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**REPORT 2**  
*(1215/52/IM)*

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## **REVIEW OF WATER BYLAWS - REPORT BACK**

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

To report on the special consultative procedure carried out for the proposal to revoke the Wellington Consolidated Bylaw: Part 20 – Water Supply and Part 7 – Drainage and Plumbing, and replace with a Water Charter and a new bylaw: Part 2 – Water Services. Approval is sought to make the bylaw and adopt the revised Water Charter.

### **2. Recommendations**

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that five submissions were received in response to the special consultative procedure undertaken for the Water Bylaws Review Statement of Proposal.*
3. *Note that one oral submission was heard by the Strategy and Policy Committee on 10 May.*
4. *Agree that the special consultative procedure has been completed pursuant to sections 86 and 156 of the Local Government Act 2002.*
5. *Agree that the Bill of Rights implications have been considered for the proposed new Water Services Bylaw – being Part 2 of the Wellington Consolidated Bylaw and that the bylaw is appropriate in accordance with section 155 of the Local Government Act 2002.*
6. *Recommend to the Council that it:*
  - a. *Note that the Strategy and Policy Committee considered the submissions received in response to the Statement of Proposal for the Water Bylaws Review.*
  - b. *Adopt the Wellington Water Charter, attached at Appendix 1 (to this report).*

- c. *Agree that the special consultative procedure has been completed pursuant to sections 86 and 156 of the Local Government Act 2002.*
- d. *Agree that the Bill of Rights implications have been considered for the proposed new Water Services Bylaw – being Part 2 of the Wellington Consolidated Bylaw and that the bylaw is appropriate in accordance with section 155 of the Local Government Act.*
- e. *Resolve, pursuant to sections 146 and 156 of the Local Government Act 2002, to make the Wellington Water Services Bylaw being Part 2 of the Wellington Consolidated Bylaw – attached as Appendix 2.*

### **3. Background**

The Council approved a Statement of Proposal for the review of its water bylaws in February 2007. Submissions opened on Monday 5 March and closed on Friday 6 April. The Council received five submissions (attached as appendix three, also see summary attached as appendix four). One submitter was heard by SPC on 10 May.

### **4. Discussion – Consultation Process**

Revoking, reviewing and making bylaws is a statutorily prescribed process that, under section 156 of the Local Government Act 2002, requires following the Special Consultative Procedure. The consultation document was sent to iwi, community boards, libraries and stakeholders known to the Council (for example Capacity and people / organisations that had made submissions to the Watercourses Bylaw review). The review was publicly notified in the Dominion-Post and the consultation document was accessible via the Council's website. Ngati Toa and the Tawa Community Board were briefed on the purpose and scope of the review.

#### **4.1 Rationale**

The outcome of the review (a new proposed bylaw and a water charter) was influenced by the following:

- The Council had expressed interest / support for revoking its water bylaws and adopting a charter
- A desire for an effective customer oriented approach that explains users' rights and responsibilities in plain English
- Application of the principles found in s155 of the Local Government Act 2002 meant that the Council should not duplicate statutory interventions / controls in its bylaws.

## 4.2 Consultation Results – Key Issues

There were no objections to the proposed bylaw.

The five submitters commented on the draft Water Charter, expressing support for it and raising a number of specific points that have contributed to changes for clarification and improvement.

The following overall themes were expressed:

- *Support for the Charter as an accessible and easy to read statement of rights, responsibilities and expectations*
- *The Charter could / should have specific performance measures*

### Officer comment

The draft Charter has been amended to include some specific measurable content. However, some submitters' suggestions for further detailed content were considered unreasonable: for example where the information would duplicate information disclosed elsewhere (such as an asset management plan) or if the information would be outside the scope and purpose of the Charter (such as operational water use for maintenance of reserves and sports fields).

- *The Council is relinquishing controls, especially for effective control of water usage*

### Officer comment

Effective control of water use can be achieved in a variety of ways without the need for a bylaw. The Statement of Proposal showed that the Council has recourse to statutory duties and powers in the Local Government Act 2002, the Local Government Act 1974, the Building Act 2004 and the Health Act 1956. The Council's ability to exercise powers under these statutes and potential for the bylaw to be inconsistent with future statutory changes meant it was highly desirable to not duplicate such powers and controls in a bylaw. Furthermore, the Council retains recourse to installing monitoring and control equipment on the public side of the point of supply.

The officers were also conscious of the potential outcomes of the Wellington Water Management Plan (WWMP) could not be pre-empted. The Charter and the Water Services Bylaw can be reconsidered after WWMP is adopted.

## **5. Conclusion**

The submissions to the consultation document raised a number of issues that have resulted in changes to the original draft Water Charter. There were no objections to the proposed Wellington Water Services Bylaw (Part 2, Wellington Consolidated Bylaw).

Making the Bylaw and adopting the Charter will conclude the review.

Contact Officer: *Wayne Murphy, Senior Policy Advisor*

## **Supporting Information**

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

*The proposal is consistent with community outcomes and the Council's long-term outcomes. Wellington's environmental health will be protected by well-planned and well-maintained infrastructure. Services will be reliable and meet high quality standards for the wellbeing of residents and the city as a whole.*

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

*The review was conducted within operating budgets.*

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

*Maori organisations were contacted via Treaty Relationships personnel.*

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

*The Statement of Proposal outlined the various options that were considered in the review.*

### **5) Consultation**

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

*The consultation document prompted five submissions, which have prompted some variations to the original proposal.*

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

*Maori organisations were provided with the Statement of Proposal.*

### **6) Legal Implications**

*Legal advice has been obtained. Legal issues were addressed in the Statement of Proposal.*

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

*Council has an objective for its bylaws to be effective, efficient and relevant instruments. The proposals are consistent with Council's policies and do not conflict with s97 of the Local Government Act 2002.*

## **Appendix 1**

### **Wellington Water Charter**

## **Appendix 2**

### **Wellington Consolidated Bylaw – Part 2 Water Services**

## **Appendix 3**

### **Submissions to Statement of Proposal – Water Bylaws Review**

## **Appendix 4**

### **Summary of Submissions**