



## **Statement of Proposal**

### **NEW WATER SUPPLY BYLAW NO. 228 (2021)**

## 1. The Proposal

Nelson City Council (Council) is proposing to make a new bylaw under sections 145, 146(b)(ii) and 193(1)(ba) of the Local Government Act 2002 (LGA) and the Health Act 1956 to govern water supply. The proposed new bylaw will replace its existing bylaw. In particular, Council proposes to:

- Make a new Water Supply Bylaw (228) 2021 (Bylaw), a draft of which is set out in the Appendix to this statement of proposal; and
- Revoke the existing Water Supply Bylaw (223) 2014.

The existing Water Supply Bylaw (223) 2014 can be found on the Council's website: <http://www.nelson.govt.nz/assets/Our-council/Downloads/bylaws/bylaw-223/Water-Supply-Bylaw-No223-2014-Signed-and-Sealed-Version-4Mar2015.pdf>

## 2. Reasons for the Proposal

The Council's existing Water supply Bylaw (223) 2014 was made in late 2014. Under section 158 of the LGA 2002, the Council is obliged to carry out a review of the bylaw within 5 years.

Although the review of the existing bylaw was not completed within the timeframe set in section 158, section 160A of the LGA provides that this Bylaw will remain in force for a further two years, at which point it will be automatically revoked (unless revoked earlier). Council has until December 2021 to make a new Water Supply Bylaw (and revoke its existing bylaw).

Council officers have completed a review of the existing Water Supply Bylaw and proposed some changes.

The two primary changes to Council's existing Water Supply Bylaw (223) 2014 are:

- The draft Bylaw is aligned as far as practicable with Tasman District Council's Public Water Supply Bylaw which was made in 2016 and amended in 2019.
- The draft Bylaw reflects the content of the document "Technical Guidelines for Drinking Water Protection Zones (June 2018)" issued by the Ministry for the Environment (MfE). The document was prepared by consultants working on behalf of the MfE to support the National Environmental Standard (NES) for Sources of Human Drinking Water. The NES for Sources of Human Drinking Water is a regulation made under the Resource Management Act (1991) that sets requirements for protecting sources of human drinking water from becoming contaminated. It came into effect on June 2008.

As a result of the existing Water Supply Bylaw (223) 2014 review, Council considers that the most appropriate course of action is to replace the existing bylaw with a new bylaw.

## 3. Key Features of New Bylaw.

The proposed new Bylaw is set out in full in the Appendix. The key features of the draft Bylaw are:

- Alignment of the bylaw structure with the Tasman District Council Public Water Supply Bylaw.
- The provision of protection zones around water sources to effectively manage the risk of drinking water contamination. The definition and extent of the protection zone is in line with the 'Technical Guidelines for Drinking Water Source Protection Zones, issued by the Ministry for the Environment in 2018.
- Making provision for restricted flow supplies.
- Minor change to the reinstatement of existing surfaces where Council repairs a leak within a privately owned right of way.

#### **4. Determinations under section 155 of the LGA**

Before making a bylaw, Council is required under section 155 of the LGA to determine whether:

- A bylaw is the most appropriate way of addressing the perceived problem;
- The proposed bylaw is the most appropriate form of bylaw, and
- The proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

In this case, Council is satisfied that a bylaw is the most appropriate way to address the perceived problem (being the regulation, management, and protection of Council's water supply system). It is necessary to have controls in place for connections to the water supply system and activities within water source catchments so as to ensure that Council's infrastructure and the wider public health is protected. It is essential that the network remains effective, safe, and available.

Other than through a bylaw, one possible way to control water supply and connections would be through contractual terms between the Council and customers. The Council considers a bylaw to be the superior option because it better ensures greater consistency across customers, carries greater authority, and has more meaningful enforcement. In addition, bylaws for water supply are expressly provided for in sections 145, 146(b)(ii) and 193(1)(ba) of the LGA, and so bylaws sit well with the statutory regime. Most councils in New Zealand control supply and connections to their water supply systems through bylaws.

Council is also satisfied that the proposed bylaw (set out in the Appendix) is the most appropriate form of bylaw. Council considers the bylaw to be: made under lawful authority, reasonable, sufficiently clear and certain, and not repugnant to any other laws.

Finally, Council is satisfied that that the proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990, as it does not infringe or restrict any of the rights and freedoms in that Act.

## 5. Scope of Council decisions following consultation.

Once Council has considered all submissions made in response to the proposal, it will make a decision. The options available to the Council will include:

- Adopting the proposal in its entirety;
- Adopting the proposal, but with modifications to the new bylaw;
- Not adopting the proposal (in which case, the current bylaw would remain in place for now, but would be automatically revoked around the end of 2021).

## 6. Submissions

Anyone may make a submission about any aspect of Council's proposal and any alternatives to it. Council, in making its decision, will take account of all submissions made.

A submission form is included at the end of this document.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

- online at [nelson.govt.nz](http://nelson.govt.nz)
- by post to Water supply Bylaw, Nelson City Council, PO Box 645, Nelson 7040
- by delivering your submission to Civic House, 110 Trafalgar Street, Nelson.

Submissions must be received no later than 27 April 2021

Any person who wishes to speak in support of their submission will be given the opportunity to address the Council at a hearing on Tuesday 1 June 2021.




*Please attach additional sheets if needed.*

Submissions can be made:

online at **nelson.govt.nz**

by post to **Water Supply Bylaw (228)2021, PO Box 645, Nelson 7040**

by dropping your submission off to **Civic House, 110 Trafalgar Street, Nelson.**