



Mackenzie

DISTRICT COUNCIL

MACKENZIE DISTRICT COUNCIL

DOWNLANDS WATER SUPPLY BYLAW 2014

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1. SHORT TITLE AND COMMENCEMENT

- 1.1 This Bylaw is made pursuant to sections 145 and 146 of the Local Government Act 2002.
- 1.2 This Bylaw is the Mackenzie District Council Downlands Water Supply Bylaw 2014.
- 1.3 This Bylaw comes into force on 15 December 2014.
- 1.4 This Bylaw is intended to be read in conjunction with the following documents:
- Council's Annual Fees and Charges
- 1.5 This Bylaw does not remove responsibilities for applicants or contractors in relation to the following Acts and Regulations:
- Health (Drinking Water) Amendment Act 2007
 - Local Government Act 2002
 - Resource Management Act 1991
 - Building Act 2004 and associated Building Code
 - Local Government Rating Act 2002
 - Drainage and Plumbing Regulations 1978
 - Toxic Substances Act 1988 and Regulations 1983
 - Hazardous Substances and New organisms Act 1994
- 1.6 All permits, approvals or licenses issued under any revoked Bylaw will be deemed to have been issued under this Bylaw and be subject to the provisions of this Bylaw.

2. INTERPRETATION AND DEFINITIONS

- 2.1 In this bylaw, except where inconsistent with the context:

Air Gap Separation means a minimum vertical air gap between the outlet of the water supply fitting which fills a Water Storage tank, and the highest overflow water level of that Water Storage Tank.

Approval means approval in writing by Council.

Approved means approved by Council or by any officer of Council authorised in that behalf.

Approved form means a form which has been approved by Council for use to make application for any licence, certificate, authority, consent, approval, inspection or other service provided by Council.

Authorised officer means any person appointed by Council to act on its behalf and with its authority and includes contractors or any person appointed especially or generally to enforce the provisions of this bylaw.

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

Consent means a consent in writing given and signed by an authorised officer of Council to discharge to or for a service connection to any of the network infrastructure services.

Council officer means any officer of the Mackenzie District Council, or in the case of any function delegated to the Timaru District Council means any officer of the Timaru District Council delegated by Council to take action in relation to any particular bylaw, or to undertake the duties of a Council Officer under the bylaw and any person appointed especially or generally by Council to enforce the provisions of this bylaw.

Customer means a person who uses, or has obtained the right to use or direct the manner of use of water supplied by Council to any premises.

Disconnection means the physical cutting and/or sealing off of any network infrastructure service for use by any person.

Local Authority means Council, person, or group of persons authorised by any Act to make bylaws, and which has made this bylaw, and includes the body corporate on behalf of which any such Council, person, or group acts.

Network infrastructure services means the services provided by Mackenzie District Council, or in the case of any functions delegated to the Timaru District Council means the Timaru District Council in the supply of water services.

Occupier in relation to any Premises or Residential Premise means any person occupying the premises

Owner of any property, or as applied to any land, building, or premises, means any person for the time being entitled to receive the rent of such property, or who would be so entitled if the same were let to a tenant at a rack rent; and where any such person is absent from New Zealand, shall include their attorney or agent.

Person includes a corporation sole and also a body of persons, whether corporate or unincorporated.

Point of supply is the boundary between the water network infrastructure and a private supply pipe.

Potable means water which complies with the health criteria of the Drinking Water Standards for New Zealand.

Premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same premises.

Private supply pipe means that section of pipe between the point of supply and the premises.

Public notice shall have the meaning assigned to it from time to time by the Local Government Act 2002.

Restrictor means a device fitted to the flow control device on a restricted flow supply to regulate the flow of water to a property.

Scheme means the Downlands Water Supply Scheme.

Service connection means that section of pipe between a network infrastructure service and the point of supply or point of discharge. This section of pipe is owned and maintained by Council and may include other fittings and equipment.

Service opening means a manhole or other opening for gaining access for inspection, cleaning or maintenance, of a network infrastructure service.

Water network infrastructure means the water treatment and conveyance systems including but not limited to land, buildings, machinery, pipes, pipe fittings and appurtenances, and any treatment work owned, operated or maintained by Council.

Water services means water supply services provided by the network infrastructure services.

Water storage tank means any tank having a free water surface under atmospheric pressure to which water is supplied across an air gap separation or through an approved backflow prevention device.

Water race shall have the same meaning as that provided in section 5 of the Local Government Act 2002.

Water supply means the provision of drinking water to communities via the water network infrastructure.

Waterworks includes all waterworks as defined in section 5 of the Local Government Act 2002.

3. GENERAL MATTERS

Content of Bylaw

- 3.1 Every schedule and policy note to this bylaw shall be deemed to form part of this bylaw provided that any such schedule or policy note may be altered from time to time by Council resolution.

Officers to continue in office

- 3.2 All officers appointed by Council under or for the purpose of any repealed bylaw, and holding office at the time of the coming into operation of this bylaw, shall be deemed to have been appointed under this bylaw.

Serving of orders and notices

- 3.3 Except where otherwise expressly provided for in any Act, in any case in which it is provided by this bylaw, that an order may be made upon or notice be given to any person requiring them to do or abstain from doing anything, or any notice is required by this bylaw to be given or sent to any person, such order or notice shall be delivered to such person, and may be delivered to them either personally or by sending the same, by messenger or post, to them at their last-known place of abode or business.
- 3.4 If such person is absent from New Zealand the order or notice may be sent to their agent instead of to such person, in any manner mentioned in the last preceding sub clause.
- 3.5 If such person is not known, or is absent from New Zealand, and has no known agent in New Zealand, and the order or notice relates to any land or building the order or notice, addressed to the owner or occupier of such building or land, as the case may require, may be served on the person in occupation thereof, or left with some resident of his/her abode; or, if there is no person in occupation, may be put up on some conspicuous part of such building or land. It shall not be necessary in such notice to name the occupier or the owner of such land or building.
- 3.6 Where an order or notice is sent by registered post it shall be sent so as to arrive in the due course of post on or before the latest time on which such order or notice is required to be served.

Powers of delegation

- 3.7 In all cases where this bylaw provides for the issue of any order, notice or licence, such order notice or licence shall be deemed to be issued in compliance with this bylaw if the same be issued by any officer of Council authorised by Council for that purpose.
- 3.8 Where pursuant to this bylaw any powers or duties are imposed on a Council Officer that officer may with the consent of Council delegate any of those powers or duties either generally or particularly to any other officer of Council.

4. Offences and breaches

- 4.1 No person shall do anything or cause any condition to exist for which a licence or approval from Council is required under this bylaw without first obtaining that licence or approval, and the failure to do so shall constitute a breach of this bylaw.
- 4.2 No application for a licence or authority from Council, and no payment of or receipt for any fee paid in connection with such application, licence, or authority, shall confer any right, authority, or immunity on the person making such application or payment.
- 4.3 Any person commits a breach of this bylaw who:
- a. Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this bylaw; or

- b. Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this bylaw, ought to be done by them at the time and in the manner therein provided; or
- c. Does not refrain from doing anything which under this bylaw they are required to abstain from doing; or
- d. Knowingly permits or suffers any condition of things to exist contrary to any provision contained in this bylaw; or
- e. Refuses or neglects to comply with any notice duly given to him/her under this bylaw; or
- f. Obstructs or hinders any officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon him/her by this bylaw; or
- g. Fails to comply with any notice or direction given under this bylaw.

4.4 Where Council considers a breach of this chapter of the bylaw, or statutory or any other legal requirements is such that it is necessary to alter, disconnect, reduce or limit the network infrastructure service for environmental or health or safety considerations or where there is unacceptable risk of consequential damage to Council assets, Council may take immediate action necessary in order to make good the breach, and recover all reasonable costs.

5 Power of entry and removal of works

5.1 Any appropriately warranted officer or person contracted to supply services to Council, may enter onto any land and enter into any building (not being a dwelling house) for the purpose of inspecting all or any of the fittings, pipes, and other apparatus connected directly or indirectly with the network infrastructure services.

5.2 If any such Council officer or contracted person is refused entry or obstructed by any person in the course of undertaking such an inspection; that person commits an offence under this bylaw.

5.3 Without prejudice to Council's ability to prosecute any person for refusing entry to or obstructing an appropriately warranted officer or contracted party, Council may also restrict the water supply to the property for which inspection has been denied.

5.4 If any inspection conducted in accordance with sub clause 5.1 discloses any fitting or works that contravene the provisions of this chapter of the bylaw, then the said fitting or works may be altered or removed by the Council officer or contracted party in order to achieve compliance with this chapter of the bylaw. Notice of such alteration or removal shall be given to the owner or occupier of the property as soon as is reasonably practicable.

5.3 The exercise of this authority shall not relieve any such person from responsibility for any penalty for erecting or permitting the continued existence of any such work, material or thing.

6 Penalties for breach of bylaws

6.1 Every person who commits a breach of this bylaw is liable to a fine as specified in Section 242 of the Local Government Act 2002.

- 6.2 Council may, after a conviction for the continuing breach of any chapter of the bylaw, apply to any Court of competent jurisdiction for an injunction to restrain the further continuance of the breach by the person so convicted.
- 6.3 The continued existence of any work or thing in a state contrary to this bylaw shall be deemed a continuing offence within the meaning of this clause and/or the provisions of the Local Government Act 2002.

7 Dispensing power

- 7.1 Where in the opinion of Council a full compliance with any of the provisions of this bylaw, would needlessly or injuriously affect any person, or the course or operation of the business of, or be attended with loss or inconvenience to, any person without any corresponding benefit to the community, Council may, on the special application of that person dispense with the full compliance with the provisions of this bylaw.

Provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by such person as aforesaid.

8 Installation, etc, not otherwise provided for

- 8.1 If, after the coming into force of this bylaw, any person desirous of installing or using in the district any article or thing which had not been introduced into the district prior to the coming into force of this bylaw and which, while not complying entirely with the provisions of this bylaw, may, in the opinion of Council be properly installed, and put into use, Council may either generally or specifically authorise the installation and use of such article or thing, and they may impose such conditions as they deem necessary.

9 Forms

- 9.1 Wherever throughout this bylaw forms are prescribed, slight deviations therefrom, but to the same effect and not calculated to mislead, shall not vitiate them.

10 Fees and charges

- 10.1 Council may at any time by resolution passed after consultation as part of the Long Term Council Community Plan or the Annual Plan prescribe fees that may be charged in respect of any licence, certificate, authority, approval, consent given, inspection made or service given by Council under the provisions of the Local Government Act 2002 or any other enactment where that enactment contains a provision for Authorizing Council to charge a fee.
- 10.2 Where any inspection or service for which a fee has been paid (under the provisions of clause 114.1 hereof) has not been given or made, Council may refund any such fee or portion thereof as it may determine.

11 Scope of Bylaw

- 11.1 The purpose of this chapter of the bylaw is to enable Council to meet its statutory duties and obligations and to set standards of supply, installation, and control of water associated with the Downlands Water Supply to ensure the maintenance of a healthy community.
- 11.2 This bylaw provides for the
- a. Setting of requirements and procedures for applications, continuances and disconnections for water services associated with the Downlands Water Supply Scheme.
 - b. Conditions and circumstances of supply of public water from the scheme.
 - c. Administrative mechanisms for the operation and enforcement of this bylaw

12 Application

- 12.1 This chapter of the bylaw applies to areas serviced by the Downlands Water Supply Scheme network infrastructure services throughout the Mackenzie District.

13 Application for supply of service

- 13.1 Every person who proposes to:
- a. Draw water from the Water Network Infrastructure; *or*
 - b. Vary the conditions of consent or approval that has previously been granted; *or*
 - c. Vary the location of the point of supply that has previously been granted; *or*
 - d. Disconnect from any network infrastructure service.

shall complete an application on an approved form for the supply of such service, together with payment of any prescribed charges. The applicant shall provide all of the details required by Council.

- 13.2 Council may approve or decline any application.

14 Continuity of supply of service

- 14.1 Council does not guarantee an uninterrupted or constant level of service (flow, pressure, quantity or quality), or that an existing service which is in excess of minimum operating parameters is not altered.

15 Liability

- 15.1 Council will endeavor to provide network infrastructure services in accordance with minimum operating parameters, but shall not be liable for any loss, damage or inconvenience which any person may sustain as a result of deficiencies in, or interruptions to any network infrastructure service.

16 Transfer of rights and responsibilities

- 16.1 No person may transfer to any other person the rights and responsibilities provided under this chapter of the bylaw.

16.2 No person shall extend any network infrastructure service by hose, pipe, or any other means beyond the customers property.

16.3 No person shall provide any network infrastructure service to any other party without approval from Council.

17 Demand management

17.1 All persons shall comply with any supply and usage restrictions and prohibitions which may be imposed from time to time by Council in order to manage supply or demand issues. Such restrictions may be publicly notified.

17.2 No person shall in case of any such restriction or prohibition be entitled to any payment or compensation.

18 Wastage of water

18.1 A person who is supplied with water by, or on behalf of, Council shall not waste the water or allow it to be wasted.

19 Flow metering

19.1 Council reserves the right to require a water meter to be installed and may set water supply and wastewater discharge fees and charges accordingly, where it considers that water use is or is likely to be excessive. A water supply deemed to be an extraordinary supply shall normally be metered and charged for.

19.2 Water meters shall be supplied, installed and maintained by Council at the Customers expense. Ownership of the meter is retained by Council. Installation of the meters shall be in accordance with Councils requirements.

20 Disconnection of service

20.1 A customer who proposes to disconnect from any network infrastructure service shall complete an application on an approved form for such disconnection, including an intention to demolish or remove a building. The demolition or removal shall not commence until the property has been disconnected to the approval of Council.

21 Approval to connect, disconnect or interfere

21.1 No person other than an authorised agent of Council, shall without approval make any connection or disconnection to or otherwise repair, alter, modify, tamper or interfere with any part of any network infrastructure service.

22.2 Without prejudice to its other rights and remedies, Council shall be entitled to estimate and charge for any additional network infrastructure service allowed to pass or not recorded where a meter or flow control device has been tampered with, and may recover from the customer any costs incurred by Council.

24 Vegetation

- 24.1 In the event of any vegetation causing or being likely to cause interference to the flow of water within, or block or damage to a network infrastructure service, Council may require the customer to remove the vegetation at the customer's expense with no compensation payable by Council.

25 Protection of network infrastructure services

25.1 Building over or adjacent to network infrastructure services:

- a. No structure shall be located over a network infrastructure service, whether on public or private land.
- b. The minimum horizontal separation distance between the structure and the service shall be 1 metre from the nearest face of the service.
- c. Subject to approval, a building developer may meet the cost of diverting the network infrastructure service in accordance with Council standards.
- d. Where compliance with (a), (b) and (c) above is found to be impracticable and the structure cannot be sited elsewhere on the property or modified to conform with the above conditions, and it is essential for the proposed structure to be built on that part of the property, approval may be granted subject to the building developer meeting the cost of any specific requirements. These requirements may include the provision of access manholes, pipe strengthening, ducting, additional support of the structure's foundations and relocatable construction. The network infrastructure service shall be registered by the property owner by a Memorandum of Encumbrance and Deed of Covenant against the Certificate of Title of the property.

25.2 Loading or material over a network infrastructure service

- a. No person shall cause the crushing load imposed on a network infrastructure service to exceed that which causes damage to the service.
- b. No person shall without approval place any additional material over or near to a network infrastructure service so that the network infrastructure service is further buried.
- c. A point of supply and service openings to a network infrastructure service shall be maintained free of soil, growth, or other matter or obstruction which prevents, or is likely to prevent convenient access by Council or its appointed contractor or agent. Removal of any covering material or adjustment of the opening shall be at the property owner's expense.

25.3 Excavation near network infrastructure services

- (a) No person or owner or occupier shall without approval from Council allow or carry out excavation, or use of trenchless technology, or carry out piling or similar type work closer than 2 metres from the nearest face of any network infrastructure service.

In granting any approval, Council may impose conditions on the carrying out of any such work. Damage occurring to a network infrastructure service as a result of any such works shall be reported to Council immediately by the person undertaking and/or in charge of such work. Council shall be entitled to recover any costs incurred as a result of such damage.

25.4 Excavation in a road reserve or public place

- a. No person shall carry out excavation work in a road reserve or public place without approval from Council.

26 Fees and charges

- 26.1 Council may from time to time set fees or charges for the supply and services of network infrastructure services.
- 26.2 Council may, under the provisions of Section 175 and Section 176 of the Local Government Act 2002, recover any cost incurred by Council in remedying any damage arising from a wilful or negligent breach of this chapter of the bylaw.

27 Types of Supply

27.1 Rural tank or trough supply

- a. A rural tank or trough supply is defined as one where a flow is supplied across an air gap separation into an approved on-site water storage tank or approved trough from which the supply of water is drawn. Sufficient storage shall be provided by the customer to meet demand fluctuations.
- b. Rural tank or trough supplies may be required for properties within designated areas, or under special conditions, set by Council from time to time.

27.2 Restricted flow supply

- a. A restricted flow supply is defined as a water flow which is supplied through a flow control device, and where storage is provided by the customer to cater for demand fluctuations. The supply shall be provided on the basis of the number of units of water allocated to the connection, supplied at a relatively uniform flow rate.
- b. Restricted flow supplies may be required for properties within designated areas, or under special conditions, set by Council from time to time.

27.3 Categories of supply

The two categories of rural water supply are defined as:

(a) *Ordinary Supply*

- i) Stock - Stock water supplied on a calculated entitlement as set by Council from time to time.
- ii) Domestic - Water supplied which is used exclusively for domestic and household requirements (subject to the provisions of this chapter of the bylaw), and approved at the sole discretion of Council, at an allocation as set by Council from time to time.

(b) *Extraordinary Supply*

All other purposes for which water is supplied other than ordinary supply shall be deemed to be an extraordinary supply and may be subject to conditions and limitations.

27.4 Change of use

Where the supply category changes from an ordinary to an extraordinary type or vice versa and/or where a change in the use of water supplied is proposed, a new application for supply of service is required.

28 Flow control device

- 28.1 Flow control devices for restricted flow supplies shall be supplied and installed at the customers cost. Maintenance of the filter and frost plugs shall be the responsibility of the customer. These devices shall remain the property of Council.

29 Modification, tampering or interference

- 29.1 Any owner or occupier of a property serviced by a flow control device that is found to be modified, tampered or interfered with, without the authority of Council or its authorised agent, commits an offence under this chapter of the bylaw.
- 29.2 It is a defence to any charge prosecuted by Council in relation to clause 29.1 hereof if the defendant establishes, on the balance of probabilities:
- a. The modification, tampering or interference to the flow control device was necessary for fire fighting purposes and was reasonable in the circumstances; or
 - b. That the modification, tampering or interference to the flow control device was due to an event beyond the control of the defendant, including mechanical failure or sabotage, and in each case the intervening event could not have been reasonably foreseen or been prevented by the defendant.

30 Backflow prevention

- 30.1 All supply connections shall be fitted with an approved backflow prevention system.
- 30.2. Every tank used for the storage of water for any purpose other than flushing a water closet shall be provided with an overflow warning pipe of not less than 12mm internal diameter which shall be designed and installed so that the overflow is easily able to be seen and so that the discharge is not into any gutter, down-pipe or drainpipe or inside any building.

31 Frost Protection

- 31.1 No person shall reduce the cover over any water network infrastructure so as to make it more susceptible to frost damage.

32 Water storage

- 32.1 The customer shall be responsible for maintaining water storage in an efficient, watertight and potable condition.

33 Fire fighting

- 33.1 Where it is necessary to obtain water for fire fighting purposes it shall be allowable for the restrictor to be removed from the flow control device. The customer shall notify Council within 24 hours of such action being taken.

Downlands Water Supply Bylaw 2014

Adopted by: **Council**

Adopted date: **9 December 2014**

Review by: **9 December 2019**