. Water used for routine flushing and flow testing does not constitute waste but quantity of water used may be assessed and charged for by the Council.
- 10. Backflow Prevention**
- 10.1** It is the customer's responsibility to take all necessary measures on the customer's side of the point of supply to prevent water which has been drawn from the Council's water supply from returning to that supply. Council retains the right to fit a backflow

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prevention device on the customer's side of the point of supply at the customer's expense.

- 10.2** All water for shipping and fire service connections shall have an approved backflow prevention device installed on the customer's side of the point of supply at the customer's expense.
- 10.3** The customer is required to maintain the backflow prevention device in proper working order and undertake the annual inspection by an Independent Qualified Person (IQP). The annual inspection certification shall be forwarded to Council's Building Consents and Licensing Services Department
- 10.4** It shall be the customer's responsibility to undertake the annual inspection of the backflow prevention device by an IPQ and forward the annual inspection certification to the Council's Building Consents and Licensing Services Department. Failing to do so will result in the Council Building Consents and Licensing Services Department issuing an infringement notice to the customer.

### **11. Meters and Flow Restrictors**

- 11.1** All extraordinary supply shall be metered. All meters must be installed by the customer in compliance with the requirements of the Council. The customer will pay for the initial installation of the meters as prescribed in the Water Supply Connection Standards. The Council will own and maintain the meter thereafter. All owners of premises which have a metered supply shall pay the prescribed fee in relation to that supply.
- 11.2** Restrictors for restricted flow supplies, shall be supplied, installed and maintained by the Council and shall remain the property of the Council.
- 11.3** For on demand supplies which are not metered, the Council reserves the right to require customers to have a meter fitted in accordance with clause 11.1 and charge any prescribed fee.
- 11.4** Where a customer requests the Council to test the meter, the Council will arrange a test to be carried out as prescribed in the Water Supply Standards and all costs associated with test shall be paid for by the customer.
- 11.5** A customer (with an ordinary supply) may make application for the installation of a water meter to enable the customer to change from a capital value rates charge for water to a water-by-meter charge. The customer will meet all costs in relation to the installation of the water meter. The Council shall own and maintain the meter.
- 11.6** It shall be the customer's responsibility to ensure that the installed meter is not tampered with. If the customer suspects that the meter has been tampered with, then the Council should be notified immediately.

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**11.7** Should any meter be out of repair or cease to register the Council shall estimate the consumption for the period since the previous reading as prescribed in the Water Supply Connection Standards.

**11.8** Owners of multi-owned premises may choose to install check meters in the supply pipe to their respective premises to pay for their share of consumption.

## **12. Customer Responsibilities**

**12.1** The customer's plumbing system shall be designed, installed and maintained, both in its component parts and its entirety, to ensure that it complies with the Plumbers, Gasfitters and Drainlayers Act 1976, the Building Act 2004 and the New Zealand Building Code and any other relevant statutory requirements in place at the time. In addition, the customer's plumbing system shall comply with any requirements in the Water Supply Connection Standards.

**12.2** Customers must not allow water to run to waste, allow leaks to continue unchecked or repaired or allow the unattended operation of hoses.

**12.3** Where a customer ignores advice from the Council to repair an on-going leak, the Council may repair the leak and charge the customer all associated cost as provided in the Local Government Act 2002.

**12.4** Pumps, hydraulically driven equipment, quick closing valves of any kind or any other equipment which may cause pressure surges to be transmitted, shall not be connected directly to the supply pipe.

## **13. Working Around Buried Services**

**13.1** Any person proposing to carry out excavation work shall:

- (a) Be responsible for locating all buried services prior to commencing excavation work, and
- (b) Follow the procedures required for obtaining a Road Opening Notice (as laid down in the Council's Code of Practice for Working on the Road).

**13.2** Any damage which occurs to a Council service shall be reported to the Council immediately. The person causing the damage shall be liable for the cost of repair.

## **14. Council Equipment**

**14.1** The customer shall take due care to protect from damage the Council equipment up to the point of supply, including pipework, valving and restrictors.

**14.2** The customer shall maintain the area in and around the point of supply free of soil, growth, or other matter or obstruction which prevents or is likely to prevent convenient access.

## **15. Payment**

**15.1** The customer shall be liable to pay for the supply of water and related services in accordance with the Council's prescribed fee.

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**15.2** The Council may recover all unpaid water charges for metered water usage, in the manner prescribed in the Local Government (Rating) Act 2002.

## **16. Transfer of Rights and Responsibilities**

**16.1** The customer's rights and responsibilities provided for under this Bylaw are not transferable.

**16.2** Water which the customer draws from the Council supply shall not be provided to any other party without prior Council approval and a customer shall not extend the water supply by means of any hose or other pipe to a party beyond the customer's property.

## **17. Change of Ownership**

**17.1** In the event of a premises changing ownership or tenant the Council requires the outgoing owner/tenant to advise details of the new owner or tenant as being the customer at that premises. Where a premise is metered the outgoing customer shall give the Council 48 hours' notice to arrange a final reading.

## **18. Termination**

**18.1** The customer must make an application to Council for termination of water supply on the prescribed form, including all the information required by the Council and pay any prescribed fee.

**18.2** On receiving approval of termination from Council the customer must arrange for any termination to be undertaken by a Council approved contractor.

**18.3** Where a metered premise is to be demolished the customer shall give 48 hours' notice to arrange a final reading. The customer must also make an application to Council for removal of the water meter and termination of water supply as per 18.1 above.

## **19. Offences**

**19.1** Every person commits an offence against this bylaw who:

- (a) does or permits anything contrary to this Bylaw;
- (b) omits or neglects to do anything which ought to be done at the time and in the manner provided in this Bylaw;
- (c) fails to comply with any duty, obligation, or condition imposed by this Bylaw;
- (d) fails to comply with any resolution made under this Bylaw;
- (e) fails to comply with any approval granted under the Bylaw, including any condition of an approval granted under this Bylaw;
- (f) provides an incorrect application for supply which fundamentally affects the provisions;
- (g) gains access to and draws water from a fire hydrant without prior approval from the Council;
- (h) makes any connection to the water supply system without prior written approval from the Council; or

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- (i) tampers or interferes with Council equipment or water supply system, either directly or indirectly.

## **20. Resolution power**

- 20.1** The Council may, by resolution, impose such prohibitions, restrictions, controls, or directions regarding the use of water and impose any requirements it sees fit in relation to the installation and maintenance of infrastructure necessary for water supply.

### **Commentary**

**The following comments do not form part of the Bylaw. They are provided to advise on the relevant law and information that relate to the Bylaw.**

### **Statutory authority**

This Bylaw is made pursuant to the Council's bylaw-making powers in the Local Government Act 2002.

### **Legislation**

There are a number of statutory provisions that relate to the control of the supply of water, wastage of water and the Council's powers of entry onto private premises. Please refer to sections 171-173 and sections 192 -193 of the Local Government Act 2002.

### **Obtaining approval from the Council**

Should you need to obtain approval from the Council in relation to this Bylaw, you should contact the Council's Central City Service Centre, phone 499 4444, and they will direct you to the appropriate person. There will be an application form you will need to fill in. Council officers will be able to assist you in completing an application form.

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### Statement of Proposal – Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services (2012)

#### Summary of Proposal – Water Services Bylaw

The Council proposes to make a Wellington City Council Consolidated Bylaw 2012 Part 8 : Water Services (“the 2012 Bylaw”) to replace the current Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services.

The Council operates the public water supply service for Wellington City. The 2012 Bylaw provides Council with the legal powers it needs to manage and operate the water supply. The Local Government Act 2002 provides for the Council to review its Bylaws periodically.

The current Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services can be viewed by visiting the Council website: [www.wellington.govt.nz](http://www.wellington.govt.nz)

#### **The proposed 2012 Bylaw**

The 2012 Bylaw will ensure the provision of adequate controls and monitoring to enable Council to manage and operate the water supply system for Wellington City.

The 2012 Bylaw has been developed to address the problems associated with operating a public water system.

The purpose of the bylaw is to ensure the maintenance of proper standards of hygiene, convenience, access, safety, and other matters associated with the supply of water.

#### **Conclusion**

The proposed 2012 Bylaw seeks to regulate a wide range of activities to maintain standards for public health and safety, to protect the public from nuisance and to manage property owned or operated by Council for the wellbeing and enjoyment of the public. The proposed bylaw will replace the existing Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services

The Council is seeking submissions on this proposal. The full statement of proposal to create the 2012 Bylaw as noted above is attached to this summary of information, along with a submission form. It is also available at the Wellington City Council, 101 Wakefield Street, Wellington, Libraries and Service Centres, and on the Council Website [www.wellington.govt.nz](http://www.wellington.govt.nz)

**Submissions open on Tuesday 24 January 2012 and close at 4.00pm on Friday 9 March 2012.**

**STATEMENT OF PROPOSAL**

**TO MAKE THE**

**WELLINGTON CITY COUNCIL  
CONSOLIDATED BYLAW 2012  
PART 8: WATER SERVICES**

**AND REVOKE THE**

**WELLINGTON CITY COUNCIL  
CONSOLIDATED BYLAW 2008  
PART 8: WATER SERVICES**

December 2011



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### 4. PROCESS FOR THE DEVELOPMENT OF THE PROPOSED BYLAW

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## 1. INTRODUCTION

Wellington City Council proposes to replace the existing Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services (“the 2008 Bylaw”) with a new bylaw relating to the supply of water (“the proposed Bylaw”).

This Statement of Proposal has been prepared in accordance with section 83 of the Local Government Act 2002 (“LGA”). It includes information about the review process and whether it is appropriate for the Council to have a bylaw relating to the supply of water.

## 2. BACKGROUND

Section 158 of the Local Government Act 2002 provides for the Council to review its Bylaws. Under sections 159 and 155, the review of a bylaw must take the form of reconsideration of the matters that the Council is normally required to consider before making a bylaw.

The Council must therefore determine whether a bylaw is the most appropriate way of addressing a perceived problem. If so, the Council must determine whether the proposed Bylaw is the most appropriate form of bylaw, and whether the proposed Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (“NZBORA”). No bylaw can be inconsistent with the NZBORA. In reviewing a bylaw, the Council must use the special consultative procedure set out in section 83.

Under section 145, the Council may make bylaws for its district with the purposes of:

- a) protecting the public from nuisance;**
- b) protecting, promoting, and maintaining public health and safety;**
- c) minimising the potential for offensive behaviour in public places.**

The Council can also make bylaws for specific purposes as listed in section 146, for example, for the purpose of water supply (section 146(b)(ii)).

The current Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services can be viewed by visiting the Council website: [www.wellington.govt.nz](http://www.wellington.govt.nz)

### 2.1 *The ‘problem’*

A wide range of activities occur as a result of the provision of a public water supply. Occasionally, however, some activities create problems which are required to be addressed by the Council. These activities may cause:

- health or safety hazards - for example, failure to meet appropriate hygiene or environmental standards associated with the use of water;
- misuse or loss – for example, ensuring no misuse or excessive use of water occurs;

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- water shortages – for example, during dry periods being able to restrict water use, to ensure continuity of supply;
- damage to property or the environment - for example, ensuring the maintenance of a water supply for fire fighting purposes; or
- protection of the public from nuisance – for example, maintenance of the public water supply system to ensure no leaking of water causes damage or disruption to the public.

The problem means that a bylaw about water supply is consistent with the provisions in the LGA relating to the Council's bylaw-making powers. The Council considers that it is still necessary to have a bylaw relating to water supply for the purposes of:

- protecting the public from nuisance (section 145(a));
- protecting, promoting and maintaining public health and safety (section 145(b));
- managing, regulating against or protecting from, damage, misuse, or loss, or preventing the use of the land, structures, or infrastructure associated with water supply (section 146(b)(ii)).

The proposed Bylaw therefore seeks to regulate a wide range of activities undertaken to maintain standards for public health and safety, protect the public from nuisance and to manage property owned or operated by Council for the wellbeing and enjoyment of the public to supply water.

The Council therefore proposes to make the proposed Bylaw to regulate a range of activities associated with the supply of water. The proposed Bylaw is generally intended to ensure adequate controls and monitoring are retained to meet public expectations of the Council's maintenance of the water supply.

### **2.2 *Most appropriate way to address the 'problem'***

Consideration has been given to a range of options for addressing the problems identified above.

#### *Non-regulatory options*

A wide range of activities occur with the provision of water without causing concern, and most people voluntarily comply with the Council's policies and practices. Education is used to inform members of the public about policies and practices, which encourages voluntary compliance.

However, there are some instances where voluntary compliance and education cannot be relied on to address the problem. Educative measures may not reach everyone, nor may they provide an effective deterrent to everyone. In these circumstances, the activities have an effect on the general public, property, and the environment which means it is necessary for the Council to have a greater ability to enforce its policies and practices.

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### *Wellington City District Plan*

The proposed Bylaw is consistent with, and complimentary to, the provisions of the Wellington City District Plan. The proposed Bylaw provides a mechanism that allows the Council to:

- address matters relating to, but not explicitly provided for, in the Wellington City District Plan; and
- adopt an alternative and more practicable enforcement option than provided for under the Resource Management Act 1991 (RMA).

### *Water Charter*

When Council adopted the current Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services the then current bylaw (Wellington City Council Consolidated Bylaw 1991 Part 20 (Water Supply) was revoked. At the same time Council created and implemented the Wellington Water Charter.

The Wellington Water Charter was not written in a manner that established a contract between Council and its customers, and it does not have any legal standing. The replacement 2008 Bylaw 2008 only covered the prohibition of quick closing valves. This meant that the former 1991 Bylaw provisions to protect the public health and security of the public water supply, and address the problems outlined above, were lost with the establishment of the Charter and the 2008 Bylaw.

Council is now in a situation where it cannot adequately stipulate and enforce matters that are pertinent to the sound management and protection of its water services assets. This is particularly the case with water conservation matters. The proposed Bylaw is intended to address this situation.

Whilst there is merit in a customer charter to outline the basis of a relationship between customers and Council, it doesn't have the status of a customer contract nor does it have any powers of enforcement and therefore is seen as having complimentary role to a bylaw rather than as a replacement for a bylaw.

### *Other regulatory options*

In reviewing the Wellington City Council Consolidated Bylaw 2008 Part 8 : Water Services, the Council concluded that the provisions of that Bylaw are inadequate to address the problems as noted above, and does not adequately provide for the protection of public health and the security of the public water supply.

The proposed Bylaw addresses these matters and may provide the Council with an alternative prosecution option in cases where the Bylaw is breached, depending on the circumstances.

### *Summary*

Although other regulatory and non-regulatory measures may assist in managing the problem, the Council does not consider that these other measures are able to address the problem to the extent necessary. In addition, other measures may not be appropriate in every instance.

The Council considers that the proposed Bylaw is the most appropriate way to address the problem. The Council also considers that the proposed Bylaw will contribute to achieving the community outcomes identified in the Council's Long Term Council Community Plan.

### **2.3 *Most appropriate form of bylaw***

The proposed Bylaw addresses the problem by preventing a number of unwanted consequences associated with the management of a water supply.

The proposed Bylaw is flexible and allows changing circumstances to be recognised. The proposed Bylaw clearly states the Council's position by stating whether or not an activity is permitted and which activities constitute an offence of the bylaws. The Bylaw sets out what action needs to be taken to comply with it, for example, whether prior written permission of the Council is required. The proposed Bylaw reflects a number of the Council's existing policies and practices, and also reflects community goals that have been identified by the Council.

The proposed Bylaw is therefore the most appropriate form of bylaw. It clearly states the Council's position, how the Bylaw can be complied with, reflects the Council's existing policies and practices, and addresses the problem.

### **2.4 *Implications under the New Zealand Bill of Rights Act 1990 ("NZBORA")***

As mentioned, section 155(2)(b) of the LGA requires the Council to determine whether the proposed Bylaw gives rise to implications under the New Zealand Bill of Rights Act 1990. It is the Council's view that no provision of the proposed Bylaw is inconsistent with the Bill of Rights Act 1990.

## **3. The proposed bylaw**

This section outlines the outcome of the review of the existing Bylaw, and provides an explanation of the proposed Bylaw.

### **3.1 *Additions, modifications and deletions made in respect of existing bylaw***

The existing Wellington City Council Consolidated Bylaw 2008 Part 8: Water Services contains only one clause (clause 5) prohibiting the use of certain quick closing valves. This has been provided for in the Water Supply Connection Standards referred to below.

The proposed Bylaw is based on the previous and now revoked 1991 Bylaw that was adopted under the Local Government Act 1974 but is clearer and more simply worded than the 1991 Bylaw.

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Nothing significant has been added to the 1991 Bylaw, however much of the content of the 1991 Bylaw has been amended to refine the clauses so that each more specifically addresses the aspects of the problem that the Council intended them to address. The language and structure of the Bylaw has also been simplified and the technical aspects have been taken out of the 1991 Bylaw and placed in the Wellington City Council Water Supply Connection Standards.

Below is an outline of the proposed changes:

**Wellington City Council Water Supply Connection Standards** – in the 1991 Bylaw technical issues were included within the bylaw. These technical issues cover engineering requirements associated with the management of the water supply. For clarity these issues are best covered by Water Supply Connection Standards which can be amended, as required, by Council resolution. To retain these technical aspects within the proposed bylaw would require Council to undertake a special consultation procedure if it wishes to make a change. Establishing Water Supply Connection Standards enables the Council to make changes by resolution pursuant to Section 151(2) LGA.

### **3.2 *Explanation of the proposed Bylaw content***

In general terms, the proposed Bylaw provides a mechanism by which the Council can prevent or manage the problem associated with a range of activities associated with the provision of a water supply. The following outlines the rationale for the inclusion of each of the clauses in the proposed bylaw.

#### ***Proposed clause 1 – Interpretation***

This clause is proposed so that the meaning of terms used in the bylaw is clear.

#### ***Proposed clause 2 – Application of the Bylaw***

This clause is proposed to ensure carry-over of current terms and conditions from the current bylaw to the proposed bylaw and when the terms and conditions of the proposed bylaw come into effect.

#### ***Proposed clause 3 – Application for Supply***

The purpose of this clause is to ensure a clear process is outlined and states what a person must do to obtain a new water connection, or replace, alter or change an existing water connection.

#### ***Proposed clause 4 – Point of Supply***

The purpose of this clause is to establish the number and location of the point of supply to a dwelling, unless otherwise agreed by Council.

#### ***Proposed clause 5 – Responsibility for maintenance***

The purpose of this clause is to establish that the Council owns and maintains the service pipe and fittings up to the point of supply. The customer owns and maintains the supply pipe beyond the point of supply. This clause also requires the customer to

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undertake any specific maintenance or repairs on their side of the point of supply, as directed by Council.

### ***Proposed clause 6 – On Demand Supply***

The purpose of this clause is to establish what an on-demand supply is and criteria for an ordinary supply and extraordinary supply.

### ***Proposed clause 7 – Restricted Flow Supply***

The purpose of this clause is to establish the criteria for restricted flow supply.

### ***Proposed clause 8 – Continuity of Supply***

The purpose of this clause is to establish the legal powers or position of the Council with respect to the following:

- Council and customer responsibilities associated with an uninterrupted service and maintenance of pressure;
- Water restrictions – establishes the power to enable Council to impose water restrictions or prohibit the use of water.
- Maintenance and repair – establishes the process to be followed to notify customer(s) of a scheduled or urgent maintenance shutdown.
- Liability – establishes Council is not liable for deficiencies in, or interruptions, to the water supply.

### ***Proposed clause 9 – Fire Protection Connection***

The purpose of this clause is to outline the criteria and responsibilities associated with the provision of a water supply for fire protection. The clause also establishes the power to enable Council to issue fire hydrant permits, subject to any conditions it thinks fit.

### ***Proposed clause 10 – Backflow Prevention***

The purpose of this clause is to establish the requirement to install and maintain backflow prevention devices in all water connections.

### ***Proposed clause 11 – Meters and Flow Restrictors***

The purpose of this clause is to establish the power for Council to install meters and maintain compliance with the requirements of the Council, at the customers cost.

### ***Proposed clause 12 – Customer Responsibilities***

The purpose of this clause is to establish the customer's responsibility to ensure their plumbing system meets all legal requirements.

### ***Proposed clause 13 – Working Around Buried Services***

The purpose of this clause is to outline the legal responsibilities of anyone wanting to carry out excavation work.

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### ***Proposed clause 14 – Council Equipment***

The purpose of this clause is to establish the customer's responsibility of care with respect to Council property.

### ***Proposed clause 15 – Payment***

The purpose of this clause is to establish the customer's liability to pay for the supply of water.

### ***Proposed clause 16 – Transfer of Rights and Responsibilities***

The purpose of this clause is to establish the transfer rights and responsibilities of the customer.

### ***Proposed clause 17 – Change of Ownership***

The purpose of this clause is to establish the responsibility of the outgoing owner/tenant to advise Council of the new owner or tenant.

### ***Proposed clause 18 – Termination***

The purpose of this clause is to require the customer to give Council 48 hours notice of their requirement to terminate the water supply.

### ***Proposed clause 19 – Offences***

The purpose of this clause is to outline what constitutes an offence against the bylaw.

### ***Proposed clause 20 – Resolution power***

The purpose of this clause is to give Council the power to impose any requirements it sees fit in relation to the installation and maintenance of infrastructure necessary for water supply.

## **4. Process for the development of the proposed bylaw**

The special consultative procedure will end on Friday 9 March 2012. Hearings and meetings on the proposed bylaw will be open to the public, and people may speak to their submissions at the relevant committee meeting.

An analysis of all submissions will then be presented to the relevant council committee for consideration. The proposed bylaw will then be referred to the Council for consideration and adoption.