
REPORT 2
(1215/11/IM)

Report of the Strategy and Policy Committee
Meeting of Thursday 7 March 2013

Members: Mayor Wade-Brown, Councillors Ahipene-Mercer, Best (Deputy Chair), Cook, Coughlan, Eagle, Foster (Chair), Gill, Lester, McKinnon, Marsh, Morrison, Pannett, Pepperell and Ritchie.

THE COMMITTEE RECOMMENDS:

1. **ITEM 041/13P REPORT BACK ON CONSULTATION - BUSINESS IMPROVEMENT DISTRICTS DRAFT POLICY**
(1215/52/IM) (REPORT 2)

THAT Council:

- 1. Agree to the Business Improvement District Policy, attached as Appendix 1 of the report of Committee.*
- 2. Engage further with the interested parties on the Business Improvement District establishment process.*

2. **ITEM 042/13P SUMMER GARDEN WATERING WATER RESTRICTIONS**
(1215/52/IM) (REPORT 4)

THAT Council:

- 1. Consult on a change to the Bylaw to be considered at the 27 March 2013 Council meeting that the current wording of clause 8.3 of the Water Services Bylaw 2012 does not allow for an appropriate operational response to manage high seasonal or other demands as attached as appendix 2 to this report of Committee.*

Councillor Foster
Chair

BUSINESS IMPROVEMENT DISTRICT POLICY

February 2013

Table of Contents

1. Definitions
2. Overview
3. Purpose of this policy
4. Framework for partnership between Wellington City Council and Business Improvement Districts
 - 4.1 Council responsibilities
 - 4.2 BID Association responsibilities
5. BID objectives
 - 5.1 What Business Improvement Districts can do
 - 5.2 Accountability
6. Alignment with city strategies
7. Establishing a Business Improvement District
 - 7.1 Considering a Business Improvement District
 - 7.2 Initial consultation
 - 7.3 BID boundaries
 - 7.4 Setting the targeted rate
 - 7.5 Constitution of a legal entity
 - 7.6 Developing a list of owners and occupiers
 - 7.7 Creating the voter register – eligible voters
8. Polling in a Business Improvement District
 - 8.1 Types of polls
 - 8.2 Informing voters
 - 8.3 Sending out the ballots
 - 8.4 The goals of the poll
 - 8.5 Proxy and absentee voting
 - 8.6 Non-registered eligible voters
 - 8.7 Confirming the result
 - 8.8 Final decision on BID changes to be made by the Council
9. Accountability processes of the BID Association
10. The relationship with the Council
 - 10.1 Applying for the targeted rate
 - 10.2 Council – Executive Committee relationship
 - 10.3 Council review
 - 10.4 BID Performance Survey
11. Dispute resolution
 - 11.1 Resolution between the Council and the BID Association
 - 11.2 Resolution between owners and BID Associations

DEFINITIONS

BID	Business Improvement District
BID Association Council	a legal entity constituted to administer the BID Wellington City Council
Executive Committee	the body elected by businesses in the BID area to govern the operations of the BID
BID Manager	a person recruited or contracted to manage the BID programme

OVERVIEW

A Business Improvement District (BID) is a partnership between a local authority and a defined local business community to develop projects and services that benefit the trading environment and which align with the local authority's objectives. A BID is supported by a targeted rate, levied on and collected from non-residential properties within the defined boundary.

A BID provides a vehicle for local business-led initiatives that support key city objectives of vibrant centres, business creation and development and increased employment.

There is no minimum size for a BID, however any proposed BID must demonstrate that it is viable and fit for purpose.

PURPOSE OF THIS POLICY

This policy provides guidance for prospective BIDs, and describes the role of Wellington City Council (Council) which is required to approve any BID and collect the associated targeted rates.

The policy addresses:

- the responsibilities of the Council and BID Associations
- the objectives that a BID must meet
- the process to establish a BID
- the operation of a BID
- managing the performance of a BID.

FRAMEWORK FOR PARTNERSHIP BETWEEN WELLINGTON CITY COUNCIL AND BUSINESS IMPROVEMENT DISTRICTS

Council responsibilities

The Council will:

- provide information and advice as appropriate
- consider whether to set a targeted rate for the purpose of BID programmes
- set a targeted rate, providing the Association has complied with the terms of this policy
- monitor and review the performance of BIDs.

BID Association responsibilities

The BID Association will:

- comply with its constitution and the BID policy
- comply with all other relevant laws and regulations
- maintain proper meeting and accounting records demonstrating how the targeted rate and grant money is used, and make such records available to the Council on request.

BID OBJECTIVES

What Business Improvement Districts can do

All BID programmes should develop an in-depth understanding of the particular needs of their business community. The BID policy allows for a wide range of activities that could be undertaken with the provisos that the activities:

- align with the Wellington City Council's strategic objectives and priorities
- are relevant for their business community
- are not already being undertaken as part of the Council's responsibilities under the general rating provision. There is no prohibition of BIDs within the Downtown Levy area where a particular business group wishes to provide services additional to those provided by the Council through general rates or through the Downtown Levy.

Accountability

The BID Association is accountable to its eligible voters. It is also accountable to the Council for the use of the BID targeted rate and alignment with the Council BID Policy.

This accountability is supported by the development of a business plan, the measurement of key performance indicators, production of an annual report with audited accounts for its members, and annual reporting to the Council.

The Council is accountable for the collection and payment of the BID targeted rate amount to individual BID Associations, and ensuring the targeted rate collected is spent as intended. The BID targeted rate may only be applied to the agreed activities of the BID Association and for no other purpose.

Where the Council has serious concerns with performance of a specific BID Association, the BID targeted rate may be withheld until specific improvements or alterations have been made by the BID Association.

In accordance with the provisions of the Local Government Act 2002 and the Local Government (Rating) Act 2002, the Council will make the final decisions on what BID targeted rates, if any, to set in any particular year (in terms of the amount and the geographic area to be rated).

ALIGNMENT WITH CITY STRATEGIES

BIDs have been identified as important elements that can contribute towards delivering Wellington City Council's strategic objectives, including those identified in the Economic Development and Urban Development strategies and

the Centres Policy. They can also play an important part in the Wellington Towards 2040: Smart Capital strategy.

The strategic goals underpinning these strategies include:

- *attracting, retaining and growing investment, creating jobs, and supporting sustainable economic growth in Wellington City*
- *strengthening the vibrancy and multi-functional nature of centres, including their role as social and community focal points, public transport hubs, places where people live and work, and centres for entertainment, recreation and local services.*

The business plan of each BID will clearly set out how it supports the priorities underpinning these strategies. The planning of the BID programme should take account of key Wellington City Council planning and policy documents.

ESTABLISHING A BUSINESS IMPROVEMENT DISTRICT

The following steps must be taken by any group proposing to establish a Business Improvement District:

1. Undertake initial consultation with the business community on the potential range of services a BID could undertake to determine its level of support for forming a BID. If there is sufficient interest (indicatively >25 percent support) then the following steps would be undertaken:
2. Confirm the district boundaries where the targeted rate would apply.
3. Develop a business plan outlining the proposed activities that will be funded by the targeted rate and which comply with BID policy.
4. Agree the level of targeted rate required to support the BID budget and the basis for its collection.
5. Agree a constitution and establish a legal entity to administer the BID. The Council should be consulted on the constitution.
6. Develop a voting register of eligible businesses within the district.
7. Undertake full consultation on the targeted rate and the planned activities and complete an establishment vote with a majority vote supporting the BID.
8. Undertake an initial AGM, adopting the constitution, appointing board members and officers and approving the business plan.
9. Apply to the Council for a targeted rate, with the following supporting documents:
 - evidence of a mandate from voters
 - a business plan which is aligned with Council priorities
 - an approved constitution for the entity.
10. Gain approval of the targeted rate for the BID in the Council Annual Plan process. Note that the previous steps need to be completed in sufficient time so that steps 9 and 10 can be completed to meet the Annual Plan timelines. This would be expected to be submitted to the Council before November of any year to be included in the following year's Annual Plan process.

Considering a Business Improvement District

Discussions to explore the establishment of a BID may be initiated at any time by any interested party. A key factor to support these discussions will be evidence that there is sufficient support from the community to sustain the challenge of establishing and operating a BID.

Initial consultation

One of the first steps is to undertake initial consultation with key stakeholders within (and potentially outside) the proposed area. These stakeholders might include, for example, owners of businesses, land owners and ratepayers, local or central government agencies within the proposed BID, or interested community groups.

This consultation could include a public meeting to communicate the proposal to establish a BID, the area that it is proposed to cover, and its potential objectives and activities.

Following this initial consultation, the group proposing the BID will give feedback to the Council on the response received, and whether they wish to proceed with the establishment of a BID.

BID boundaries

In the first instance, the Council will allow those proposing a BID to determine the boundaries within which the targeted rate will be collected. However, should the Council disagree on the proposed boundaries, the Council's decision is final, as it is the Council which takes responsibility for the targeted rate.

Setting the targeted rate

The Local Government (Rating) Act 2002 gives the Council authority to set a targeted rate for an activity such as a BID. The level of the rate needs to be sufficient to support the BID programme of activities. The BID must agree the total budget required for the programme with its members (at an AGM), and advise the Council that the BID targeted rate be included in the Annual Plan of the Council.

Rating options

There are three options for calculating the targeted rate collection. Targeted rates can be established by the:

- proportional value method
- flat rate method
- hybrid method (which is a combination of both the proportional value and flat rate methods).

Council staff will work through the different options with BIDs on a case-by-case basis.

Proportional value method

Under the proportional value method, the total amount of the targeted rate to be collected is divided by the capital value of the properties within the collection area. As a result, larger capital value properties pay a greater proportion of the targeted rate. Every property will therefore be paying a different BID targeted rate amount.

This method is preferable where owners owning or renting more valuable areas of land or businesses will gain significantly more from the BID programme than owners with less valuable areas of land or businesses.

Flat rate method

Under the flat rate method, the Council applies a flat rate for every rateable business within the BID programme area. This method is used where there is little difference between the size of the businesses within the boundary or the likely benefits from the BID programme.

Hybrid rate method

The hybrid method involves setting a flat rate per business and then, above this amount, applying a proportional rate based on capital value.

This method is most appropriate where there are a large number of small businesses balanced by a smaller number of large businesses operating within the BID area. The advantage of this approach is that it evens out the impact of the targeted rate across all businesses and ensures the larger businesses pay a higher amount proportional to their value.

The hybrid rating method is often the preferred approach for a BID targeted rate.

Constitution of a legal entity

Before a BID can be set up, a legal entity to administer the BID must be established and registered. In many cases an incorporated society structure is used. The Council will not set a rate without evidence that the BID Association has been legally constituted and a constitution has been developed in consultation with the community. The Council should be consulted on the BID Association's constitution before registration.

Developing a list of owners and occupiers

A list must be compiled of owners and occupiers within the agreed boundaries of the BID. Businesses occupying, but not owning property, will need to be identified. The Council will assist in compiling property owner details. The list will form the basis of the voter register.

The following are not covered under this policy, will not be on the voter register and will not become liable for the targeted rate:

- private (non-business) residents

- properties owned by either local or central government (wholly or proportionally) including educational facilities, government offices and any property not attracting a commercial rate
- business owners who operate their businesses from residentially rated property within the BID
- business owners who give a business address which is a commercial property within the BID, but who do not physically run their businesses from that address (for example, businesses who use their accountant's address, or businesses who have mail delivered to a relative or friend running a business within the BID).

Those proposing the BID have the final decision over eligibility, in consultation with the Council.

New properties or redeveloped properties liable to pay the BID targeted rate and appearing in the BID area during any financial year will not be rated until the following financial year. These properties have the impact of redistributing the existing total BID targeted rate collected.

Creating the voter register – eligible voters

Those proposing a BID must contact every owner and occupier within the proposed district to determine who will be registered as a voter on the final voter register.

This policy is based on the principle of 'one person, one vote'.

If the owner and/or occupier is an individual, that person should be registered as the voter unless they nominate someone else to act on their behalf. All future communication from those proposing the BID or the eventual BID Association must be addressed to that nominated individual, unless the owner or occupier subsequently communicates a desire to nominate a different representative to the BID Association.

If the owner and/or occupier is not an individual, those proposing a BID must communicate with the owner's management and request the name of a nominated representative to register as a voter.

All registered voters automatically qualify to become members of the BID.

Once established, it is the responsibility of the BID to maintain and update the membership register.

POLLING IN A BUSINESS IMPROVEMENT DISTRICT

Types of polls

Those proposing a BID should consult with Council on the timing of BID voting. Polls must be completed in sufficient time so that they can be ratified by the Council and any changes included in the Annual Plan process (refer to section 7 of this policy).

BID polls must be run in the following circumstances.

Establishing a BID

A poll is held when the BID is being established to ensure that the rateable businesses within the district boundaries support the proposal.

Increasing or decreasing the boundary

A BID may be expanded to include adjoining areas not included in the original proposal.

Where the BID is to be expanded, the BID Association can apply to the Council for a list of property owners in the new area, and arrange for a poll to be conducted in the expansion area only. In the event of a BID boundary being reduced, a poll is conducted for the whole BID area because this change implies a reduction in budget for the whole programme.

Dissolving a BID programme

This may be called by the BID Association at any time, however the Council does not need a disestablishment poll to stop setting a targeted rate.

Informing voters

The BID Association must inform all registered voters of any poll and ensure voters are aware of the key issues to be decided. Such issues include, but are not limited to:

- the boundaries of the proposed BID
- the total budget and approximate targeted rate to be assessed
- the objectives of the BID strategic and business plans
- the contacts for those proposing the BID.

To achieve these aims, those proposing a BID must:

- advise and hold at least one information meeting, open to all interested parties, no less than 10 days before the poll closes
- place at least two advertisements about the poll in local newspapers, at least seven days apart, with the last advertisement a minimum of three days before the poll closes.

Additional methods may be used to inform eligible voters of the vote, such as face-to-face meetings, email, fax or newsletters.

Sending out the ballots

The Council will provide the services of its returning officer or recommend one for the group to use. The group will contact the returning officer as soon as the voter register has been finalised to enable the election service to begin preparing for the poll. Material prepared for the poll will include:

- a copy of the register of voters
- a copy of an easy-to-understand information sheet outlining the BID proposal
- a copy of a ballot form approved by the independent election service

APPENDIX 1

- a copy of a contact update form which includes the name of the nominated representative of the business
- boundary information if the poll includes an increase or decrease of the BID boundary area.

The Council's returning officer will send out an envelope including the information sheet, the ballot form, the contact update form and a prepaid return envelope.

The goals of the poll

It is a goal of the BID poll to achieve a 75% voting return from the eligible voters for that poll; and for 75% of those votes to be in favour of the proposition. (This majority must be by number of eligible voters voting in the poll, and those voting in favour must also represent the majority of rating valuation of those voting). This ensures that the vote has a high level of participation and has majority support by both larger and smaller entities within the district. The higher the level of the voting return achieved by the poll, the greater the level of assurance for the Council in any decision to support, or not support, a targeted rate.

Proxy and absentee voting

Proxy voting is not permitted for BID polls. Registered voters who will be absent from their registered addresses during the period of the poll, but who wish to vote, should provide a forwarding address to the BID.

Non-registered eligible voters

Those proposing a BID should attempt to ensure all eligible voters in a BID area are registered. In the event that an individual believes he or she is entitled to vote, but does not appear on the register of voters, the returning officer shall determine the status of the individual and whether a ballot should be issued to that individual.

Confirming the result

The independent election service will receive, count and verify all returned ballot papers. It will then report the result of the poll to those proposing the BID/Association and the Council.

Final decision on BID changes to be made by the Council

The final decision about whether to establish, extend, reduce or disestablish a BID shall be made by the Council because, under the Local Government (Rating) Act 2002, it is the Council alone which can set the targeted rate. In making that decision, the Council will take into account, but will not be bound by, the poll result.

ACCOUNTABILITY PROCESSES OF THE BID ASSOCIATION

The BID Association will be required to have processes in place to ensure that it can demonstrate accountability to the levy payers.

This will include having:

- an appropriate constitution including membership rights for any eligible voting business within the boundary area (and any associate membership types) and entitlements of the individual member
- meeting processes including for the initial annual general meeting following a successful establishment poll and subsequent annual general meetings
- processes for the appointment of any officers and Executive Committee and their rights and responsibilities
- processes for the development, approval and updating of the BID Association budget, strategic and business plans, and performance measures.

The Council must be advised of any changes to the constitution and the contact details of elected officers and committee members.

THE RELATIONSHIP WITH THE COUNCIL

Applying for the targeted rate

Once confirmation of legal incorporation has been received, the BID Association can apply to the Council for a targeted rate. The BID Association must present the following information to the Council:

- evidence of a mandate
- evidence of incorporation
- the agreed BID boundaries
- the budget that has been ratified at the AGM
- the business plan that has been ratified at the AGM.

Any payment to the BID Association from the targeted rate will be by a conditional BID Funding Grant under the Local Government Act 2002. Consistent with the Local Government Act 2002, the grant must be separately accounted for in the BID Association's financial records. The funding generated from any BID targeted rate will be paid to the BID Association after the end of each financial quarter.

Council – Executive Committee relationship

The BID Association and the Council will at all times communicate with each other in such a way as to most effectively further the strategic objectives of the stakeholders and to protect and enhance the partnership relationship between the BID Association and the Council.

The Council's Annual Plan and budget process provides a mechanism for reviewing BID budgets and existing programme boundaries. In order for the Council to change the targeted rate, the Executive Committee must submit a detailed programme, budget and performance reports.

By the end of November each year, the Executive Committee must provide the Council with the following information:

- a copy of the audited accounts and annual report for the previous financial year (including statements that the association has acted in compliance with its constitution and all other relevant laws and regulations)
- any proposed changes to the boundaries.

In January each year, the Executive Committee must provide the Council with a detailed programme and budget for the period 1 July to 30 June (the next financial year).

Council review

In the Council's planning processes, it will review the performance of the BID against the stated strategic and business plans, KPIs, audited accounts and any reporting.

Where the Council has concerns with the progress or success of a BID, the targeted rate may be withheld until specific improvements or alterations have been made to business, communication or strategic plans, or implementation processes.

In accordance with the provisions of the Local Government Act 2002 and the Local Government (Rating) Act 2002, the Council will make the final decisions on what targeted rate, if any, to set in any particular year (in terms of the amount and the geographic area to be rated).

The Council may initiate a review of all or any particular BID programme outside the annual and three-yearly reviews. Such a review will be funded through general rates.

BID Performance Survey

The Council may commission a BID performance survey. The results of the survey will be used to analyse the performance of individual BIDs as well as the success of the BID programme on a citywide basis.

The survey process and delivery will be formulated in collaboration with all of the BID programmes to ensure a high rate of return and clarity of objectives. An approach of continuous improvement will be used for the survey to ensure that latest technology and best-practice methods are considered and used where possible.

The cost of the survey will be funded proportionally (based on BID programme budgets) by the city's BIDs through the targeted rate.

The primary focus of the survey will be on the business community's perception of the effectiveness of the BID programme in each district. The survey will cover such aspects of the BID programme as: overall satisfaction; the ability of eligible voters to influence the programme; the results achieved; the communication processes used; and other such matters agreed between the Council and the associations administering BID programmes.

DISPUTE RESOLUTION

Resolution between the Council and the BID Association

Any decisions about whether or not to set a targeted rate, the amount of that rate, to provide for an additional rate or alter the boundaries of the area subject to the rate, and whether or not to establish, disestablish, reduce or extend the

BID, are within the discretion of the Council to make as part of its annual funding and rating decision-making process.

Any other disputes between the BID Association and the Council will be settled in accordance with the following procedure:

- Having exhausted normal means of resolving a dispute or difference (by engaging in a process of good faith negotiation and information exchange), either party may give written notice specifying the nature of the dispute and its intention to refer such dispute or difference to mediation.
- If a request to mediate is made then the party making the request will invite the chairperson of the New Zealand Chapter of Lawyers Engaged in Alternative Dispute Resolution (LEADR) to appoint a mediator to enable the parties to settle the dispute.
- All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The parties will bear their own costs in the mediation and will equally share the mediator's costs.
- If the dispute is not resolved within 30 days after appointment of a mediator by LEADR, any party may then invoke the following provisions:
- The dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996.
- The award in the arbitration will be final and binding on the parties.
-

Resolution between owners and BID Associations

Disputes between owners or their nominated representatives (ONR) and the BID Associations will be settled in accordance with the following procedure:

- Unless matters can be resolved quickly and informally, ONR are obliged to bring their concerns to the attention of the BID Association's Executive Committee in writing. An initial written response is required within seven working days, outlining the manner and the timeframe in which the concerns will be addressed. The Council as major fund provider should be made aware of any such issues.
- Having exhausted reasonable means of resolving the dispute, the BID Association may approach the New Zealand Chapter of Lawyers Engaged in Alternative Dispute Resolution (LEADR) to appoint a mediator to enable the parties to settle the dispute. All discussions in the mediation will be without prejudice and will not be referred to in any later proceedings. The parties will bear their own costs in the mediation and will equally share the mediator's costs.
- If the dispute is not resolved within a further 30 days after appointment of a mediator by LEADR, any party may then invoke the following provisions:
- The dispute will be referred to arbitration by a sole arbitrator in accordance with the Arbitration Act 1996.
- The award in the arbitration will be final and binding on the parties.

COUNCIL
27 MARCH 2013



REPORT ON PROPOSED AMENDMENTS TO THE WELLINGTON CITY COUNCIL CONSOLIDATED BYLAW 2012 PART8: WATER SERVICES

1. Purpose of report

The purpose of this report is to present to the Council the Statement of Proposal as required under the Local Government Act 2002 (LGA 2002) before amendments to a Bylaw can be made.

This statement of proposal has been prepared following the resolution made by the Strategy and Policy Committee on 7 March 2013 that stated:

“THAT the Strategy and Policy Committee:

“Agree to a review of section 8.3 of the Water Services Bylaw 2012 which would have the intent of passing the delegations of imposing water restrictions from the Council to the Chief Executive as and when required” and,

“Recommend that Council consult on a change to the Bylaw to be considered at the 27 March 2013 Council meeting that the current wording of clause 8.3 of the Water Services Bylaw 2012 does not allow for an appropriate operational response to manage high seasonal or other demands”

2. Executive summary

Wellington City Council uses a variety of demand management tools to protect the security of supply enjoyed by the city’s residents and businesses.

There are a number of mechanisms which support the demand management of our water resource across the city and region. These currently include;

- Informal year round garden watering restrictions
- Active leak detection programmes
- Annual maintenance and renewals programmes

The above activities are augmented with the adoption of a formal water conservation programme that is focussed on the Council’s residential and water commercial consumption.

The use of short term demand management tools, usually in the form of outside use restrictions, is entrenched in water supply management practices around the world.

In extended periods of warmer and drier weather, the Council needs to be in a position to respond quickly to changing demand patterns and supply capabilities in line with the other territorial authorities that rely on the region's bulk water supply.

The summer of 2013 has highlighted deficiencies in the wording of the Water Services Bylaw that can be best addressed through the amendments contained in the attached statement of proposal.

The recommendations contained within this paper will enable Council to respond quickly to changing water demand issues. This will also provide the Council and community with the confidence that the security of its water supply is being managed to accommodate all circumstances.

3. Recommendations

Officers recommend that the Council:

- 1. Receive the information.*
- 2. Agree to the proposed amendments to Water Services Bylaw (attached as Appendix 1) introducing increased powers for the Council to regulate water use.*
- 3. Agree to adopt the Statement of Proposal attached and undertake the special consultative procedures in the LGA 2002 as part of the Draft Annual Plan consultation.*
- 4. Instruct Officers to report to the Strategy and Policy Committee the outcomes from the special consultative process along with any subsequent additional amendments to the draft Bylaw no later than 1 August 2013*
- 5. Delegate to the Chief Executive Officer and Three Waters and Waste Portfolio Leader the authority to include any amendments agreed by the Council and any associated minor consequential edits.*

4. Background

Wellington's regional drinking water network, as a "run of river" supply, is vulnerable to prolonged warm and dry periods. The seismic strengthening and upsizing of one of the Stuart Macaskill lakes has exasperated the situation this summer with limited storage available to provide the normal security of supply.

The use of limited garden watering restrictions has been the region's preferred practice for addressing short-term demand concerns with an option for escalating the restrictions as required.

Although never formalised in policy the use of garden water sprinkler hours was aligned in 2009¹ to reflect garden watering on alternate days (depending on the property street number) between the hours of 6am-8am and 7pm-9pm.

The extended period of dry and warm weather has identified the need for three minor changes to be made to the Water Services Bylaw. These are presented and discussed following

5. Discussion

The escalation of watering restrictions is considered within the Council to be a short-term demand management tool that is used alongside the demand management programmes of active leak detection, renewals, maintenance programmes and conservation programmes during high demand periods.

The regional approach for demand management over summer or high demand periods sees joint advertising across the four City Councils, coordinated by Greater Wellington Regional Council's bulk water division. All decisions are based on current supply conditions (river flows, aquifer levels and storage lake levels) against long-term NIWA weather forecasting.

This is a risk based approach that is based on the region's ability to meet its agreed water supply level of service.

The proposed amendments to the Water Services Bylaw are recommended to allow seamless transition into summer watering restrictions when required, and allow for:

- the Council, and the public, to plan and/or prepare for increased levels of water use restriction; and;
- via authority delegated to the Chief Executive Officer quickly respond to high demand or reduced supply capability situations.

5.1 Amendment One

Wellington has operated, albeit informally of late, year round garden watering restrictions.

The proposed amendment to the Water Services Bylaw will formalise these arrangements to be applicable in conjunction with the official period of daylight savings.

Amendment 1, which affects clause 6.1 of the Bylaw, is:

Clause 6.1

"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) During the official period of daylight savings garden and lawn watering by sprinkler, irrigation or watering system, or a**

¹ Strategy and Policy Committee, 6 August 2009

single unattended hose can be used only from 6-8am and 7-9pm on alternate days; even-numbered houses on even-numbered days and un-even (odd) numbered house on uneven (odd) numbered days

This arrangement would be in effect during the official periods of daylight savings as stipulated and advertised by the Department of Internal Affairs. Outside of the official period of daylight savings no restrictions would normally be in place².

The use of alternate days for the watering of gardens and/or lawns reduces the demand for water during the traditionally warmer and drier months covered by daylight savings. By introducing them at a fixed, regular and well recognised date we seek to reduce any confusion or misunderstandings as to what water supply demand management practices and policies are in place.

Should property owners or occupants wish to water outside the dates and hours prescribed in section 6.1 of the Bylaw the Council recommends the use of a rainwater tank to enable the collection of rainwater for garden watering³.

5.2 Amendment Two

Amendment Two introduces the use of authority delegated to the Chief Executive Officer to impose additional level of restriction to the City's water usages.

The amendment, which also affects section 8.3 of the Bylaw, provides for the introduction of a "Schedule of Water Use Restrictions" that the Council, via the Chief Executive Officer, may impose during times of high demand or reduced supply capability.

5.2 Amendment Three

The format for increased controls or restrictions on outside water use sees a gradual increase as per the schedule described below.

Amendment Three, which also affects section 8.3 of the Bylaw, provides for the mechanism through which the Chief Executive Officer may impose water use restrictions and notify them to Council and the public during times of high demand or reduced supply capability.

It is proposed that Clause 8.3 is amended (additional text in bold) to read:

"The customer shall comply with any restrictions which may be approved by the Council to manage high seasonal or other demands. Any restriction or prohibition, **as contained in Schedule One**, will be imposed by **authority**

² If high demand or circumstances that affected the water supply required the use of restrictions outside the official period of daylight savings they would be imposed as per Schedule One of the Water services Bylaw.

³ Rainwater tanks are subject to the provisions of the Building Consents process if they exceed the dimensions contained in the Building Code or are plumbed to the property's internal or external reticulation system.

delegated to the Chief Executive Officer resolution and will be **advised to Council and** publicly notified”

“Schedule One” of the Water Services Bylaw read as follows:

Water Service Bylaw 20012: Schedule of Water Use Restrictions

Clause 8.3 and 8.4 require that:

- 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, as contained in Schedule One, will be imposed by authority delegated to the Chief Executive Officer and will be advised to Council and publicly notified.
- 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.

The Schedule of Water Use Restrictions (Level One to Five inclusive) that may be imposed by Wellington City Council through the authority delegated to the Chief Executive Officer is as follows.

Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

1. Base Level (provides for)

Alternate day garden watering allowances and hand held hose use during the official period of daylight savings. The allowances are

- “During the official period of daylight savings garden and lawn watering by sprinkler, irrigation or watering system, or a single unattended hose can be used only from 6-8am and 7-9pm on alternate days; even-numbered houses on even-numbered days and un-even (odd) numbered house on uneven (odd) numbered days.”
- “Hand held hose and watering cans/buckets can be used at any time”.

2. Level One (provides for)

Base Level restrictions (i.e. Alternate day garden watering allowances and hand held hose use during the official period of daylight savings)

- Water Patrols (providing advice on allowed watering hours)
- Joint advertising across Councils

3. Level Two (provides for)

Base Level and Level One, plus,

- Increased advertising
- Increased use of water patrols

4. Level Three (provides for)

Level Two, plus,

- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on garden sprinklers and unattended irrigation systems (watering only by hand)

5. Level Four (provides for)

Level Three, plus,

- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on domestic hose use (watering-can/bucket use only)

6. Level Five (provides for)

Level Four, plus,

- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all outdoor water use (other than for emergencies)
- Increased advertising provides for increased frequency and urgency within the message

7. Level Six (provides for)

Level Five, plus,

- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all non-essential water use (emergency use only).

8. Level Seven (provides for)

Level Six, plus,

- Increased advertising (restrictions/leak reporting) and water patrols
- Life sustaining and emergency water use only

Note that Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

It is important to note that there are no intentions, or provisions proposed, outside of the declaration of a state of local emergency that would allow controls or restrictions on anything other than outdoor consumption.

It is also important to note that businesses that rely on water in their daily operations may be given a conditional or temporary exemption under Level Five if the ban is likely to impact their business significantly.

It is possible however that this could fall under the insurance cover of many businesses.

5.5 Consultation and Engagement

A Statement of Proposal is attached to this report. Public consultation on the proposed amendments to the Water Services Bylaw is recommended to be undertaken alongside public consultation for the 2013 draft Annual Plan.

5.6 Financial considerations

There are no financial implications for Council requiring consideration.

5.7 Climate change impacts and considerations

The anticipated effects of climate change on water supply demand management have been factored into Council's strategic planning, Asset Management Plans and supporting documents.

The recommendations contained within this paper support the approach of demand management to mitigate the effects of climate change on the City's water supply requirements.

5.8 Long-term plan considerations

Water conservation is an ingrained theme within the Environment section of the Long-Term Plan. There are no impacts for the Long-Term Plan requiring consideration.

6. Conclusion

In order to maintain an appropriate level of readiness in dealing with increased demand and reduced supply, it is important that Council is able to respond promptly alongside the other Councils that rely on the region's bulk water supply network.

The mechanisms offered within this report and the proposed amendments to the Water Services Bylaw deal with the short-term water restriction issues that arose during the 2013 summer and will also provide a solution to what has now been identified as a long-term issue if not rectified.

Contact Officer: *Paul Glennie, Strategic Policy Analyst, Capacity Infrastructure Services Ltd and Anthony Wilson, Chief Asset Officer, Wellington City Council.*

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

The recommendations contained in this paper support the strategic direction of the Eco City strategy and the Living City policy. The use of year round garden watering restrictions is also inherent with the strategic goals of the Council's "Water Conservation and Efficiency Plan".

2) LTP/Annual Plan reference and long term financial impact

There are no impacts on the Long-Term or Annual Plan nor are there financial implications.

3) Treaty of Waitangi considerations

The recommendations contained in this paper are consistent with Treaty of Waitangi principles and considerations.

4) Decision-making

This is not a significant decision – the report identifies and corrects an administrative oversight with no discernible negative effects being placed on an individual or the community.

5) Consultation

(a) General consultation

No consultation with the public was carried out on the matters or recommendations contained in this report.

(b) Consultation with Maori

No consultation with Mana whenua was carried out on the matters or recommendations contained in this report.

6) Legal implications

There are no legal implications arising from the recommendations contained within this report.

7) Consistency with existing policy

This report is considered to be consistent with existing Council policies.

Appendix One

PROPOSED AMENDMENTS TO THE WELLINGTON CITY COUNCIL CONSOLIDATED BYLAW 2012 PART 8: WATER SERVICES

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 2012 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.

APPENDIX 2

"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.

"Extra-ordinary Supply" is a category of on demand supply for which water is supplied for purposes other than that of an ordinary supply and which may be subject to specific limitations, terms and conditions.

"Extra-ordinary Use" means the use of water for purposes other than ordinary domestic use. These uses include, but are not limited to:

- (i) domestic spa and swimming pools in excess of 10 cubic metres capacity and fixed garden irrigation systems;
- (ii) fire protection systems, other than sprinkler systems installed to comply with NZS4517, which have prior approval of Council; or
- (iii) 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 Domestic Use" means the use of water solely for domestic purposes in a dwelling and subject to clause 8.3. This use 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.

APPENDIX 2

"Non-Domestic Use" means the use of water for purposes other than ordinary domestic use. These include, but are not limited to:

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

"Point of Supply" - the point on the service 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.

"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; 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 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.

APPENDIX 2

"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 install a meter on the supply to an "Ordinary Domestic Use" to a customer's property. This includes, but is not limited to:

- Known leaks that remain unrepaired
- Where excessive usage is being investigated
- Where water is being wasted.

"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 Meter" means the approved device fitted to a service to determine the volume of water passing through that point.

"Water Supply Area" means any property or allotment serviced by reticulated water supply.

"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.

"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.

"Water Unit" means the basis of measurement for a restricted flow supply and equals to a volume of 365 m³ delivered at the rate of 1 m³ 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 for the Council approved contractor to complete the work 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 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 the Water Supply Connection Standards 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. Ordinary supply

6.1 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) During the official periods of Daylight Savings garden and lawn watering by sprinkler, irrigation or watering system, or a single unattended hose can be used only from 6-8am and 7-9pm on alternate days; even-numbered houses on even-numbered days and un-even (odd) numbered houses on uneven (odd) numbered days;
- (c) the exclusion of its use under any restrictions imposed by the Council under clause 8.3 of this Bylaw;
- (d) payment of any prescribed charges in respect of the premises;
- (e) compliance with the terms and conditions of this Bylaw or contained within any Council approval;

- (f) payment of any other charges or costs associated with sub-divisional development; and
- (g) Council reserving the right in “special circumstances” to:
 - (i) install an approved water meter; or
 - (ii) install a flow restrictor.

Extra-ordinary Supply

6.3 The Council is under no obligation to provide an extra-ordinary 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, as contained in Schedule One, will be imposed by authority delegated to the Chief Executive Officer and will be advised to Council and publicly notified.
- 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 (including natural hazards such as floods, drought or earthquake) this may 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. 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

- 8.7** 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

- 8.8** 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

APPENDIX 2

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.
- 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

APPENDIX 2

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 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** Failing to comply with 10.3 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** "Ordinary Domestic Use" is not required by the Council to be metered unless the provisions of clause 6.1(f) are in place.
- 11.2** "Non-Domestic Use" 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
- 11.3** All extra-ordinary 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.
- 11.4** Restrictors for restricted flow supplies, shall be supplied, installed and maintained by the Council and shall remain the property of the Council.
- 11.5** In "Special Circumstances", subject to Clause 6.1(f), where known water wastage remains unresolved, subject to the 'Special Circumstances Water Service Bylaw Procedure' establishing water wastage, a metered supply shall pay any prescribed fee and any fee in relation to that supply.

- 11.6** 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 Connection Standards and all costs associated with test shall be paid for by the customer.
- 11.7** 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.
- 11.8** If the customer suspects that the meter has been tampered with the Council should be notified immediately.
- 11.9** 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.

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 ongoing 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.

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
- (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 as advice 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.

Schedule of Water Use Restrictions

Clause 8.3 and 8.4 require that:

- 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, as contained in Schedule One, will be imposed by authority delegated to the Chief Executive Officer and will be advised to Council and publicly notified.
- 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.

The Schedule of Water Use Restrictions (Level One to Five inclusive) that may be imposed by Wellington City Council through the authority delegated to the Chief Executive Officer is as follows.

Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

Level One (provides for):

- Daylight Savings alternate day garden watering allowances and hand held hose use
- Water Patrols (providing advice on allowed watering hours)
- Joint advertising across Councils

Level Two (provides for):

- Base Level and Level One, plus,
- Increased advertising
- Increased use of water patrols

Level Three (provides for):

- Level Two, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on garden sprinklers and unattended irrigation systems (watering only by hand)

APPENDIX 2

Level Four (provides for):

- Level Three, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on domestic hose use (watering-can/bucket use only)

Level Five (provides for):

- Level Four, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all outdoor water use (other than for emergencies)

Level Six (provides for):

- Level Five, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all non-essential water use (emergency use only)

Level Seven (provides for):

- Level Six, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Life sustaining and emergency water use only.

APPENDIX 2

Wellington City Council Consolidated Bylaw 2012

Part 8: Water Services Bylaw

Bylaw Amendment Statement of Proposal for Consultation

March 2013

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Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

1) Background

The Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services (the Bylaw) provides for the delivery of a safe and reliable drinking water supply to Wellington City's residents and businesses. It explains how a water supply connection can be applied for and/or terminated, the associated responsibilities of the Council and the water supply recipient in managing that supply and, among other criteria, details relating to the maintenance of a water supply.

The Bylaw was adopted by Wellington City Council (the Council) in April 2012 pursuant to Part 8 of the Local Government Act 2002 (LGA 2002) which 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. A bylaw covering these matters is needed to address perceived problems that are not effectively controlled by statute or regulation.

The proposed amendment to the Bylaw covered by this Statement of Proposal introduces three changes to the Bylaw's current provisions. They are detailed in part 4 of this document but in general will:

- a) Formalise the use of alternate days watering restrictions for garden and lawn sprinklers, irrigation systems and unattended hoses based on the property's street address for the official period of daylight savings, and,
- b) Delegate to the Chief Executive Officer the power to increase the applicable level of restriction in times of high demand or reduced supply capability.
- c) Introduce a schedule of water-use restrictions that may be imposed by the Chief Executive Officer in periods of high demand or reduced supply capability.

The proposed changes have been recently highlighted as an operational shortcoming in the wording of the Bylaw in its current format.

The changes will enable the Council to:

- a) Maintain a consistent approach to the application of garden and lawn-watering restrictions relevant to community outcomes, water conservation and efficiency policies and the approaches adopted by other City Councils¹ across the region.
- b) More appropriately approach the enforcement of any watering restriction put into effect by the Council during periods of high demand or reduced supply capability without solely relying on the water wastage provisions of the LGA 2002².

¹ Hutt, Porirua and Upper Hutt City Councils

² Local Government Act 2002, sections 192 and 224

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- c) Respond promptly to demand or supply issues (whether related to drought or other weather conditions, disaster or supply interruptions) subject to the provisions of the Bylaw.

2) Amending a Bylaw process

The LGA 2002 requires that an amendment to a bylaw can only be undertaken if the special consultative process is followed. The processes contained with the LGA 2002 in relation to consulting with the community on an amendment to a bylaw are, generally speaking, as follows:

- a) prepare a proposal for amending the Water Services Bylaw;
- b) prepare a draft bylaw with the amendments included;
- c) Council approves, or requests alterations prior to the public notification of the Statement of Proposal and the release of the draft amended Water Services Bylaw for consultation and submissions as part of the 2013 Draft Annual Plan process;
- d) publicly notify the Statement of Proposal and draft amended Water Services Bylaw;
- e) make the draft amended Water Services Bylaw available for public inspection and distribute the Proposal (summary of information) document;
- f) receive submissions on the draft Water Services Bylaw and hold Council hearings;
- g) Council reviews submissions received and applies as appropriate;
- h) Council to formally adopt the revised Water Services Bylaw;
- i) public notification of the new Water Services Bylaw.

3) The 'problem'

During the recent period of extended dry and warm weather it came to the Council's attention that the implementation of water-use restrictions was not specifically addressed in the Water Services Bylaw. This materialised as an issue when it became apparent the Council's ability to respond to high demand or reduced supply capability was insufficient to meet the risk.

This situation and the provision in the old Bylaw where "any restriction or prohibition will be imposed by resolution and will be publicly notified,"³ in the Council's opinion, requires an improved responsiveness in managing the city's water use during a period of high demand or reduced supply.

The proposed amendments to the Bylaw enable the Council to respond to a range of potential threats to the city's water supply in a consistent, equitable and timely manner.

a) Most appropriate way to address the problem

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

³ Wellington City Council Consolidated Bylaw 2012 Part 8: Water Service, clause 8.3

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

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 frequently the first step in communicating policy and practices to members of the public in order to encourage 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.

Other regulatory options

In establishing the proposed amendments to the Bylaw the Council concluded that the existing provisions of the Bylaw are inadequate to address the problems associated with ensuring an adequate supply is available during periods of high demand or reduced supply. This means the Bylaw in its existing format cannot adequately provide for the protection of public health and the security of the public water supply.

The proposed amendments to Bylaw address these matters and provide the Council with improved mechanisms to deal with the issues outlined above.

Summary

Although other regulatory and non-regulatory measures may assist in managing the problem, the Council does not consider that these 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.

b) Most appropriate form of Bylaw

The proposed amendments to the Bylaw address the problem by enabling the Council to:

- i) Maintain a consistent approach to the application of garden and lawn watering restrictions relevant to community outcomes, water conservation and efficiency policies and the approaches adopted by other councils across the region.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- ii) More appropriately approach the enforcement of any watering restriction put into effect by the Council during periods of high demand or reduced supply capability without solely relying on the water wastage provisions of the LGA 2002⁴.
- iii) Respond promptly to demand or supply issues (whether related to drought or other weather conditions, disaster or supply interruptions) subject to the provisions of the Bylaw.

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 amendments to the Bylaw are 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.

c) Implications under the Bill of Rights Act 1990

Section 155(2)(b) of the LGA 2002 requires the Council to determine whether the proposed amendments to the Bylaw give 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.

4) Proposed changes to the Bylaw

The proposed changes to the bylaw are consistent with the operational approaches used by the four city councils during the period of low supply in February and March 2013.

This section outlines in detail the proposed amendments to the Bylaw. In each case any amendment resulting in additional text is shown in **red**. Any deletions to the existing text are shown in **blue and crossed out** (~~blue and crossed out~~).

Amendment 1

Amendment 1, which affects clause 6.1 of the Bylaw, is:

Clause 6.1

⁴ Local Government Act 2002, sections 192 and 224

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

“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) During the official period of daylight savings, garden and lawn watering by sprinkler, irrigation or watering system, or a single unattended hose can be done only from 6–8am and 7–9pm on alternate days; even-numbered houses on even-numbered days and uneven (odd) numbered house on uneven (odd) numbered days;**
- c) the exclusion of its use under any restrictions imposed by the Council under clause 8.3 of this Bylaw;
- d) payment of any prescribed charges in respect of the premises;
- e) compliance with the terms and conditions of this Bylaw or contained within any Council approval;
- f) payment of any other charges or costs associated with sub-divisional development; and
- g) Council reserving the right in "special circumstances" to:
 - i) install an approved water meter; or
 - ii) install a flow restrictor”

This amendment will see the use of alternate days for garden and lawn watering by sprinkler, irrigation system or unattended hoses depending on the property's street number for the official period of daylight savings.

Residential property owners and occupiers will be able to water their lawn and/or garden with a sprinkler, irrigation system or unattended hose during the times of 6am–8am and 7pm–9pm on alternate days.

During any period of restriction, unless otherwise stipulated, the use of hand-held hoses will be allowed.

Under this arrangement properties that have an even street number are able to water during the prescribed hours on days of the month that have an even number. Properties that have an uneven (odd) numbered street address may water on alternate days of the month with an uneven (odd) number.

This arrangement would be in effect during the official periods of daylight savings as stipulated and advertised by the Department of Internal Affairs. Outside of the official period of daylight savings, no restrictions would normally be in place⁵.

⁵ If high demand or circumstances that affected the water supply required the use of restrictions outside the official period of daylight savings they would be imposed as per the requirements of the Bylaw.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

The use of alternate days for the watering of gardens and/or lawns reduces the demand for water during the traditionally warmer and drier months covered by daylight savings. By introducing them at a fixed, regular and well recognised date we seek to reduce any confusion or misunderstanding about what water supply demand-management practices and policies are in place.

Should property owners or occupants wish to water outside the dates and hours prescribed in section 6.1 of the Bylaw, the Council recommends the use of a rainwater tank to enable the collection of rainwater for garden watering⁶.

Amendment 2

Amendment 2 affects section 8.3 of the Bylaw, and is:

Clause 8.3

“The customer shall comply with any restrictions which may be approved by the Council to manage high seasonal or other demands. Any restriction or prohibition, **as contained in Schedule One**, will be imposed by **authority delegated to the Chief Executive Officer resolution** and will be **advised to Council and** publicly notified”

This amendment will enable the Council via the CEO to respond promptly to situations that may affect the Council’s ability to manage the city’s water demands without the use of some form of water-use restriction.

The delegated authority will enable the CEO to impose restrictions according to the levels contained in the schedule of water-use restrictions introduced by Amendment 3. The schedule allows for a level of transparency in the application of restrictions across the city and provides for normal use requirements, such as the alternate day arrangements particular to the official period of daylight savings, up to and including a ban on outdoor water use.

It is important that the Council is able to react in a similar way to impending threats to the water supply whether brought about by high demand or a reduction in supply capability.

Should circumstances require the CEO to impose restrictions within the city boundaries they will be advised to the Council and publicly notified beforehand or, if that is not possible, as soon as practicable.

Amendment 3

⁶ Rainwater tanks are subject to the provisions of the Building Consents process if they exceed the dimensions contained in the Building Code or are plumbed to the property’s internal or external reticulation system.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

Amendment 3, which affects section 8.3 of the Bylaw, provides for the introduction of a “Schedule of Water Use Restrictions” that the Council, via the Chief Executive Officer, may impose during times of high demand or reduced supply capability.

The schedule will read as follows.

“Water Service Bylaw 2012: Schedule of Water Use Restrictions

Clause 8.3 and 8.4 require that:

- 8.3** The customer shall comply with any restrictions which may be approved by the Council to manage high seasonal or other demands. Any restriction or prohibition, as contained in Schedule One, will be imposed by authority delegated to the Chief Executive Officer and will be advised to the Council and publicly notified.
- 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.

The Schedule of Water Use Restrictions (Level One to Five, inclusive) that may be imposed by Wellington City Council through the authority delegated to the Chief Executive Officer is as follows.

Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

Level One (provides for):

Daylight Savings alternate day garden watering allowances and hand-held hose use
Water Patrols (providing advice on allowed watering hours)
Joint advertising across Councils

Level Two (provides for):

Base Level and Level One, plus,
Increased advertising
Increased use of water patrols

Level Three (provides for):

Level Two, plus,
Increased advertising (restrictions/leak reporting) and water patrols
Ban on garden sprinklers and unattended irrigation systems (watering only by hand)

Level Four (provides for):

Level Three, plus,

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

Increased advertising (restrictions/leak reporting) and water patrols

Ban on domestic hose use (watering-can/bucket use only)

Level Five (provides for):

Level Four, plus,

Increased advertising (restrictions/leak reporting) and water patrols

Ban on all outdoor water use (other than for emergencies)”

Level Six (provides for):

Level Five, plus,

Increased advertising (restrictions/leak reporting) and water patrols

Ban on all non-essential water use (emergency use only)

Level Seven (provides for):

Level Six, plus,

Increased advertising (restrictions/leak reporting) and water patrols

Life-sustaining and emergency water use only.

Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

It is important to note that there are no intentions, or provisions proposed, outside of the declaration of a state of local emergency, that would allow controls or restrictions on anything other than outdoor consumption.

It is also important to note that businesses that rely on water in their daily operations may be given a conditional or temporary exemption under Level Five if the ban is likely to impact their business significantly.

It is possible however that this could fall under the insurance cover of many businesses.

High demand usually arises from extended periods of warm and dry weather. This can result in increased outdoor watering especially in relation to the maintenance of parks, gardens and lawns. Increased use of swimming and paddling pools can also result in more water being used.

Due to the accumulative nature of water demand issues related to periods of dry and warm weather it is important that non-essential use is managed appropriately.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

From a supply capability perspective, it is also likely that supply will be affected by extended periods of warm and dry weather. This usually results in reduced river flows which in turn reduce the volume of water that is available for treatment prior to distributing it as drinking water.

Supply capability may also be affected by disaster, a prolonged fire season (also usually a result of an extended warm and dry period), asset failure or bulk water contamination. All of these possible ingredients are managed through the Council's risk-management process. It is however prudent to make contingencies in order to effectively manage the city's water supply assets and security of supply.

Creating this schedule of water-use restriction levels enables the Chief Executive Officer to put into effect the transition from the base level of no restrictions or daylight saving alternate days to a higher level with relative ease.

5) Having your say

Wellington City Council would like to hear your views on the proposed amendments to the Water Services Bylaw – the current Water Service Bylaw (2012) can be downloaded from our website.

A full copy of the draft bylaw is either provided with this information package, available upon request from Capacity Infrastructure Services Ltd (at no charge), or can be downloaded from the Wellington City Council website.

Any person interested in the bylaws may make submissions to Wellington City Council. Submissions can be made using the online form at Wellington.govt.nz, or you can fax a submission to 04 910 3810 or email it to info@capacity.net.nz

Alternatively you may send your submission, using the attached form to the following address:

Chief Asset Officer (Water Services Bylaw Amendment),
Wellington City Council
Freepost
P.O Box 2199
Wellington.

Submissions close at on Thursday 16 May **2013**.

If you wish to present your submission in person, the Council will hear all submitters who request to be heard. The hearing date(s) have yet to be fixed but probably the hearing will be on during June 2013 at the Wellington City Council building at 101 Wakefield Street. The number and location of hearing days will depend on the number of submitters who wish to be heard.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

For further copies of this Statement of Proposal and draft Bylaw, please contact **Capacity Infrastructure Services Ltd** on **04 910 3800**. All of the documents may also be downloaded from Wellington.govt.nz

If you have any further queries, you can contact Paul Glennie on 04 910 3833.

Included in this document are the following:

- a. A copy of the public notice advising people of the proposal for draft Bylaw
- b. A submission form for commenting on the draft Bylaws.
- c. A copy of the draft Water Services Bylaw containing the proposed amendments

Written submissions open on 16 April 2013 and close at 5pm on 16 May 2013

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

6) How to make a submission

The document to make submissions on is the 'Draft Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services'. Please note that a list and description of the proposed amendments is included in the Statement of Proposal (summary) document. It is these changes which should be the primary subject of any submission that you may wish to make; however you can make a submission on any matter or provision in the draft bylaws.

If you wish to suggest changes to the Water Services Bylaw which are not listed in the Statement of Proposal document, it would be helpful if you could provide as much supporting information as possible in your submission.

Any person may make a written submission on the content of the draft Water Services Bylaw.

Submissions must be in writing and should be in the format shown in the detachable submission form following this page. This form is intended as a guide only, but is suitable for brief submissions. Please attach any additional pages as necessary.

In addition, if you wish to present your comments in person, the Council will hear verbal submissions. The hearing date(s) have yet to be fixed but probably the hearing will be on **XX July 2013** at the Wellington City Council building, 101 Wakefield Street.

This is an opportunity for the Council to consider public views before a decision is made. There will be no right to appeal once the decisions have been made.

Please note that written submissions are to be **received** by Wellington City Council by **5pm** on **Friday, XX July 2013**.

Submissions can be: **Posted to:** Chief Asset Officer
Water Services Bylaw Amendment
Wellington City Council
Freepost
PO Box 2199
WELLINGTON

Faxed to: 04 910 3810 (Attn: Paul Glennie)

Delivered to: Wellington City Council
Attn: Chief Asset Officer
101 Wakefield Street
Wellington

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

Emailed to: Info@capacity.net.nz

Appendix 1.

PROPOSED AMENDMENTS TO THE 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 and amended

From (date) the consolidated bylaw shown in Schedule 1 (Wellington City Council Bylaw 2012 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.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

‘Council Approved Contractors’ are contractors approved in writing by the 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 for which water is supplied for purposes other than that of an 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 domestic use. These uses include, but are not limited to:

- (i) domestic spa and swimming pools in excess of 10 cubic metres capacity and fixed garden-irrigation systems;
- (ii) fire protection systems, other than sprinkler systems installed to comply with NZS4517, which have prior approval of the Council; or
- (iii) temporary supply.

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

‘On Demand Supply’ is 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 Domestic Use’ means the use of water solely for domestic purposes in a dwelling and subject to clause 8.3. This use 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.

‘Non-Domestic Use’ means the use of water for purposes other than ordinary domestic use. These include, but are not limited to:

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

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

'Point of Supply' – the point on the service 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.

'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; 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 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 install a meter on the supply to an 'Ordinary Domestic Use' to a customer's property. This includes, but is not limited to:

- Known leaks that remain unrepaired
- Where excessive usage is being investigated
- Where water is being wasted.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

‘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 Meter’ means an approved device fitted to a service to determine the volume of water passing through that point.

‘Water Supply Area’ means any property or allotment serviced by reticulated water supply.

‘Water Supply Connection Standards’ – a public document detailing the standards required for water supply connections, available on the Council's website.

‘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.

‘Water Unit’ is the basis of measurement for a restricted flow supply – equal to a volume of 365 m³ delivered at the rate of 1 m³ 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.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- 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 for the Council-approved contractor to complete the work and provide to the Council with 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 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 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 the Water Supply Connection Standards 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

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- 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 their side of the point of supply, as directed by the Council.
- 5.2** The Council gives no guarantee as to the serviceability of the service valve (toby/manifold) located on the service pipe.

6. Ordinary supply

- 6.1** 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) During the official periods of Daylight Savings garden and lawn-watering by sprinkler, irrigation or watering system, or a single unattended hose can be used only from 6–8am and 7–9pm on alternate days; even-numbered houses on even-numbered days and uneven (odd) numbered houses on uneven (odd) numbered days;
 - (c) the exclusion of its use under any restrictions imposed by the Council under clause 8.3 of this Bylaw;
 - (d) payment of any prescribed charges in respect of the premises;
 - (e) compliance with the terms and conditions of this Bylaw or contained within any Council approval;
 - (f) payment of any other charges or costs associated with sub-divisional development; and
 - (g) the Council reserving the right in 'special circumstances' to:
 - (i) install an approved water meter; or
 - (ii) install a flow restrictor.

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

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- (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, as contained in Schedule One, will be imposed by authority delegated to the Chief Executive Officer and will be advised to the Council and publicly notified.
- 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 (including natural hazards such as floods, drought or earthquake) this may 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. 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

- 8.7** 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

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

work commences. Where immediate repair or maintenance is required and notification is not practical, the Council may shut down the supply without notice.

Liability

- 8.8** 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.
- 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 the Council and payment of the

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

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** Hand-held 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. The Council retains the right to fit a backflow 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** Failing to comply with 10.3 will result in the Council Building Consents and Licensing Services Department issuing an infringement notice to the customer.

11. Meters and Flow Restrictors

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- 11.1** 'Ordinary domestic use' is not required to be metered by the Council unless the provisions of clause 6.1(f) are in place.
- 11.2** 'Non-domestic use' 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
- 11.3** 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.
- 11.4** Restrictors for restricted flow supplies, shall be supplied, installed and maintained by the Council and shall remain the property of the Council.
- 11.5** In 'special Circumstances', subject to Clause 6.1(f), where known water wastage remains unresolved, subject to the 'Special Circumstances Water Service Bylaw Procedure' establishing water wastage, a metered supply shall pay any prescribed fee and any fee in relation to that supply.
- 11.6** 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 Connection Standards and all costs associated with test shall be paid for by the customer.
- 11.7** A customer (with an ordinary supply) may apply 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.
- 11.8** If the customer suspects that the meter has been tampered with the Council should be notified immediately.
- 11.9** 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.

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,

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

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 ongoing 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 Council equipment from damage 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.
- 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

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- 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 provide details of the new owner or tenant. 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 the 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 the 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 the 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;

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

- (h) makes any connection to the water supply system without prior written approval from the Council; or
- (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 as advice 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.

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

Schedule of Water Use Restrictions

Clause 8.3 and 8.4 require that:

- 8.3 The customer shall comply with any restrictions which may be approved by the Council to manage high seasonal or other demands. Any restriction or prohibition, as contained in Schedule One, will be imposed by the authority delegated to the Chief Executive Officer and will be advised to the Council and publicly notified.
- 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.

The Schedule of Water Use Restrictions (Level One to Five inclusive) that may be imposed by Wellington City Council through the authority delegated to the Chief Executive Officer is as follows.

Level Six and Level Seven may only be imposed following the declaration of a state of local emergency as per section 68 (Declaration of a state of local emergency) of the Civil Defence Emergency Management Act 2002.

Level One (provides for):

- Daylight Savings alternate day garden watering allowances and hand-held hose use
- Water Patrols (providing advice on allowed watering hours)
- Joint advertising across Councils

Level Two (provides for):

- Base Level and Level One, plus,
- Increased advertising
- Increased use of water patrols

Level Three (provides for):

- Level Two, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on garden sprinklers and unattended irrigation systems (watering only by hand)

Level Four (provides for):

- Level Three, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on domestic hose use (watering can/bucket use only)

APPENDIX 2

Statement of Proposal for Bylaw amendment proposal to:

Wellington City Council Consolidated Bylaw 2012 Part 8: Water Services

Level Five (provides for):

- Level Four, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all outdoor water use (other than for emergencies)

Level Six (provides for):

- Level Five, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Ban on all non-essential water use (emergency use only)

Level Seven (provides for):

- Level Six, plus,
- Increased advertising (restrictions/leak reporting) and water patrols
- Life-sustaining and emergency water use only.