

## WAIMAKARIRI DISTRICT COUNCIL

### REPORT FOR DECISION

**FILE NO and TRIM NO:** BYL-60-03/ 240328049935

**REPORT TO:** UTILITIES AND ROADING COMMITTEE

**DATE OF MEETING:** 18 June 2024


**AUTHOR(S):** Janet Fraser, Infrastructure Planner  
Jason Recker, Stormwater and Waterways Manager

**SUBJECT:** Commence Public Consultation on Amended Stormwater Drainage and Watercourse Protection Bylaw 2024

**ENDORSED BY:**  
(for Reports to Council,  
Committees or Boards)



General Manager



Chief Executive

#### **1. SUMMARY**

- 1.1. This report seeks Utilities and Roading Committee approval to undertake public consultation on the amended Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2024, using the Special Consultative Procedure.
- 1.2. Changes are required to the current 2018 version of the Bylaw to make it consistent with Canterbury Land and Water Regional Plan (CLWRP) policies and rules which require the Council to control all discharges into and from its reticulated stormwater networks by 1 January 2025. The changes proposed in this report form an early review and update of the Bylaw, which would otherwise be required to be reviewed by the mandated 10 year timeline set out in the *Local Government Act 2002*, with a review completed by 2028.
- 1.3. Some new environmental controls are proposed to assist the Council to manage discharges from a wider range of activities than those presently managed through the Bylaw. The amendments include a proposed Council approval process for stormwater discharges from high-risk sites. The changes include the following:
  - Stormwater discharge, Site-Specific Stormwater Management Plans and Pollution Prevention Plan approvals for “high-risk” sites
  - Site specific spill prevention and spill response procedures and other requirements for high-risk sites
  - New controls and sampling methods to manage discharges of sediment into stormwater or waterways in accordance with stormwater monitoring programmes
  - Reference to a risk assessment process for “high-risk” site stormwater discharges from potentially contaminated land
- 1.4 The Council has added additional Bylaw objectives, as outcomes, which were recommended for inclusion by Ngai Tuahuriri in the attached Cultural Advice Report (TRIM 240409054566). These are:
  - To provide for improvement in the quality of waterways;
  - To provide for protection and enhancement of waterways, mahinga kai, indigenous species and habitat;

- To provide for the protection of wahi tapu, wahi taonga, wai tapu and wai taonga.
- 1.5 Waterway water quality and indigenous species habitat is not only protected but is also enhanced by removal of contaminant discharges which supports rehabilitation, improvement and enhancement of waterways. The discharge of fewer contaminants will improve the health and abundance of indigenous aquatic species in waterways. The Bylaw provides a set of controls over private property discharges that are intended to reduce the inflow of contaminants into Council systems and waterways, to help meet these objectives and outcomes.
- 1.6 The Stormwater Drainage and Watercourse Protection Bylaw applies across the Waimakariri District. Its purpose is to control stormwater discharges and manage activities in and near watercourses to prevent harm to operator or public health or to the environment. The Council will continue to improve its systems and processes in line with changes to the Bylaw, including implementing new systems for scheduling high-risk site risk assessments and tracking approvals of high-risk site discharges into the stormwater networks which will be approved through the Bylaw. The Council has recently employed additional staff who have a responsibility to assess and provide the approvals for high-risk site discharges now mandated through the Bylaw, alongside other activities.

Attachments:

- i. Draft Stormwater Drainage and Watercourse Protection Bylaw 2024 for public consultation (TRIM 240328049939).
- ii. Statement of Proposal to adopt the Stormwater Drainage and Watercourse Protection Bylaw 2024 for public consultation (TRIM 240402050528).
- iii. Stormwater Drainage and Watercourse Protection Bylaw 2018 (operative since 1 May 2018 (TRIM 180504048735).
- iv. Memorandum of Understanding Between Waimakariri District Council and Environment Canterbury Stormwater Discharge Approvals on Contaminated Land CRC184601 (TRIM 230925149963).
- v. Assessment Criteria for HAIL Sites from 1 January 2025– LLUR HAIL for Memorandum of Understanding Stormwater Discharge Approvals on Contaminated Land (TRIM 230412051135).
- vi. Stormwater Drainage and Watercourse Protection Bylaw Review 2024 - Cultural Advice Report to Waimakariri District Council from Mahaanui Kurataiao Limited (TRIM 240409054566).

## 2. **RECOMMENDATION**

**THAT** the Utilities and Roading Committee:

- (a) **Receives** Report No. TRIM 240328049935.
- (b) **Approves** the attached proposed Stormwater Drainage and Watercourse Protection Bylaw 2024 and Statement of Proposal for public consultation using the Special Consultative Procedure outlined in the Local Government Act 2002.
- (c) **Appoints** Councillor Williams (portfolio holder), Councillor ..... and Councillor ..... to hear submissions on the proposal and to recommend decisions to the Council.
- (d) **Notes** the proposed hearing / submissions deliberations date is Wednesday 25 September 2024.
- (e) **Notes** that upon adoption, the Bylaw will be renamed the Stormwater Drainage and Watercourse Protection Bylaw 2024, to reflect the date of its last review.

- (f) **Notes** that, once adopted, the Stormwater Drainage and Watercourse Protection Bylaw 2024 will not be required to be formally reviewed for another 10 years, however it will be able to be reviewed in the intervening period, if required.
- (g) **Circulates** this report to the Community Boards for their information.

### 3. **BACKGROUND**

- 3.1. The Stormwater Drainage and Watercourse Protection Bylaw 2024 is intended to update and replace the 2018 version. The present review of the Bylaw is occurring prior to the usual mandatory 10 year review requirement. This will enable the Council to meet regional plan requirements by enabling it to authorise and control a wider range of discharges into and from the stormwater networks than are covered by the current Bylaw. The reviews in 2018 and 2024 are updates to the original Stormwater Bylaw which was adopted in 2011. Over time, the 2011 Bylaw has been updated to control a wider range of activities to ensure the Council has legal mechanisms to manage stormwater to comply with changing policies and rules in the Canterbury Land and Water Regional Plan (CLWRP).
- 3.2. Prior to adoption of the Stormwater Bylaw in 2011 there was no local legislation in place to control the quality of stormwater discharges into the Council's reticulation or receiving environment. The Bylaw has been developed for the primary purpose of protecting public health and safety and improving the quality of the environment.
- 3.3. The Bylaw also assists the Council to respond to common issues experienced during the operation and maintenance of the Council's stormwater and land drainage systems. These include avoiding activities which interfere with Council systems or watercourses managed by the Council, including vehicle or stock damage or excess spraying of open drains. Some provisions are to avoid nuisance associated with operating private stormwater systems.
- 3.4. The Bylaw including the latest proposed amendments will protect the public infrastructure investment by controlling access to reticulation and facilities, and requiring approval for any works on or interference with Council systems. In addition, the Bylaw protects the public from flood hazard through preventing interference with watercourses, stop banks, overland flow paths or flood plains. It protects the environment by specifying provisions to avoid contaminants from discharging into or from the stormwater or land drainage systems.
- 3.5. The existing form of the Bylaw in force from 2018 is no longer considered to be appropriate. The 2018 version does not cover all of the operating situations encountered by the Council in managing its systems. It also does not enable the Council to provide sufficient direction to the community in order to implement the stormwater network discharge consents required under the CLWRP which set out requirements for the Council to manage the water quality and quantity of all discharges into and from its networks. The Council is required to approve all discharges into its stormwater networks by 1 January 2025, including discharges from high-risk sites. The proposed updates to the Bylaw will enable it to legally manage these activities.
- 3.6. The Bylaw makes new provision for the Council to approve discharges from high-risk sites into and from its networks. In context, "high-risk" discharges may be from either "operating-phase" or "construction-phase" activities, if a Hazardous Activities and Industries List (HAIL) activity is currently or has historically occurred at the site. High-risk site operating phase discharges are identified by the Council as sites where hazardous substances are being handled, used or processed within the site, when there is a risk of that substance becoming entrained in site runoff that could discharge into stormwater drains.

- 3.7 For operating phase discharges, high-risk activities are defined in Schedule 1 of the Bylaw as those listed within the CLWRP HAIL list, except that the Council deems several activities described in the HAIL to be “medium-risk” so that it can apply less stringent requirements for them within the site Pollution Prevention Plan (PPP). This aligns the approval process for medium-risk sites to the level of risk to stormwater quality from the discharge.
- 3.8 There are proposed less prescriptive PPP requirements for operating phase medium-risk sites in the Bylaw. This is because any hazardous substances used within a medium-risk site should, through the nature of the activity, be contained within a building’s interior systems, with any waste draining to purpose-built waste disposal systems or to trade waste (wastewater). Medium-risk sites are a lower priority for risk assessment and approval via the PPP’s. The separate definitions provided of high and medium-risk sites in the Bylaw are intended to enable the Council to prioritise the risk assessments for activities that pose the highest risk to the quality of the stormwater discharges.
- 3.9 The Council also now has a procedure in place to require a risk assessment and if appropriate, approve stormwater discharges into the reticulated stormwater networks from potentially contaminated sites during earthworks, or alternatively refer these discharge approvals onto Environment Canterbury for consent. These construction phase discharges may pose a risk to stormwater quality due to the HAIL activity (historic or current) as well as sediment discharging during the earthworks. Construction activities are managed separately from operating phase high-risk activities in the Bylaw because the construction could cause contaminated material in land that is disturbed to be released into the environment, as well as risking sediment in site runoff affecting discharge quality. It is noted that consent for land disturbance may also be required from the Waimakariri District Council under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC) alongside the required approval through the Bylaw or consent from Environment Canterbury for the stormwater discharge into the reticulated network.
- 3.10 The management approach and risk assessment for these sites is set out in the following documents: “*Memorandum of Understanding Between Waimakariri District Council and Environment Canterbury Stormwater Discharge Approvals on Contaminated Land CRC184601*” (TRIM 230925149963 – attachment iv) and the “*Assessment Criteria for HAIL Sites from 1 January 2025 – LLUR HAIL for Memorandum of Understanding Stormwater Discharge Approvals on Contaminated Land - 12 April 2023*” (TRIM 230412051135 – attachment v.). These Memorandum of Understanding commitments for management of discharges from potentially contaminated land are referenced in the Bylaw in order to provide a trigger for the Council to require an applicant to arrange the required risk assessment and site investigations. Decisions on contaminated land risks and discharge approvals or site referrals to Environment Canterbury will be applied through the MOU process.
- 3.11 There are proposed new standards or limits in the new Schedule 2 of the Bylaw outlining requirements for construction phase discharges. These are based on the consent limits within the stormwater network discharge consents relating to discharge of sediment and requirements of the stormwater network consent monitoring programmes. The Council is now able to apply these various measures during activities when it is responsible for approving the quality of the discharge from the site into its systems.



- 3.12 The construction phase discharge requirements from Schedule 2 of the Bylaw will need to be implemented through coordination among the 3 Water's Unit, Environmental Services Unit and could involve collaboration with the Building Unit. This could enable the Council to manage sediment discharges from individual building sites when a Waimakariri District Council earthworks consent is not required. Processes to implement these new construction management approaches will be confirmed in coming months and tested on sites where discharges are being approved into the Council networks, from the date of adoption of this Bylaw.
- 3.13 The stormwater network discharge consents in place for Rangiora and Kaiapoi and further pending consents for Oxford and Woodend, which should be granted within the next month, require the Council to, over time, achieve water quality standards which now are mandatory for discharges from the stormwater networks into the receiving environment. The updated Bylaw will be the legal mechanism enabling the Council to apply the network consent requirements where they affect discharges from private properties. The Bylaw will authorise the Council management of the quality of these discharges through Pollution Prevention Plans, Site-Specific Stormwater Management Plans and Erosion and Sediment Control Plans.

#### **4. ISSUES AND OPTIONS**

- 4.1. The purpose of this report is to seek approval of the Utilities and Roading Committee to undertake public consultation on the Stormwater Drainage and Watercourse Protection Bylaw 2024 using the Special Consultative Procedure. The *Local Government Act 2002*, section 160, provides for the use of the Special Consultative Procedure outlined in section 83 to review and amend the Bylaw.
- 4.2. Following public consultation, the 2024 Bylaw version including any further amendments made as a result of consultation, will replace the Stormwater Drainage and Watercourse Protection Bylaw 2018.
- 4.3. The draft Bylaw, following consultation and receipt of submissions, will be forwarded to a hearing panel for consideration. The hearing panel will consider and hear submissions and then make recommendations about the Bylaw for approval by the Council.
- 4.4. The draft Bylaw has some proposed revisions from the existing 2018 version. The Bylaw content including proposed changes are similar in intent to other territorial local authority bylaws in place throughout Canterbury, which are also required to assist each Council to meet Canterbury Land and Water Regional Plan policies and rules controlling all stormwater discharges into and from each stormwater network through the region. However some clauses are specific to the Waimakariri District to align with the Stormwater Network Discharge Consent conditions, network management approaches and monitoring programme requirements which are all unique to the Waimakariri District. Key proposed changes in the updated version include:
- Additional Bylaw objectives recommended for inclusion by Ngai Tuahuriri
  - Stormwater discharge, Site-Specific Stormwater Management Plans and Pollution Prevention Plan approvals for "high-risk" sites
  - Site specific spill prevention and spill response procedures and other requirements for high-risk sites
  - New controls and sampling methods to manage discharges of sediment into stormwater or waterways in accordance with the Council network consent stormwater monitoring programmes

- Reference to a risk assessment process for “high-risk” site stormwater discharges from potentially contaminated land
  - Other minor changes for clarification or to align with operational practices.
- 4.5 In carrying out the review of its 2018 Bylaw, the *Local Government Act 2002*, section 155 requires the Council to determine whether the Bylaw is still the most appropriate way of addressing the perceived problem, whether it is the most appropriate form of Bylaw and whether it gives rise to any implications under the *New Zealand Bill of Rights Act 1990*. These assessments are made within the attached Statement of Proposal (see TRIM 240402050528).
- 4.6 The Council has the option of revoking the Stormwater Drainage and Watercourse Protection Bylaw 2018 and relying on other legislation to manage the quality and quantity of stormwater and land drainage discharges in the district. However, the Bylaw has been developed in order to protect Council infrastructure, public health and safety and the environment. It achieves this by clearly specifying the requirements and obligations of all parties, and the rules and conditions to be met by each activity or person generating a discharge into a Council system.
- 4.7 Enforcement of the Bylaw can only occur through a prosecution process for offences through the courts. This has an estimated cost to Council of at least \$10,000 to \$15,000 per prosecution and an average processing time of at least 6 months per offence. These court prosecutions would only seem warranted in the event of major Bylaw breaches or a repeat offender. For minor Bylaw offences, infringement notices cannot be issued by the Council because there are no national regulations in place which would authorise these.
- 4.8 Therefore it is likely that the most effective enforcement approach for the wider range of activities to be managed under the amended Bylaw is for the Council to, if necessary, rescind any granted approvals for non-complying activities discharging into the Council networks. The Council can require the property owner to obtain a consent for their activity from Environment Canterbury if it is not otherwise required to manage these discharges itself to comply with its stormwater network discharge consent conditions. A process for the Council to withdraw previously granted approvals for non-complying discharges which present an unacceptable risk to the receiving environment is set out in the network consent conditions. This process enables the Council to refer these activities to Environment Canterbury for separate consenting, management and enforcement, in certain circumstances. This proposed compliance approach is agreed with Environment Canterbury and is consistent with the compliance framework applied within the stormwater network discharge consents.
- 4.9 The Council can refer pollution issues within its networks to Environment Canterbury to enforce directly via its own infringements system, if the discharge contravenes Section 15 of the *Resource Management Act 1991*, subject to agreement of Environment Canterbury that the process for the Council to manage the discharge under its network consents has been fully complied with in accordance with the consent conditions. Environment Canterbury has direct enforcement capabilities to manage non-complying discharges that have an unacceptable level of environmental risk, including issue of abatement notices and infringement fines under the *Resource Management Act 1991*.
- 4.10 Updating and adopting the Stormwater Drainage and Watercourse Protection Bylaw 2024 means the Council does not have to rely on the cooperation of the customer to ensure either: (a) the acceptable quality of stormwater and land drainage discharges into its systems; or (b) that it can avoid the adverse effects of flood flows that may result from harmful or damaging private activities.

- 4.11 It means the Council can make the public aware of the requirements by publishing its Bylaw and providing enforcement in circumstances where a customer does not voluntarily agree to meet the requirements. It provides the Council with an enforcement option for circumstances when a customer intentionally or repeatedly ignores the Bylaw provisions.
- 4.12 The Bylaw is therefore the appropriate mechanism to protect public health and the environment and the network infrastructure from damage or misuse. The Bylaw is still considered to be the most appropriate mechanism for managing the quality and quantity of discharges into and from the Council's systems and into the receiving environment. It provides an open and transparent process for the community to provide input into the preparation and adoption of the rules that will be applied.
- 4.13 The Bylaw has been reviewed by Council asset managers, engineering, environmental specialists and policy staff and compared with other local authority Bylaws. The revised version is consistent with the Waimakariri District Council's other Bylaws and is drafted in anticipation of meeting requirements of the Canterbury Land and Water Regional Plan as far as is practicable.
- 4.14 The Council will continue to improve its systems and processes, including implementing new systems for scheduling high-risk site risk assessments and tracking approvals of high-risk site discharges into the stormwater networks which will be approved through the Bylaw. The Council has recently employed additional staff who have a responsibility to assess and provide the approvals for high-risk site discharges now mandated through the Bylaw, alongside other activities.

#### **Implications for Community Wellbeing**

- 4.15 There are implications on community wellbeing by the issues and options that are the subject matter of this report. Community wellbeing is supported by having in place clear standards to control discharges and activities affecting stormwater and waterways. The Bylaw will protect public safety around drainage channels and natural waterways and reduce damage or interference that could result in unanticipated flooding or contamination events.
- 4.16 The Management Team has reviewed this report and support the recommendations.

## **5. COMMUNITY VIEWS**

### **5.1. Mana whenua**

Te Ngāi Tūāhuriri hapū are likely to be affected by, or have an interest in the subject matter of this report. Consultation on the draft Bylaw with Ngāi Tūāhuriri was undertaken via Mahaanui Kurataiao Limited. The response is set out in a "*Cultural Advice Report to Waimakariri District Council*" received on 5 April 2024 (see TRIM 240409054566-attachment vi.).

The Cultural Advice Report includes recommended Bylaw objectives which have been added into the draft Bylaw Section 3 Objectives, explained as stated outcomes of the Bylaw.

These Bylaw stated outcomes are:

- To provide for improvement in the quality of waterways;
- To provide for protection and enhancement of waterways, mahinga kai, indigenous species and habitat;
- To provide for the protection of wahi tapu, wahi taonga, wai tapu and wai taonga.

Waterway water quality and indigenous species habitat is not only protected but is also enhanced by removal of contaminant discharges. Reducing contaminants supports rehabilitation, improvement and enhancement of waterways. This includes improving the health and abundance of indigenous aquatic species which can be viewed as improving the quality of waterways and providing for their enhancement as well as their protection. The Bylaw provides a set of controls over private property discharges that are intended to reduce the inflow of contaminants into Council systems and waterways, to meet these objectives and outcomes.

The Cultural Advice Report also makes the following key comments:

- The discharge of contaminants to waterways is not supported.
- Minimisation of impervious surface area and onsite solutions are recommended.
- All stormwater should be treated prior to discharge into natural or manmade waterways.
- Compliance with rules within the Bylaw should be monitored and enforced.

These comments are intended to be addressed through the Bylaw and amendments. The likelihood of achieving these Ngāi Tūāhuriri recommendations depends on practical actions by Council staff implementing the Bylaw and wider community action on reducing discharges of contaminants into stormwater or waterways.

## 5.2. Groups and Organisations

There are groups and organisations likely to be affected by, or to have an interest in the subject matter of this report. Consultation letters will be sent to key agencies and organisations including contractors responsible for operating the stormwater and drainage networks, residential building contractors, Environment Canterbury, adjoining local authorities, the Community and Public Health Canterbury office and the Waimakariri Zone Water Management Committee prior to 21 June 2024. One month is allowed for consultation as required by the Special Consultative Procedure.

## 5.3. Wider Community

The wider community is likely to be affected by, or to have an interest in the subject matter of this report. Community consultation is undertaken for this review through the Special Consultative Procedure from the *Local Government Act 2002*. The following table summarises the consultation proposal for the review of the Bylaw.

Tuesday 18 June 2024	The Utilities and Rooding Committee approves the draft Bylaw for consultation.
Thursday 20 June 2024	Public submission period opens (first public notice)  Notification letters sent to key agencies and organisations  Bylaw documents available in Council service centres and libraries
Monday 29 July 2024	Submission period closes
Wednesday 25 September 2024 (9am to 3pm)	Hearings and deliberations  <i>Times to be confirmed with Councillors</i>
4 November 2024	Hearings panel recommendations to full Council  Bylaw comes into force

Public consultation will include the following steps:

- Public notices/advertisements in newspapers, on the Council's website and via social media (including Facebook)
- Statement of proposal and draft Bylaw available to view on the Council's website and in service centres and libraries.
- The extended timeframe between the close of submissions (29 July) and proposed hearings / deliberations date (25 September) is to allow a sufficient period of time for staff to consider and respond to submissions and if necessary obtain legal advice to finalise the Bylaw in response to points raised in submissions. This long review period is provided in anticipation of the Bylaw having a potentially significant effect on some community sectors discharging stormwater and on future staff work programmes to provide the required approvals.

## **6. OTHER IMPLICATIONS AND RISK MANAGEMENT**

### **6.1. Financial Implications**

There are financial implications of the decisions sought by this report. The budget to review the Stormwater Drainage and Watercourse Protection Bylaw 2018, including advertising costs and implementation of the Bylaw by existing staff is included in the Annual Plan/Long Term Plan.

There will be operating cost increases to the Council over time as a result of implementing the current requirements and proposed amendments. These will be incurred in order to:

- Roll out a process to assess, approve and review Site-Specific Stormwater Management Plans and Pollution Prevention Plans throughout the District, from both high and medium-risk sites
- Provide approvals for the current and proposed wider range of activities which can now be managed under provisions of the updated Bylaw
- Increased monitoring and assessment of activities now covered by the Bylaw

Staff will monitor the potential risks of cost increases arising from public consultation feedback and then during the ongoing implementation of these additional activities. Further budget allocation will be requested if required through future Annual Plans and Long-Term Plans. Alternatively further funding can be made available through addition of any further fees payable by applicants through the Fees and Charges Schedule to cover all activities that will be approved through the Bylaw.

Funding needed to implement the new approval processes outlined in the Bylaw is already incorporated within current budgets and fees for approvals specified within the current Fees and Charges Schedule. Additional staff have been recently appointed to provide approvals now mandated through the Bylaw.

For instance, fees are now payable by applicants who request staff approval of Pollution Prevention Plans or any other related stormwater discharge approval which may be imposed through the Bylaw. These fees are currently set out in the Fees and Charges Schedule.

## 6.2 Sustainability and Climate Change Impacts

The recommendations in this report have sustainability and/or climate change impacts. The Bylaw provides a legally enforceable environmental protection tool for the district, providing a basis for managing activities that protect and support sustainable management of waterways.

## 6.3 Risk Management

There are risks arising from the adoption/implementation of the recommendations in this report. The Bylaw needs to be fit for purpose, with adequate rules to control public activities around waterways in order to provide for public safety and environmental and flood protection. The effective implementation of the Bylaw will reduce risks to public safety or the environment.

## 6.4 Health and Safety

There are health and safety risks arising from the adoption/implementation of the recommendations in this report. Including effective controls within the Bylaw will reduce risks to public safety or the environment associated with contaminated discharges and waterway access and use.

# 7 CONTEXT

## 7.1 Consistency with Policy

The proposed Bylaw changes are considered to be a matter of significance in terms of the Council's Significance and Engagement Policy. For instance, Section 5.1 of the Policy states "...*The Council will consider each issue, proposal or decision on a case-by-case basis to determine whether the decision is significant by applying the criteria and procedures and consider the thresholds set out in this policy. It will also consider each of the following:*

- *The effect on parties who are likely to be particularly affected by or particularly interested in this issue, decision or proposal.*
- *The scale of any proposed change to levels of Council service.*

The proposed Bylaw changes are considered significant as some property owners discharging into the Council networks will be subject to new requirements of the Bylaw in future requiring them to meet environmental limits specified in stormwater network discharge consents and / or the Bylaw, rather than being subject to requirements of individual Environment Canterbury consents for their site discharges.

In addition, responsibility to control the quality and quantity of all stormwater discharges into and from each network will transfer from Environment Canterbury to the Council on 1 January 2025, which is a new role for the Council. It is a more extensive level of service for the management of stormwater discharge quality and quantity than is provided by the Council at present.

Policy 4.16A of the Canterbury Land and Water Regional Plan requires:

*"Operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity of all stormwater discharged from that reticulated stormwater system".*

This policy requires the Council, from 1 January 2025, to manage all discharges into the Council stormwater systems including from high-risk activities. At the present time the Council approves discharges from medium, but not high-risk sites. This Bylaw update gives effect to the policy by providing a legal avenue for the Council to accept responsibility for high as well as medium-risk discharges into its stormwater networks.

## 7.2 Authorising Legislation

The *Local Government Act 2002*, section 158, requires the first review of a Bylaw made under the Act to be undertaken no later than five years after the Bylaw was made, if the Bylaw was made after 1 July 2003. S 159 then requires a further review of that Bylaw no later than 10 years of the date of the previous review. The legislated review date for the Stormwater Drainage and Watercourse Protection Bylaw 2018 which was adopted on 1 May 2018 is therefore 1 May 2028. Any Bylaw that is not reviewed within the specified timeframe is revoked two years after the last date on which it should have been reviewed. The Bylaw will therefore be revoked on 1 May 2030, if not reviewed prior to this date. This 2024 review, intended to be completed prior to 1 January 2025 is therefore an early review which meets the requirements for Bylaw review timeframes within the *Local Government Act 2002*.

The Stormwater Drainage and Watercourse Protection Bylaw is established under Section 145 and 146 of the *Local Government Act 2002* and is being consulted through this review under Sections 82, 83, 86, and 156.

The proposed amended Bylaw assists the Council to align its activity management with the purpose and intent of the *Health Act 1956* and the *Resource Management Act 1991*. This is in terms of assisting the Council to improve its management of contaminated discharges into the stormwater and land drainage systems and downstream receiving environment, and in so doing improve health and safety for people and the quality of the environment.

## 7.3 Consistency with Community Outcomes

The Council's community outcomes are relevant to the actions arising from recommendations in this report.

The review of the Stormwater Drainage and Watercourse Protection Bylaw 2018 promotes the following community outcomes:

- People are supported to participate in improving the health and sustainability of our environment
- Infrastructure and services are sustainable, resilient and affordable

## 7.4 Authorising Delegations

The Utilities and Roading Committee has delegated responsibility from the Council for land drainage, waterways and stormwater activities and to administer Bylaw's for the Committee's activities including to recommend to the Council any amendments, reviews, or new Bylaws (refer S-DM:1024).

# STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2024

This Stormwater Drainage and  
Watercourse Protection Bylaw 2024  
was adopted at a Council Meeting held on  
XXX

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Chief Executive

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Governance Manager



**WAIMAKARIRI DISTRICT COUNCIL**  
**STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2024**

**1 TITLE, AUTHORITY AND COMMENCEMENT**

- 1.1 This bylaw shall be known as the *Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2024*.
- 1.2 This bylaw shall come into force on XXX Date.
- 1.3 This Bylaw supersedes and revokes the Stormwater Drainage and Watercourse Protection Bylaw 2018.
- 1.4 The Council resolved to review the Stormwater Drainage and Watercourse Protection Bylaw 2018 on 18 June 2024. The revised Bylaw was confirmed following a special consultative procedure by resolution at a meeting on XXXX 2024.

**2 INTRODUCTION**

- 2.1 This bylaw is made by the Waimakariri District Council in exercise of the powers and authority vested in the Council by Section 146 of the *Local Government Act 2002*.
- 2.2 This bylaw applies and operates throughout the Waimakariri District.
- 2.3 This bylaw applies to the following:
- Council stormwater systems;
  - Council managed land drainage systems or watercourses;
  - Privately managed stormwater systems, land drainage systems, watercourses, flood plains, overland flow paths or stop banks.
- 2.4 This bylaw does not derogate from the Building Act 2004, the Hazardous Substances and New Organisms Act 1996, the Health Act 1956 and the Resource Management Act 1991 and any of those Acts' subsequent amendments or applicable Regulations.

*Explanatory Note: This bylaw interacts with the Waimakariri District Council Wastewater Bylaw in seeking to reduce wastewater overflows. The Wastewater Bylaw seeks to prevent stormwater inflow into the wastewater systems by addressing defects in the wastewater reticulation, non-complying wastewater or stormwater connections and poorly designed gully traps. These steps all assist to prevent wastewater overflows that can adversely affect the receiving environment.*

*The Stormwater Drainage and Watercourse Protection Bylaw 2024 supports these provisions by requiring effective operation and maintenance of Council and private stormwater and land drainage systems and separate operation of the stormwater and wastewater systems.*

### **3 OBJECTIVES**

- 3.1 The purpose of the bylaw is to provide a mechanism to assist the Council to achieve the following key objectives:
- a. Control the discharge of contaminants into any Council stormwater system or land drainage system;
  - b. Prevent the unauthorised discharge of stormwater into any Council stormwater or land drainage system;
  - c. Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment;
  - d. To protect the land, structures and infrastructure of Council and private stormwater and land drainage systems;
  - e. To define the obligations and responsibilities of the Council, private property owners and occupiers and the public in matters related to the discharge of stormwater and land drainage water, and the management of stormwater systems and land drainage systems;
- 3.2 The above objectives will assist the Council to contribute to the following broader outcomes for waterways in the District:
- a. To provide for improvement in the quality of waterways;
  - b. To provide for protection and enhancement of waterways, mahinga kai, indigenous species and habitat;
  - c. To provide for the protection of wahi tapu, wahi taonga, wai tapu and wai taonga.

### **4 INTERPRETATION**

- a. In this bylaw:
  - i. **“Approval or approved”** means approval or approved in writing by Waimakariri District Council either by resolution of Council or by a Council officer.
  - ii. **“Best Management Practice(s)”** means the best method(s) for preventing or minimising the adverse effects of any stormwater discharge on the environment.
  - iii. **“Catchment Management Plan”** is a plan providing an overview of the stormwater system(s) and water quality issues within a catchment to provide a framework for future stormwater management.
  - iv. **“Connection”** means an approved discharge from a premises of stormwater into a Council stormwater system or land drainage water into a Council land drainage system that is subject to Council’s approved and applicable rates and charges.
  - v. **“Construction activities”** means any activities involving the disturbance of the surface of any land but excludes farming and forestry activities.
  - vi. **“Contaminant”** includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy or heat:
    - a. when discharged into water, changes, or is likely to change the physical, chemical, or biological condition of the water into which it is discharged, or

- b. when discharged onto or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air onto or into which it is discharged.
- vii. **“Council”** means the Waimakariri District Council.
- viii. **“Council system”** means a land drainage or stormwater system which is under the control of the Council.
- ix. **“Customer”** means the person discharging stormwater or land drainage water into the Council system.
- x. **“District Plan”** means the Waimakariri District Plan.
- xi. **“District”** means the Waimakariri District.
- xii. **“Environment Canterbury”** means the Canterbury Regional Council.
- xiii. **“Environmental standards and/or limits”** means the standards or limits which apply in the receiving environment or at a stormwater network discharge point and which control quantities of any contaminant which is authorised or approved to be discharged through any National Environmental Standard, Regional or District Plan or consent condition.
- xiv. **“Erosion and Sediment Control Plan”** means a plan that has been prepared in accordance with the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury.
- xv. **“Flood plain”** means an area which is predicted to flood in a storm event.
- xvi. **“Ground soakage system”** means a system that provides for stormwater to soak into the ground.
- xvii. **“Hazardous Substances”** as defined by Section 2 of the Hazardous Substances and New Organisms Act 1996, Ministry of Environment.
- xviii. **“High-Risk Activities”** are those activities defined as High-Risk in Schedule 1 of this Bylaw.
- xix. **“Land drainage system”** means any combination of surface or subsurface pipes, channels, drains or canal systems that have been constructed for the primary purpose of collecting or draining water from agricultural or rural land and ancillary structures; or controlling or permanently lowering the water table; and which conveys and discharges that water to the receiving environment.
- xx. **“Land drainage water”** means water arising from the drainage of water from the soil profile, or excess surface water from agricultural or rural land. It excludes stormwater, which is separately defined.
- xxi. **“Medium-Risk Activities”** are those activities defined as Medium-Risk in Schedule 1 of this bylaw.
- xxii. **“Mixing Zone”** means a Mixing Zone as defined in Schedule 5 of the Canterbury Land and Water Regional Plan.
- xxiii. **“Natural servitude”** means a state where low-lying land is obliged to receive surface water which drains naturally from land situated at a higher gradient (surface water includes all naturally occurring water which results from rainfall or water flowing onto the site, including percolating water). “
- xxiv. **“NTU”** means Nephelometric Turbidity Unit, which is the unit used to measure the turbidity of a fluid or the presence of suspended particles in water.
- xxv. **“Nuisance”** has the same meaning as Section 29 of the *Health Act 1956*, and includes a person, thing, or circumstance causing stress or annoyance or unreasonable interference. In the context of this bylaw the term nuisance includes, but is not limited to:
  - a. Danger to life;
  - b. Danger to public health;
  - c. Flooding of any building floor or sub-floor, or public roadway;

- d. Damage to property;
  - e. An effect on the efficient operation of a stormwater or land drainage system;
  - f. Damage to any facet of a stormwater or land drainage system;
  - g. Erosion or subsidence of land;
  - h. Long or short term adverse effects on the environment; or
  - i. Adverse loss of riparian vegetation; or
  - j. Wastewater overflow to land or water; or
  - k. Anything that causes a breach of any stormwater discharge consent condition binding Council.
- xxvi. **“Offence”** includes any act or omission in relation to this bylaw or any part thereof for which any person can be prosecuted.
- xxvii. **“Owner/occupier”** means any persons acting in general management or control of the land, or any plant or machinery on that land.
- xxviii. **“Overland flow path”** means any secondary flow path that is:
- a. illustrated in a catchment management plan or on any Council drainage plan or record; or
  - b. the overland route taken by any concentration of, or significant sheet flow of stormwater or land drainage water on its way to a flood plain, stormwater system, land drainage system or watercourse.
- xxix. **“Person”** includes an individual person (corporation sole) and also a body of persons, whether corporate, incorporate or non-corporate.
- xxx. **“Point of connection”** means the point on the Council system that marks the boundary of responsibility between the customer and the Council, at which the customer(s) private system connects to and discharges stormwater or land drainage water into the Council system.
- xxxi. **“Pollution Prevention Plan”** means a plan which identifies actual or potential pollution risks relating to the discharge of contaminants from a specific site or operation, and the management strategies implemented or proposed to mitigate these risks.
- xxxii. **“Premises”** means either:
- 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. 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
  - c. Land held in public ownership (e.g. reserve) for a particular purpose.
  - d. Individual units in a building which are separately occupied and/or leased.
- xxxiii. **“Private system”** means any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system. For the purposes of the bylaw, drains that are managed by the New Zealand Transport Agency, KiwiRail or Environment Canterbury are deemed to be part of a private system.
- xxxiv. **“Receiving environment”** means any surface water body, land, groundwater or coastal marine area into which stormwater or land drainage water is conveyed.
- xxxv. **“Site discharge”** means a discharge from any site into a Council stormwater system.

- xxxvi. **“Site-Specific Stormwater Management Plan”** means a site-specific plan for high-risk sites that details the management and treatment of stormwater on site. See section 10 of the Bylaw.
  - xxxvii. **“Stop bank”** means an embankment to prevent flooding.
  - xxxviii. **“Stormwater”** means runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or rainfall runoff from the external surface of any structure as a result of precipitation, and excludes land drainage water, which is separately defined.
  - xxxix. **“Stormwater system”** means the system provided by the Council or private property owner/occupier for the management of stormwater runoff, which includes any combination of open channels, drains, underground pipes and basins, ponds, wetlands, kerb, channel and swales up to and including the point of discharge, but excluding the receiving environment.
  - xl. **“Stormwater Management Plan”** is a plan to improve the management of water quality and water quantity in a defined area.
  - xli. **“The Act”** means the *Local Government Act 2002* and its amendments.
  - xl. **“Watercourse”** means every open river, stream, creek, floodway, culvert, channel and open drain through which stormwater or land drainage water commonly flows, whether continuously or not, and which may be either managed by the Council or privately managed.
  - xl. **“WDC”** means the Waimakariri District Council.
- b. Terms and expressions defined in the Act shall, when used in this bylaw, have the same meanings as those in the Act, unless they are alternatively defined in this bylaw.
  - c. If any requirement in relation to any person or activity specified in this bylaw differs from a requirement in any other legislation, regulation, consent condition, standard or Regional or District Plan provision then the more stringent requirement shall apply.

## **PART 1: ACCEPTANCE, DESIGN AND CONNECTIONS**

### **5 ACCEPTANCE OF STORMWATER AND LAND DRAINAGE WATER**

- 5.1 Every person seeking a new or altered connection to a Council system shall be entitled to have the stormwater or land drainage water from the premises accepted by the Council subject to:
  - a. The premises being located within a drainage rated area (designated in accordance with the *Local Government Act 2002*) which is serviced by a Council stormwater or land drainage system;
  - b. The owner of the premises has prior written approval from the Council for the new or altered connection(s), with such approvals assessed subject to requirements of Sections 5.1 and 6.1 of this bylaw;
  - c. There being sufficient capacity within the Council system to accommodate the additional new or altered connection(s);
  - d. The additional new or altered connection(s) must be at least cost neutral to the existing scheme members and annual rates generated from the additional connection(s) must be sufficient to cover the life cycle costs of the new assets and the variable costs of the service;
  - e. Fulfillment of the requirements of this bylaw, including obtaining any relevant consent, implementing any pollution prevention plan that the customer is required

- to obtain, and meeting all requirements of the *Resource Management Act 1991*, *Building Act 2004* or any other acts or regulations;
- f. Payment of the appropriate fees and charges applicable to the connection(s).

*Explanatory Note: A premises within a drainage rated area will either have a direct connection to a council system, or will have a private system that discharges to a council system within the drainage rated area. The customer is required to maintain the private system prior to the point of connection to the Council system.*

*In the areas outside of drainage rated areas, the principles of natural servitude apply and stormwater and land drainage water that discharge to a private system or receiving environment are subject to the applicable clauses within section 17 and to the Building Code.*

*An altered connection refers to an increase in the quantity of, or contaminant loading within, stormwater being discharged from the site.*

- 5.2 If an application to connect to a Council system does not meet the requirements of clauses 5.1 (c), (d) or (e) then the Council may:
- a. Require an upgrade to the system at the cost to the customer(s); or
  - b. Require that an alternative stormwater or land drainage system is provided within the premises in accordance with section 6; or
  - c. Decline the application and advise the customer(s) of the reason(s) why the application was declined.

## **6 DESIGN**

- 6.1 Any proposed new stormwater or land drainage system and any proposed alteration to any existing system must be designed, constructed and operated in accordance with:
- a. Council's Engineering Code of Practice;
  - b. Any relevant Catchment Management Plan prepared by Environment Canterbury or Waimakariri District Council;
  - c. Any relevant Stormwater Management Plan prepared and approved by the Waimakariri District Council;
  - d. The Waimakariri District Plan;
  - e. The Canterbury Land and Water Regional Plan;
  - f. The Regional Coastal Environment Plan for the Canterbury Region;
  - g. The Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury;
  - h. Any approved pollution prevention plan that has been provided in accordance with Section 9 or section 10;
  - i. Any resource, building or other consents relevant to the proposed works including use of best management practices within the site that are necessary to meet consent conditions and environmental standards and limits;
  - j. Any written conditions imposed by Council when approving the works;
  - k. Waimakariri District Council standard construction specifications.
- 6.2 As-built plans showing details of all new or altered systems must be provided to Council within the timeframe specified in Council's written approval or Engineering Code of Practice.
- 6.3 For existing sites being redeveloped, Council may require retrofit stormwater mitigation and/or implementation of site-specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas, in order for Council to comply with consent conditions which control the quality or quantity of discharges from any Council system into the receiving environment. This may include a requirement to treat as much of the first flush as reasonably practicable within the site and/or take any other action required by the Council to minimise any discharge of contaminants from the activity or property.
- 6.4 The Council may specify areas in the District, or may impose controls on any premises, whereby stormwater disposal must be undertaken by ground soakage, unless site conditions prevent it.

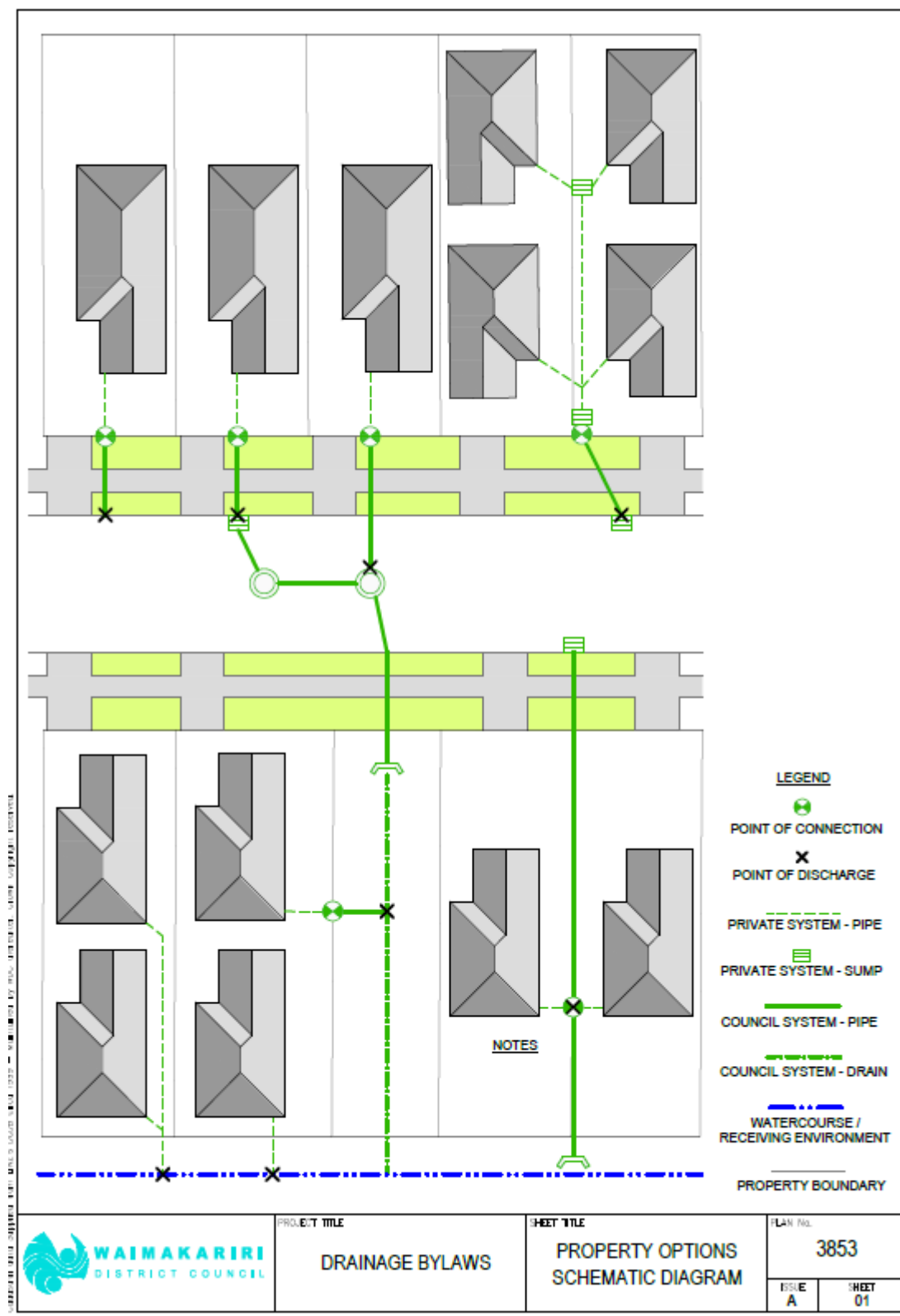
## **7 POINT OF CONNECTION**

- 7.1 The point of connection to the Council's system is shown in Figure 1. There may be only one point of connection for each premises unless prior written agreement is provided by the Council.
- 7.2 The Council is responsible for the maintenance and all repairs to the Council system, including any pipe and fittings up to the point of connection, except:
- a. The customer is responsible for clearing of blockages or repairing damage from trees on the customer's own property, up to the point of discharge.
- 7.3 The customer is responsible for the maintenance and all repairs to the private stormwater or private land drainage system within the customer's property and on the

customer's side of the point of discharge. Except where the private system is within public land, the following applies:

- a. The Council is responsible for any damage to the system caused by a Council contractor or a Council asset (such as a street tree).

**Figure 1: Stormwater Drainage Point of Connection Examples**





## **PART 2: MANAGEMENT OF CONTAMINANTS**

### **8 DISCHARGE OF CONTAMINANTS**

- 8.1 No person or premises may discharge directly or indirectly a contaminant into a Council system, including by way of private system to a Council system, if the discharge is likely to cause nuisance or adversely affect the operation of the system or receiving environment, including having an adverse effect on aquatic life, unless the discharge is approved by the Council or is expressly authorised by an operative resource consent.

*Explanatory note: Contaminants as defined in Section 4 of this bylaw include (but are not limited to) sediment, concrete, cement slurry, sewage, effluent, solvents, paint, oil, hydrocarbons, soap, detergents, dissolved metal, hazardous material, fungicide, herbicide, insecticide, litter and green waste.*

- 8.2 The Council may require premises that do not comply with clause 8.1 to implement the following controls, which, where required, shall be provided at the expense of that customer:
- a. The modification of the premises to reduce or avoid the discharge of the contaminant;
  - b. The installation and use of treatment and mitigation measures or devices;
  - c. The proactive maintenance of the private system, including the provision of and compliance with a Site-Specific Stormwater Management Plan approved by Council.
- 8.3 Any owner, occupier or person who is present on a premises subject to a control made under clause 8.2 must comply with that control, and which, where required shall be provided at the expense of that customer.

## **PART 2A: OPERATING PHASE DISCHARGES**

### **9 MEDIUM-RISK ACTIVITIES / SITES**

- 9.1 The owner/occupier undertaking any new medium-risk activity on any site as defined in Schedule 1 that connects to a Council system shall prepare and implement a Pollution Prevention Plan. This plan shall be provided to the Council upon request. The Council may audit the site and Pollution Prevention Plan at any time.
- 9.2 The owner/occupier undertaking any existing medium-risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, if requested by the Council, prepare and implement a Pollution Prevention Plan. This plan shall be prepared and implemented on site no later than six months after being requested by the Council, or such later date as agreed with Council. The Council may audit the site and Pollution Prevention Plan at any time.
- 9.3 The Pollution Prevention Plan if required under 9.1 or 9.2 above shall be prepared with reference to the information set out on the Council website <https://www.waimakariri.govt.nz/services/3-waters/stormwater-and-drainage/> specified for "Pollution Prevention Plan Requirements".

- 9.4 Records of evidence of ongoing compliance with any Pollution Prevention Plan shall be retained on the site by the owner/occupier and shall be provided to the Council upon request.
- 9.5 Any Pollution Prevention Plan prepared pursuant to this section shall be reviewed and updated by the owner/occupier or operator of the activity to which the plan relates when there have been significant changes to an activity and / or to any structural or procedural controls on site. The review shall identify any changes to the matters covered in clause 9.3, and with a timeframe of action. The Council may undertake an audit of a Pollution Prevention Plan and include further terms and conditions within the revised Pollution Prevention Plan to ensure the activity is being undertaken in accordance with clauses 9.3 and 8.1.
- 9.6 A medium-risk site owner or occupier that has an approved connection to the reticulated stormwater system and whom stores or uses hazardous substances on the property, shall retain a spill kit onsite, or have spill mitigation measures in place, that are capable of absorbing or capturing and containing the quantity of hazardous substances that may be stored on site at any one time.

*Explanatory note – For further information on preparing a site-specific spill prevention and spill response plan and spill mitigation measures required on site including bunding requirements for hazardous substances storage, please refer to <https://www.waimakariri.govt.nz/services/3-waters/stormwater-and-drainage/> to view applicable fact sheets, guidelines and standards.*

## **10 HIGH-RISK ACTIVITIES / SITES**

- 10.1 For high-risk sites a written approval for discharge will be required. This may include a requirement for a site-specific stormwater treatment system which shall be installed on the site to manage and treat stormwater discharge from the site prior to discharge into the Council stormwater system for any contaminants identified within the site. This treatment system, when required, shall be designed in accordance with Section 6 and Section 8 of this Bylaw and must be approved by the Council and fully implemented within the timeline required by the Council.
- 10.2 The owner/occupier undertaking any new high-risk activity on any site as defined in Schedule 1 that connects to a Council system shall prepare and implement a Site-Specific Stormwater Management Plan that includes a Pollution Prevention Plan. This plan shall be submitted to and approved by the Council and fully implemented prior to connecting into the Council system.
- 10.3 The owner/occupier undertaking any existing high-risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, if requested by the Council, prepare a Site-Specific Stormwater Management Plan that includes a Pollution Prevention Plan. This plan shall be submitted for Council approval no later than six months after being requested by the Council, or such later date as agreed with Council. The plan shall be fully implemented within six months of being approved by the Council.
- 10.4 The Site-Specific Stormwater Management Plan shall include the information set out on the Council website <https://www.waimakariri.govt.nz/services/3-waters/stormwater-and-drainage/> specified for “Pollution Prevention Plan Requirements” and the following additional information:

- a. Identification of the environmentally hazardous substances associated with the industrial or trade activity and any other contaminants arising from the site and the methods to be used to avoid discharges of environmentally hazardous substances or other contaminants from the site onto or into land or water;
  - b. A site layout drawing showing boundaries, the location of any onsite hazardous substances, any onsite or adjacent environmental receptors such as streams, drains or rivers, private stormwater and drainage systems including point of connection to the Council system;
  - c. The purpose of; and design specifications for any site-specific stormwater treatment system that will manage and treat stormwater discharge from the site into the Council stormwater system and identify why the selected system is the best solution for the management of discharges from the site;
  - d. A description of the maintenance procedures in place for the stormwater treatment system, the maintenance schedule and who is responsible for ensuring maintenance is carried out;
  - e. A description of training and awareness for employees on the purpose and implementation of the Site-Specific Stormwater Management Plan.
  - f. An assessment method to report on the effectiveness of the Site-Specific Stormwater Management Plan being implemented.
- 10.5 Records of evidence of ongoing compliance with any Site-Specific Stormwater Management Plan shall be retained on the site by the owner/occupier and shall be provided to the Council upon request.
- 10.6 Any Site-Specific Stormwater Management Plan prepared pursuant to this section shall be reviewed by the owner/occupier or operator of the activity to which the plan relates, at five yearly intervals after implementation. The review shall identify any changes to the matters covered in clause 10.4, and with a timeframe of action. The reviewed plan shall be forwarded to the Council for approval, upon request. The Council may include further terms and conditions within the revised plan to ensure the activity is being undertaken in accordance with clauses 10.4 and 8.1. Once approved, the plan shall become binding.
- 10.7 Notwithstanding clause 10.6, the Council may require that any Site-Specific Stormwater Management Plan shall be revised where there have been significant changes to an activity, procedural and or structural controls, hazardous substances use and or storage, or failure to meet any requirement of clause 8.1.
- 10.8 A high-risk site owner or occupier that has an approved connection to the reticulated stormwater system and whom stores or uses hazardous substances on the property, shall retain a spill kit onsite, or have spill mitigation measures in place, that are capable of absorbing or capturing and containing the quantity of hazardous substances that may be stored on site at any one time.

*Explanatory note – For further information on preparing a site-specific spill prevention and spill response plan and spill mitigation measures required on site including bunding requirements for hazardous substances storage, please refer to <https://www.waimakariri.govt.nz/services/3-waters/stormwater-and-drainage/> to view applicable fact sheets, guidelines and standards.*

## PART 2B: CONSTRUCTION PHASE DISCHARGES

### 11 CONSTRUCTION ACTIVITIES

- 11.1 An Erosion and Sediment Control Plan must be prepared and implemented by the owner/occupier of any premises where construction activities are occurring where there is a discharge, either directly or indirectly, into any Council system. This plan shall be fully implemented prior to discharging into the Council system and shall be submitted to the Council on request.
- 11.2 The Erosion and Sediment Control Plan required under clause 11.1 must be prepared and implemented in accordance with the current version of the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury.
- 11.3 Any site or customer that discharges into a Council system must comply with the environmental standards, limits and other requirements set out in Schedule 2.
- 11.4 The owner/occupier undertaking a construction activity on any site which would discharge stormwater into any Council system, where that construction is on:
- a) any site where an activity listed in the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List” is occurring or has historically occurred; and/or
  - b) Any site on the Environment Canterbury Listed Land Use Register; and/or
  - c) Any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011;

shall have the risk associated with the proposed stormwater discharge assessed in accordance with the “Memorandum of Understanding Between Waimakariri District Council and Environment Canterbury: Stormwater Discharge Approvals on Contaminated Land” and the “Assessment Criteria for HAIL Sites” (refer <https://www.waimakariri.govt.nz/services/3-waters/stormwater-and-drainage/>).

Following the assessment of risk, the owner/occupier shall meet any requirements specified by the Council for a discharge that is approved into the reticulated stormwater network, or, if requested by the Council, shall apply for and obtain a resource consent from Environment Canterbury for the discharge.

*Explanatory note: Construction phase discharges referred to in clause 11.4 refer to construction activities on sites where there may be potentially contaminated land on all or part of the site that is discharging construction phase stormwater into the Council system. Sites are considered to be potentially contaminated if contaminants in or on the site are above background concentrations (see Canterbury Land and Water Regional Plan Schedule 3 and “potentially contaminated” definition).*

*The Council may require the site owner/occupier to verify the risks posed by discharges from potentially contaminated sites by requiring them to arrange investigations in accordance with the “Contaminated Land Management Guidelines No. 1: Reporting on Contaminated Sites in New Zealand (Revised 2021)” and the “Contaminated Land Management Guidelines No.5: Site Investigation and Analysis of Soils (Revised 2021)” published by the Ministry for the Environment. These investigations, when required by the Council, shall be arranged and funded by the*

*owner/occupier and must be undertaken and reported by a SQEP for contaminated land.*

*It is noted that Schedule 1 of the bylaw (defining sites as either high-risk or medium-risk) does not directly apply to assessment of risk posed by sites generating construction phase discharges.*

## **PART 2C: SITES WITH UNACCEPTABLE RISK**

### **12 UNACCEPTABLE RISK FROM ACTIVITIES / SITES**

12.1 The Council may determine that the discharge from a site poses an unacceptable level of risk to the receiving environment when:

- a) The site or activity does not comply with its approved Site-Specific Stormwater Management Plan and/or Pollution Prevention Plan;
- b) The site or activity does not comply with its approved Erosion and Sediment Control Plan;
- c) The site causes a nuisance, adversely affects the stormwater system or adversely affects aquatic life;
- d) The site previously had an existing consent with Environment Canterbury and the conditions for this consent were not met or any applicable environmental standards or limits were exceeded, and / or the site did not receive a compliance grading from Environment Canterbury within 12 months prior to its expiry date;

in which case the Council may cease authorising the discharge from that connection into the Council system and require the site owner/occupier to obtain a resource consent from Environment Canterbury for the discharge into the Council system.

12.2 Any owner/occupier whom is required to obtain a resource consent from Environment Canterbury under clause 12.1 shall comply with all requirements of that consent and all requirements of this bylaw.

## **PART 3: PROTECTION OF SYSTEMS AND WATERCOURSES**

### **13 ACTIVITIES REQUIRING APPROVAL**

13.1 Approval in writing must be obtained from the Council before any of the following occur:

- 13.1.1 Any works on a Council system or a watercourse managed by the Council;
- 13.1.2 Any modification to a bank structure, including widening, deepening, damming, diverting or planting or removing any vegetation from any part of a Council system or from the banks of any watercourse managed by the Council, including use of herbicide in such a way as to impede the flow of water or destabilise the bank structure; or
- 13.1.3 The erection of a structure, or placement of any material or planting of any vegetation (e.g. tree or hedge) where these impede access by machinery or apparatus used to clean, maintain or improve any part of a proposed or existing Council system; or

13.1.4 The erection of any new vehicle or stock crossing over a watercourse managed by the Council.

13.2 The following activities are forbidden:

13.2.1 Any alteration, interference with or obstruction of any Council system;

13.2.2 Allowing any stock or vehicles to do anything that damages or is likely to cause damage to any Council system or watercourse managed by the Council.

## **14 WORKS IN PROXIMITY TO SYSTEMS**

14.1 Any person who proposes to undertake any works or activities that may result in damage to any part of a Council system, including excavation works, must obtain Council's approval before beginning such works.

14.2 The person undertaking the works or activities is responsible for locating any buried services.

14.3 Any person who damages or causes disruption to any Council system is liable for the full costs of any repairs and associated costs incurred as a result of the damage or disruption. Any possible damage or disruption to any Council system must be reported to the Council immediately.

14.4 Following any works in proximity to a Council system, bedding and backfill must be reinstated in accordance with the Engineering Code of Practice.

## **PART 4: ACCESS, MAINTENANCE AND MONITORING**

### **15 SYSTEM ACCESS**

15.1 An owner/occupier shall allow Council access to and about all facets of all Council systems for the purposes of monitoring, testing and maintenance in accordance with Sections 171-173 and 182 of the Local Government Act 2002 (or other such notice as otherwise arranged with any owner/occupier).

15.2 In emergency conditions, or for the purpose of ascertaining whether a stormwater or land drainage system is being misused or this bylaw is not being complied with, an owner/occupier shall allow Council access to and about all facets of the system in accordance with sections 171-173 and 182 of the Local Government Act 2002.

### **16 WATER QUALITY MONITORING**

16.1 Council may independently monitor, sample and analyse discharged stormwater or land drainage water and recover costs from the property owner/occupier, where failure to comply with any Site-Specific Stormwater Management Plan and/or Pollution Prevention Plan or Erosion and Sediment Control Plan relating to the property is evident.

16.2 Where it is suspected that any discharge within the District is in breach of any part of sections 8 to 12, the Council may independently monitor, sample and analyse discharged stormwater or land drainage water, and where an offence is proven, may recover the costs of investigating, sampling and analysing the discharge, from the property owner/occupier.

## **PART 5: PRIVATE SYSTEMS**

### **17 PRIVATE SYSTEM MAINTENANCE**

- 17.1 All private systems must be designed, constructed, managed and maintained by the owner/occupier, at the owner/occupier's expense or by some other arrangement acceptable to the Council.
- 17.2 The owner/occupier of a private system must ensure that it is maintained in good operating condition and does not cause or contribute to nuisance.
- 17.3 The owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that watercourse, stop bank, overland flow path or flood plain in an operational state which does not cause or contribute to nuisance.

*Explanatory note – the alteration or construction of works on a watercourse, overland flow path, flood plain or stop bank may require a consent from Environment Canterbury in accordance with the Canterbury Land and Water Regional Plan. Activities within the beds of lakes and rivers may be subject to rules in regional plans in accordance with Section 13 of the Resource Management Act 1991.*

## **PART 6: OFFENCES, PENALTIES AND ENFORCEMENT**

### **18 OFFENCES**

- 18.1 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00 as set out in section 242 of the Local Government Act 2002.

### **19 FEES AND CHARGES**

- 19.1 The Council may in accordance with the Local Government Act 1974 and Local Government Act 2002 set charges or fees to recover the cost of any of the following:
- a. Processing the assessment of Site-Specific Stormwater Management Plans and / or Pollution Prevention Plans, their review, approvals and monitoring of compliance with the plans;
  - b. Processing the assessment of any other approval, consent, plan, or any other monitoring, investigation, sampling or analysis charge that is required under any part of this bylaw;
  - c. Processing the assessment, approval or monitoring of any Erosion and Sediment Control Plan or any other approval required under this bylaw.

### **20 REMEDIES**

- 20.1 In the event of a breach of statutory or other legal requirements including this bylaw, the Council may serve notice on the owner/occupier advising the nature of the breach and the steps to be taken within a specified period to remedy it. If after the specified period, the owner/occupier has not remedied the breach, the Council may charge a re-inspection fee.
- 20.2 At any time after the specified period in 20.1 has elapsed, the Council may carry out any remedial work required in order to make good the breach, and recover from the

owner/occupier all reasonable costs incurred in connection or associated with the remedial work together with any resulting damages.

- 20.3 If however the breach is such that public health or safety considerations or nuisance, or risk of consequential damage to council assets is such that delay would create or be likely to create unacceptable results, the Council may take immediate action to rectify the defect, and recover all reasonable costs and damages from the owner/occupier.



## **SCHEDULE 1 – MEDIUM-RISK AND HIGH-RISK ACTIVITIES AND SITES (OPERATING PHASE DISCHARGES)**

**A) High-Risk** activities and sites include sites where an activity is occurring that is described in the current version of the Canterbury Land and Water Regional Plan Schedule 3 “*Hazardous Industries and Activities List*”, unless any such activity or site is specifically identified as “medium-risk” in Schedule 1B of this bylaw.

**B) Medium-Risk** activities and sites include any of the following:

- i. Aggregate and material storage/stockpiled yards,
- ii. Commercial analytical laboratory sites,
- iii. Construction and maintenance depots (that exclude areas used for refueling or bulk storage of hazardous substances),
- iv. Demolition yards that exclude hazardous wastes,
- v. Dry cleaning premises,
- vi. Engineering workshops with metal fabrication,
- vii. Engine reconditioning workshops,
- viii. Food and beverage manufacturers,
- ix. Motor vehicle workshops,
- x. Any other activity or premises that has failed to meet the requirements of Section 8, including wash down areas, unless that activity or site is otherwise defined as a “high-risk” in Schedule 1(A).

### **C) Change to a Risk Classification**

Any site in Schedule 1(B) that the Council deems to be operating in a manner that is non-compliant with Section 8 or Section 9 of this Bylaw may be re-classified by the Council as a “high-risk” site under Schedule 1 (A) above.

## **SCHEDULE 2 – REQUIREMENTS FOR CONSTRUCTION PHASE DISCHARGES**

- A) Any site or customer that discharges into a Council system must comply with the following requirements.
- i) The site discharge shall contain no greater than 50g/m<sup>3</sup> of total suspended solids; and;
  - ii) The site discharge into the Council system shall be no greater than 50 NTU, measured by turbidity meter; or
  - iii) The site discharge shall be no greater than 5 NTU above the NTU measured in the receiving environment, when the receiving environment NTU in the receiving watercourse is equal to or less than 50 NTU, measured by turbidity meter; or
  - iv) The site discharge shall not cause a turbidity increase that is greater than 10% in the receiving environment, when the receiving watercourse NTU is greater than 50 NTU, measured by turbidity meter.
- B) Measurements undertaken under SCHEDULE 2 (A) (iii), or (iv) may allow for a mixing zone for measurements required in the receiving environment and the measurement timing intervals and locations must be undertaken as directed by the Council.



**STATEMENT OF PROPOSAL TO REVOKE THE WAIMAKARIRI DISTRICT COUNCIL  
STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2018 AND CREATE THE  
STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2024**

**Introduction**

This Statement of Proposal is prepared for the proposed *Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2024*, and is made under sections 83, 86, 145, 146 and 156 of the *Local Government Act 2002* (the Act).

The documents relating to this proposal are attached to this Statement of Proposal. Copies of the Statement of Proposal are also available on the Council's website at [waimakariri.govt.nz](http://waimakariri.govt.nz) and at all Council Service Centres and district libraries during the consultation period which runs from 20 June to 29 July 2024.

Consultation will include notification of a number of affected organisations, public notices in local newspapers and information about the review on the Council's website.

Any questions can be referred to Janet Fraser on 0800 965 468.

You can forward your submissions to the Council at:

Stormwater Drainage and Watercourse Protection Bylaw Submissions  
Waimakariri District Council  
Private Bag 1005  
Rangiora 7440

Attention: Janet Fraser, Infrastructure Planner

Or email them to: [records@wmk.govt.nz](mailto:records@wmk.govt.nz).

We need to receive your submission no later than **Monday 29 July 2024**.

All submitters have the opportunity to present their views to the hearing panel of Councillors in person. The likely hearing date is Wednesday 25 September 2024 (to be confirmed).

**Nature of Proposal**

The Council proposes to revoke the current *Stormwater Drainage and Watercourse Protection Bylaw 2018* and replace it with an amended bylaw called the *Stormwater Drainage and Watercourse Protection Bylaw 2024*. As part of this bylaw making process the Council invites members of the public to comment on the draft 2024 amended bylaw.

The proposal to make this bylaw is made under the provisions of the *Local Government Act 2002*:

Section 145 – “A territorial authority may make bylaws for its district for 1 or more of the following purposes:

- a) *protecting the public from nuisance:*

- b) *protecting, promoting, and maintaining public health and safety:*
- c) *minimising the potential for offensive behaviour in public places.”*

Section 146 - *“Without limiting section 145, a territorial authority may make bylaws for its district for the purposes-*

- b) *of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with 1 or more of the following:*

*(iii) wastewater, drainage, and sanitation:*

*(iv) land drainage:*

The *Stormwater Drainage and Watercourse Protection Bylaw 2018* and earlier *Stormwater Bylaw 2011* were prepared to provide a mechanism to control the discharge of contaminants into public drains. The bylaw was developed to ensure that the Council could maintain the aquatic health of its drains and meet the appropriate standards relating to its discharges from communal stormwater systems.

The original 2011 bylaw included provisions for managing discharges of contaminants into drains and managing discharge of sediment into the stormwater systems from construction activities. It also introduced the use of Pollution Prevention Plans within the Southbrook Outline Development Plan area for medium-risk activities. The 2018 version covered more operating situations which are encountered by the Council in managing its systems and offered more protection against damage to the receiving environment. For example, the revised 2018 version extended Pollution Prevention Plan requirements throughout the whole district to better address the quality of discharges into the networks from medium-risk activities / sites.

The above provisions of the bylaw are consistent with the purpose of the *Resource Management Act 1991* in terms of seeking to maintain and enhance the quality of the environment by reducing discharges of harmful contaminants into the receiving environment.

The discharge of contaminants into the environment will continue to be reduced or prevented by the implementation of the 2024 version. The 2024 review proposes to extend coverage of the bylaw to manage discharges into the Council stormwater networks from high-risk sites.

It also includes updated provisions to enable the Council to provide sufficient direction to the community in order to implement the stormwater network discharge consents which it has been required to obtain under the Canterbury Land and Water Regional Plan (CLWRP). These consents form part of the local approach to progressing the objectives and policies of the National Policy Statement for Freshwater Management (NPSFM) 2020.

As with previous versions, the 2024 bylaw version also controls activities which interfere with Council systems and requires maintenance of privately managed flood protection infrastructure. It seeks to reduce common issues such as vehicle or stock damage to watercourses or excess spraying that damages open drains.

The bylaw is also intended to address some of the effects of managing private stormwater or land drainage systems. This is so that the bylaw can support the role of the Council in resolving situations where the actions of one party affect other properties and downstream Council systems or the receiving environment.

### **Reasons for this Proposal**

Under section 158 of The Act, the Council is required to review its bylaws at five and then ten yearly intervals. The 10 year review timeframe for the WDC Stormwater Drainage and Watercourse Protection Bylaw 2018 is 1 May 2028. Under section 160A, a bylaw remains in force for a further two years from that date, at which point it lapses. This review is being completed in advance of the required timeline as the Bylaw provisions currently do not enable the Council to meet requirements of the CLWRP to manage the quality and quantity of all stormwater discharges from its networks by 1 January 2025.

Section 156 of The Act requires a Council to consult the public using a special consultative procedure if (1) (ii) *“the local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to the bylaw”*.

The proposed revised 2024 bylaw is significantly changed in content and provisions from the previous 2018 version. The Bylaw is being amended so that it will most effectively support the Council to control all stormwater discharges from the stormwater networks and ensure that all discharges meet environmental standards which now apply in the receiving environment. The Council has therefore decided to use the special consultative procedure to provide opportunity for public input.

The reason for developing this bylaw is to avoid nuisance from operating stormwater and land drainage systems, protect Council infrastructure, public health and safety and the quality of the environment. The provisions of the 2018 bylaw have been expanded in the 2024 version to include a wider range of requirements. These will enable the Council to better respond to issues arising whilst it is managing the quality and quantity of all stormwater discharges from its reticulated networks and resolving common operating issues. The changes are summarised in the “Proposed Changes” section of this Statement, below.

## **Section 155 Report**

The Council is required to determine whether a bylaw is the most appropriate way of addressing the perceived problem, and if so, whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the *New Zealand Bill of Rights Act 1990*.

### **Determination of whether the Bylaw is appropriate**

The Council considers a bylaw to still be the most appropriate mechanism for controlling nuisance and protecting public health and safety resulting from the discharge of stormwater or land drainage water, and other associated matters, for the following reasons:

- The bylaw provides an administratively simple way of specifying the rules and conditions to be met by each activity or person generating a stormwater or land drainage discharge
- A bylaw will help to ensure the health and safety of the public, Council contractors and employees, through preventing or reducing the discharge of contaminants, preventing interference with Council systems and requiring suitable maintenance of private systems
- It means the Council can make the public aware of the requirements by publishing its bylaw and providing enforcement in circumstances where a customer does not voluntarily agree to meet the requirements
- The bylaw provides an open and transparent process for the community to provide input into the preparation and adoption of the rules that will be applied
- The bylaw means the Council does not have to solely rely on the cooperation of the customer to ensure either: (a) the acceptable quality of stormwater and land drainage discharges into its systems; or (b) that it can avoid adverse effects of flood flows that may result from inappropriate private activities. This is because the bylaw sets out the conditions and rules that will apply in each of these circumstances, with enforcement as an option if necessary
- The bylaw provides the Council with a specific and focused method of enforcement in terms of managing activities in a way that will improve the quality of discharges into and from its systems
- Despite the need for a formal process, bylaws can be amended relatively easily to meet changing circumstances in the future

## **Form of the Bylaw**

The form of the 2018 bylaw needs to be amended as it is no longer appropriate or effective in addressing all of the circumstances and requirements of managing the stormwater drainage activity.

The 2018 version does not address all of the responsibilities of the Council in managing its systems or control all types of discharges into the systems. The bylaw is proposed to be updated to control the quality and quantity of all discharges into the reticulated stormwater networks, including from high-risk sites.

The 2018 bylaw also does not enable the Council to provide sufficient direction to the community in order to implement the stormwater network discharge consents which it is required to obtain under the CLWRP. The consents will require the Council to, over time, achieve the water quality standards of the CLWRP, as they apply within the district. The bylaw will provide a key method in the district to assist the Council to achieve these water quality standards. The revised version has been further updated in anticipation of meeting current requirements of the CLWRP as far as is practicable.

The bylaw has been reviewed by Council asset managers, engineering, water quality and environmental specialist and policy staff and compared with the bylaws of other territorial authorities to ensure that all of the required controls are included.

## **New Zealand Bill of Rights Act 1990**

The Council must determine whether the bylaw gives rise to any implication under the *New Zealand Bill of Rights Act 1990* and that it is not inconsistent with that Act.

The Act establishes certain fundamental human rights as well as rights in relation to offences and other matters. A review by the Council of all of the relevant provisions of the Act does not give rise to any concerns.

For instance, the *New Zealand Bill of Rights Act 1990* states:

### **Section 5: *Justified Limitations***

*“Subject to section 4, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”*

It is believed that the bylaw is justified and reasonable as it contributes to public health and safety by reducing the risk of harmful or contaminated substances discharging into Council stormwater or land drainage systems, which may then enter the receiving environment and affect downstream properties and health of aquatic ecosystems.

It also protects against inadequate management of stormwater or drainage runoff volumes and peak flows resulting from inappropriate private activities. This includes protecting against interference with public systems and requiring maintenance of privately owned flood management infrastructure to protect wider public safety and avoid nuisance.

The bylaw will require restrictions on individual behaviour that are currently already understood and accepted by the majority of citizens because of the collective benefits they generate. Some examples of how the community will benefit from this bylaw will be in avoiding discharge of contaminants into the environment, improving quality of freshwater in local streams and rivers and protecting flood control infrastructure from interference. The bylaw will also ensure adequate private maintenance so as to reduce or avoid flood risk and damage to downstream properties.

The bylaw will be made using a democratic process including publicly notifying the proposal, receiving and hearing submissions giving all interested people an opportunity to participate, with the final decision determined by elected Councillors.

### **Options available to the Council**

The Council could either adopt the draft bylaw as proposed, further amend the bylaw following public consultation, or it could choose instead to seek to meet its objectives in undertaking the stormwater drainage activity without the use of a bylaw to regulate public and private behaviour.

Since the adoption of the 2018 Bylaw version the Council has continued to use a combination of education, guidelines and advocacy to the general public, in working towards improving the quality of the stormwater and land drainage discharges and in avoiding or reducing flood risks associated with the activity. The existence of the bylaw has enabled more insistence on compliant behaviour in cases where softer approaches have not had the desired effect.

The continued existence of a bylaw provides the appropriate legal tool to control activities of organisations and individuals that choose to dispose of waste into the stormwater system or otherwise damage infrastructure in a way that can create a risk to public health or safety.

### **Proposed Changes**

The draft bylaw that is proposed by staff is revised from the existing 2018 version. The key proposed changes shown in the revised 2024 version include:

- New Bylaw objectives recommended for inclusion by Ngai Tuahuriri
- Stormwater discharge, Site-Specific Stormwater Management Plans and Pollution Prevention Plan approvals for “high-risk” sites
- Site specific spill prevention and spill response procedures and other requirements for high-risk sites
- New controls and sampling methods to manage discharges of sediment into stormwater or waterways in accordance with the stormwater monitoring programmes (new Schedule 2)
- Reference to a risk assessment process for “high-risk” site stormwater discharges from potentially contaminated land
- Other minor changes for clarification or to align with operational practice

### **Related Documents**

- Proposed Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2024 (TRIM 240328049939)
- Officer Report Titled “*Commence Public Consultation on Amended Stormwater Drainage and Watercourse Protection Bylaw*” (TRIM 240328049935)
- Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2018 (TRIM 180504048735)
- Memorandum of Understanding Between Waimakariri District Council and Environment Canterbury Stormwater Discharge Approvals on Contaminated Land CRC184601 (TRIM 230925149963).
- Assessment Criteria for HAIL Sites from 1 January 2025– LLUR HAIL for Memorandum of Understanding Stormwater Discharge Approvals on Contaminated Land (TRIM 230412051135).
- Stormwater Drainage and Watercourse Protection Bylaw Review 2024 - Cultural Advice Report to Waimakariri District Council from Mahaanui Kurataiao Limited (TRIM 240409054566).



WAIMAKARIRI  
DISTRICT COUNCIL

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# STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2018

This Stormwater Drainage and  
Watercourse Protection Bylaw 2018  
was adopted at a Council Meeting held on  
1 May 2018

  
\_\_\_\_\_  
Chief Executive

  
\_\_\_\_\_  
Governance Manager





WAIMAKARIRI DISTRICT COUNCIL  
STORMWATER DRAINAGE AND WATERCOURSE PROTECTION BYLAW 2018

**1 TITLE, AUTHORITY AND COMMENCEMENT**

- 1.1 This bylaw shall be known as the *Waimakariri District Council Stormwater Drainage and Watercourse Protection Bylaw 2018*.
- 1.2 This bylaw shall come into force on 14 May 2018.
- 1.3 This Bylaw supersedes and revokes the Stormwater Bylaw 2011.
- 1.4 The Council resolved to review the Stormwater Bylaw 2011 on 24 October 2017. The revised Bylaw was confirmed following a special consultative procedure by resolution at a meeting on 1 May 2018.

**2 INTRODUCTION**

- 2.1 This bylaw is made by the Waimakariri District Council in exercise of the powers and authority vested in the Council by Section 146 of the *Local Government Act 2002*.
- 2.2 This bylaw applies and operates throughout the Waimakariri District.
- 2.3 This bylaw applies to the following:
- Council stormwater systems;
  - Council managed land drainage systems or watercourses;
  - Privately managed stormwater systems, land drainage systems, watercourses, flood plains, overland flow paths or stop banks.
- 2.4 This bylaw does not derogate from the Building Act 2004, the Hazardous Substances and New Organisms Act 1996, the Health Act 1956 and the Resource Management Act 1991 and any of those Acts' subsequent amendments or applicable Regulations.

*Explanatory Note: This bylaw interacts with the Waimakariri District Council Wastewater Bylaw in seeking to reduce wastewater overflows. The Wastewater Bylaw seeks to prevent stormwater inflow into the wastewater systems by addressing defects in the wastewater reticulation, non-complying wastewater or stormwater connections and poorly designed gully traps. These steps all assist to prevent wastewater overflows that can adversely affect the receiving environment.*

*The Stormwater Drainage and Watercourse Protection Bylaw 2018 supports these provisions by requiring effective operation and maintenance of Council and private stormwater and land drainage systems and separate operation of the stormwater and wastewater systems.*

### 3 OBJECTIVES

- 3.1 The purpose of the bylaw is to provide a mechanism to assist the Council to achieve the following key objectives:
- a. Control the discharge of contaminants into any Council stormwater system or land drainage system;
  - b. Prevent the unauthorised discharge of stormwater into any Council stormwater or land drainage system;
  - c. Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment;
  - d. To protect the land, structures and infrastructure of Council and private stormwater and land drainage systems;
  - e. To define the obligations and responsibilities of the Council, private property owners and occupiers and the public in matters related to the discharge of stormwater and land drainage water, and the management of stormwater systems and land drainage systems.

### 4 INTERPRETATION

- a. In this bylaw:
  - i. **“Approval or approved”** means approval or approved in writing by Waimakariri District Council either by resolution of Council or by a Council officer.
  - ii. **“Best practicable option”** means the best method for preventing or minimising the adverse effects of any stormwater discharge on the environment, as determined by the Council, having regard to:
    - a. the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
    - b. the financial implications of an option compared with other options.
  - iii. **“Catchment Management Plan”** is a plan providing an overview of the stormwater system(s) and water quality issues within a catchment to provide a framework for future stormwater management.
  - iv. **“Connection”** means an approved discharge from a premises of stormwater into a Council stormwater system or land drainage water into a Council land drainage system that is subject to Council's approved and applicable rates and charges.
  - v. **“Construction activities”** means any activities involving the disturbance of the surface of any land but excludes farming and forestry activities.
  - vi. **“Contaminant”** includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy or heat:
    - a. when discharged into water, changes, or is likely to change the physical, chemical, or biological condition of the water into which it is discharged, or
    - b. when discharged onto or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air onto or into which it is discharged.
  - vii. **“Council”** means the Waimakariri District Council.
  - viii. **“Council system”** means a land drainage or stormwater system which is under the control of the Council.



- ix. **“Customer”** means the person discharging stormwater or land drainage water into the Council system.
- x. **“District Plan”** means the Waimakariri District Plan.
- xi. **“District”** means the Waimakariri District.
- xii. **“Environment Canterbury”** means the Canterbury Regional Council.
- xiii. **“Erosion and Sediment Control Plan”** means a plan that has been prepared in accordance with the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury.
- xiv. **“Flood plain”** means an area which is predicted to flood in a storm event.
- xv. **“Ground soakage system”** means a system that provides for stormwater to soak into the ground.
- xvi. **“High-Risk Activities”** are those activities defined as High-Risk in Schedule 1 of this Bylaw.
- xvii. **“Land drainage system”** means any combination of surface or subsurface pipes, channels, drains or canal systems that have been constructed for the primary purpose of collecting or draining water from agricultural or rural land and ancillary structures; or controlling or permanently lowering the water table; and which conveys and discharges that water to the receiving environment.
- xviii. **“Land drainage water”** means water arising from the drainage of water from the soil profile, or excess surface water from agricultural or rural land. It excludes stormwater, which is separately defined.
- xix. **“Medium-Risk Activities”** are those activities defined as Medium-Risk in Schedule 1 of this bylaw.
- xx. **“Natural servitude”** means a state where low-lying land is obliged to receive surface water which drains naturally from land situated at a higher gradient (surface water includes all naturally occurring water which results from rainfall or water flowing onto the site, including percolating water).
- xxi. **“Nuisance”** has the same meaning as Section 29 of the *Health Act 1956*, and includes a person, thing, or circumstance causing stress or annoyance or unreasonable interference. In the context of this bylaw the term nuisance includes, but is not limited to:
  - a. Danger to life;
  - b. Danger to public health;
  - c. Flooding of any building floor or sub-floor, or public roadway;
  - d. Damage to property;
  - e. An effect on the efficient operation of a stormwater or land drainage system;
  - f. Damage to any facet of a stormwater or land drainage system;
  - g. Erosion or subsidence of land;
  - h. Long or short term adverse effects on the environment; or
  - i. Adverse loss of riparian vegetation; or
  - j. Wastewater overflow to land or water; or
  - k. Anything that causes a breach of any stormwater discharge consent condition binding Council.
- xxii. **“Offence”** includes any act or omission in relation to this bylaw or any part thereof for which any person can be prosecuted.
- xxiii. **“Owner/occupier”** means any persons acting in general management or control of the land, or any plant or machinery on that land.
- xxiv. **“Overland flow path”** means any secondary flow path that is:
  - a. illustrated in a catchment management plan or on any Council drainage plan or record; or

- b. the overland route taken by any concentration of, or significant sheet flow of stormwater or land drainage water on its way to a flood plain, stormwater system, land drainage system or watercourse.
  - xxv. **“Person”** includes an individual person (corporation sole) and also a body of persons, whether corporate, incorporate or non-corporate.
  - xxvi. **“Point of connection”** means the point on the Council system that marks the boundary of responsibility between the customer and the Council, at which the customer(s) private system connects to and discharges stormwater or land drainage water into the Council system.
  - xxvii. **“Pollution Prevention Plan”** means a Council approved plan which identifies actual or potential risks relating to the discharge of contaminants from a specific site or operation, and the management strategies implemented or proposed to mitigate these risks.
  - xxviii. **“Premises”** means either:
    - 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. 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
    - c. Land held in public ownership (e.g. reserve) for a particular purpose.
    - d. Individual units in a building which are separately occupied and/or leased.
  - xxix. **“Private system”** means any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system. For the purposes of the bylaw, drains that are managed by the New Zealand Transport Agency, KiwiRail or Environment Canterbury are deemed to be part of a private system.
  - xxx. **“Receiving environment”** means any surface water body or land into which stormwater or land drainage water is conveyed.
  - xxxi. **“Stop bank”** means an embankment to prevent flooding.
  - xxxii. **“Stormwater”** means runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or rainfall runoff from the external surface of any structure as a result of precipitation, and excludes land drainage water, which is separately defined.
  - xxxiii. **“Stormwater system”** means the system provided by the Council or private property owner/occupier for the management of stormwater runoff, which includes any combination of open channels, drains, underground pipes and basins, ponds, wetlands, kerb, channel and swales up to and including the point of discharge, but excluding the receiving environment.
  - xxxiv. **“Stormwater Management Plan”** is a plan to improve the management of water quality and water quantity in a defined area.
  - xxxv. **“The Act”** means the *Local Government Act 2002* and its amendments.
  - xxxvi. **“Watercourse”** means every open river, stream, creek, floodway, culvert, channel and open drain through which stormwater or land drainage water commonly flows, whether continuously or not, and which may be either managed by the Council or privately managed.
  - xxxvii. **“WDC”** means the Waimakariri District Council.
- b. Terms and expressions defined in the Act shall, when used in this bylaw, have the same meanings as those in the Act, unless they are alternatively defined in this bylaw.



- c. If any requirement in relation to any person or activity specified in this bylaw differs from a requirement in any other legislation, regulation, consent condition, standard or Regional or District Plan provision then the more stringent requirement shall apply.

## PART 1: ACCEPTANCE, DESIGN AND CONNECTIONS

### 5 ACCEPTANCE OF STORMWATER AND LAND DRAINAGE WATER

- 5.1 Every person seeking a new or altered connection to a Council system shall be entitled to have the stormwater or land drainage water from the premises accepted by the Council subject to:
- a. The premises being located within a drainage rated area (designated in accordance with the *Local Government Act 2002*) which is serviced by a Council stormwater or land drainage system;
  - b. The owner of the premises has prior written approval from the Council for the new or altered connection(s), with such approvals assessed subject to requirements of Sections 5.1 and 6.1 of this bylaw;
  - c. There being sufficient capacity within the Council system to accommodate the additional new or altered connection(s);
  - d. The additional new or altered connection(s) must be at least cost neutral to the existing scheme members and annual rates generated from the additional connection(s) must be sufficient to cover the life cycle costs of the new assets and the variable costs of the service;
  - e. Fulfillment of the requirements of this bylaw, including obtaining any relevant consent, implementing any pollution prevention plan that the customer is required to obtain, and meeting all requirements of the *Resource Management Act 1991*, *Building Act 2004* or any other acts or regulations;
  - f. Payment of the appropriate fees and charges applicable to the connection(s).

*Explanatory Note: A premises within a drainage rated area will either have a direct connection to a council system, or will have a private system that discharges to a council system within the drainage rated area. The customer is required to maintain the private system prior to the point of connection to the Council system.*

*In the areas outside of drainage rated areas, the principles of natural servitude apply and stormwater and land drainage water that discharge to a private system or receiving environment are subject to the applicable clauses within section 16 and to the Building Code.*

*An altered connection refers to an increase in the quantity of, or contaminant loading within, stormwater being discharged from the site.*

- 5.2 If an application to connect to a Council system does not meet the requirements of clauses 5.1 (c), (d) or (e) then the Council may:
- a. Require an upgrade to the system at the cost to the customer(s); or
  - b. Require that an alternative stormwater or land drainage system is provided within the premises in accordance with section 6; or
  - c. Decline the application and advise the customer(s) of the reason(s) why the application was declined.

## 6 DESIGN

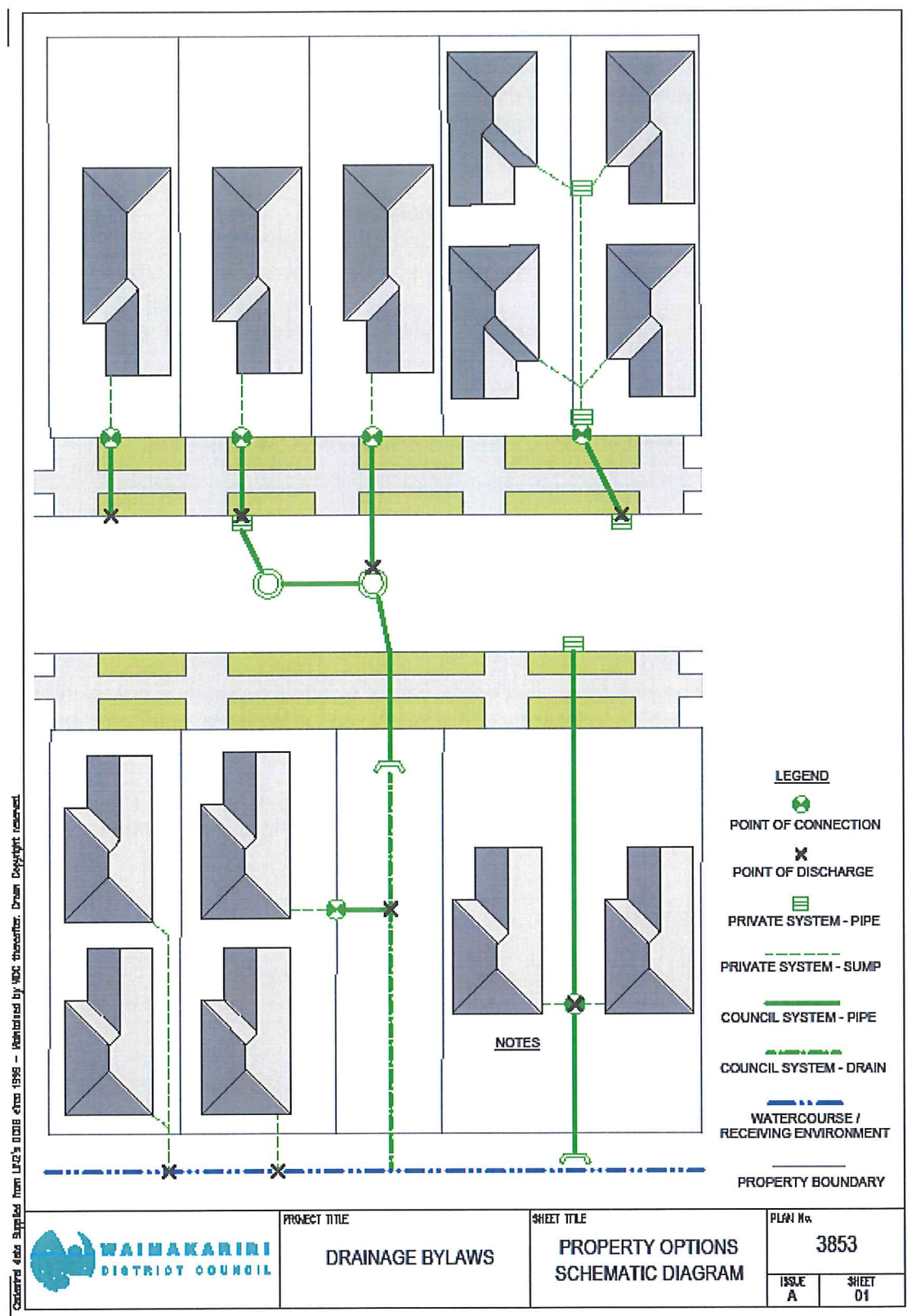
- 6.1 Any proposed new stormwater or land drainage system and any proposed alteration to any existing system must be designed, constructed and operated in accordance with:
- a. Council's Engineering Code of Practice;
  - b. Any relevant Catchment Management Plan prepared by Environment Canterbury or Waimakariri District Council;
  - c. Any relevant Stormwater Management Plan prepared and approved by the Waimakariri District Council;
  - d. The Waimakariri District Plan;
  - e. The Canterbury Land and Water Regional Plan;
  - f. The Regional Coastal Environment Plan for the Canterbury Region;
  - g. The Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury;
  - h. Any approved pollution prevention plan that has been provided in accordance with Section 9;
  - i. Any resource, building or other consents relevant to the proposed works;
  - j. Any written conditions imposed by Council when approving the works;
  - k. Waimakariri District Council standard construction specifications.
- 6.2 As-built plans showing details of all new or altered systems must be provided to Council within the timeframe specified in Council's written approval or Engineering Code of Practice.
- 6.3 For existing sites being redeveloped, Council may require retrofit stormwater mitigation and/or implementation of site specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas, in order for Council to comply with consent conditions which control the quality or quantity of discharges from any Council system into the receiving environment.
- 6.4 The Council may specify areas in the District, or may impose controls on any premises, whereby stormwater disposal must be undertaken by ground soakage, unless site conditions prevent it.

## 7 POINT OF CONNECTION

- 7.1 The point of connection to the Council's system is shown in Figure 1. There may be only one point of connection for each premises unless prior written agreement is provided by the Council.
- 7.2 The Council is responsible for the maintenance and all repairs to the Council system, including any pipe and fittings up to the point of connection, except:
- a. The customer is responsible for clearing of blockages or repairing damage from trees on the customer's own property, up to the point of discharge.
- 7.3 The customer is responsible for the maintenance and all repairs to the private stormwater or private land drainage system within the customer's property and on the customer's side of the point of discharge. Except where the private system is within public land, the following applies:
- a. The Council is responsible for any damage to the system caused by a Council contractor or a Council asset (such as a street tree).

b.

Figure 1: Stormwater Drainage Point of Connection Examples





## PART 2: MANAGEMENT OF CONTAMINANTS

### 8 DISCHARGE OF CONTAMINANTS

- 8.1 No person or premises may discharge directly or indirectly a contaminant into a Council system, including by way of private system to a Council system, if the discharge is likely to cause nuisance or adversely affect the operation of the system or receiving environment, including having an adverse effect on aquatic life, unless the discharge is approved by the Council or is expressly authorised by an operative resource consent.

*Explanatory note: Contaminants as defined in Section 4 of this bylaw include (but are not limited to) sediment, concrete, cement slurry, sewage, effluent, solvents, soap, detergents, dissolved metal, hazardous material, fungicide, herbicide, insecticide, litter and green waste.*

- 8.2 The Council may require premises that do not comply with clause 8.1 to implement the following controls:
- a. The modification of the premises to reduce or avoid the discharge of the contaminant;
  - b. The installation and use of treatment and mitigation measures or devices;
  - c. The proactive maintenance of the private system, including the provision of and compliance with a site specific management plan approved by Council.
- 8.3 Any owner, occupier or person who is present on a premises subject to a control made under clause 8.2 must comply with that control.

## PART 2A: OPERATING PHASE DISCHARGES

### 9 MEDIUM-RISK ACTIVITIES / SITES

- 9.1 The owner/occupier undertaking any new medium-risk activity on any site as defined in Schedule 1 that connects to a Council system shall prepare and implement a site specific Pollution Prevention Plan. This plan shall be submitted to and approved by the Council and fully implemented prior to connecting into the Council system.
- 9.2 The owner/occupier undertaking any existing medium-risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, if requested by the Council, prepare and implement a site specific Pollution Prevention Plan. This plan shall be submitted for Council approval no later than six months after being requested by the Council, or such later date as agreed with Council. The plan shall be fully implemented within six months of being approved by the Council.
- 9.3 The Pollution Prevention Plan if required under 9.1 or 9.2 above shall include:
- 9.3.1 A site assessment identifying all actual and potential sources of contaminant discharge, including surface coatings;
  - 9.3.2 Suitably-scaled plans showing the site layout, boundaries, all stormwater, land drainage and wastewater drainage including the point of connection or discharge to the Council stormwater, land drainage or wastewater systems, and relevant buildings and outdoor spaces (including identification of their use);



- 9.3.3 Identification and installation requirements of the best practicable options proposed to ensure that potential contamination of all discharges are minimised. The application of current, nationally accepted standards, such as the Auckland Regional Council's Guidelines TP10, the Christchurch Waterways and Wetlands Drainage Guide or Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury will be taken into account by the Council when assessing pollution prevention plans;
- 9.3.4 Site specific spill prevention and spill response procedures;
- 9.3.5 A description of the maintenance procedures proposed, actions to be taken and/or infrastructure to be developed.
- 9.4 Evidence of ongoing compliance with any Pollution Prevention Plan shall be provided to the Council every three years at the time the Plan is reviewed, or at any other time upon request of Council.
- 9.5 Any Pollution Prevention Plan prepared pursuant to this section shall be reviewed by the owner/occupier or operator of the activity to which the plan relates, at three yearly intervals after implementation. The review shall identify any changes to the matters covered in clause 9.3, and with a timeframe of action. The reviewed pollution prevention plan shall be forwarded to the Council for approval within its three yearly review timeframe. The Council may include further terms and conditions within the revised Pollution Prevention Plan to ensure the activity is being undertaken in accordance with clauses 9.3 and 8.1. Once approved, the plan shall become binding.
- 9.6 Notwithstanding clause 9.5, the Council may require that any Pollution Prevention Plan shall be revised where there have been significant changes to an activity or failure to meet any requirement of clause 8.1.

## **10 HIGH-RISK ACTIVITIES / SITES**

- 10.1 The owner/occupier undertaking any new high-risk activity on any site as defined in Schedule 1 which would discharge either directly or indirectly into any Council system shall apply for and obtain a resource consent from Environment Canterbury for the discharge.
- 10.2 The owner/occupier undertaking an existing high-risk activity on any site as defined in Schedule 1 which causes a discharge, either directly or indirectly, into any Council system shall, if requested by Council:
  - a) apply for and obtain a resource consent from Environment Canterbury for the discharge; and
  - b) any such consent shall be provided to Council no later than six months after being requested by the Council, or at such a later date as agreed with Council.
- 10.3 Any owner/occupier whom is required to obtain a resource consent from Environment Canterbury under clauses 10.1 or 10.2 shall also comply with the requirements of this bylaw except for the need to submit a Pollution Prevention Plan.

## PART 2B: CONSTRUCTION PHASE DISCHARGES

### 11 CONSTRUCTION ACTIVITIES

- 11.1 An Erosion and Sediment Control Plan must be prepared and implemented by the owner/occupier of any premises where construction activities are occurring where there is a discharge, either directly or indirectly, into any Council system. This plan shall be submitted to and approved by the Council and fully implemented prior to discharging into the Council system.
- 11.2 The Erosion and Sediment Control Plan required under clause 11.1 must be prepared and implemented in accordance with the current version of the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury.
- 11.3 The owner/occupier undertaking a construction activity on any site which would discharge into any Council system shall apply for and obtain a resource consent from Environment Canterbury for any construction phase stormwater discharge from that site into the Council system, if requested by the Council, where that construction is on:
- a) any site where an activity listed in the Canterbury Land and Water Regional Plan Schedule 3 "Hazardous Industries and Activities List" is occurring; and/or
  - b) Any site on the Canterbury Listed Land Use Register; and/or
  - c) Any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

*Explanatory note: Construction phase discharges referred to in clause 11.3 refer to construction activities on sites where there may be potentially contaminated land on all or part of the site that is discharging construction phase stormwater into the Council system. These sites and associated discharges are considered to be "at-risk" of, or from, contamination. The risks posed by any such discharges from the site may be subject to verification, and the Council, following receipt of technical advice, may require the owner/occupier to obtain a resource consent from Environment Canterbury for the discharge. It is noted that Schedule 1 of the bylaw (defining sites as either high-risk or medium-risk) does not directly apply to assessment of risk posed by sites generating construction phase discharges.*

## PART 3: PROTECTION OF SYSTEMS AND WATERCOURSES

### 12 ACTIVITIES REQUIRING APPROVAL

- 12.1 Approval in writing must be obtained from the Council before any of the following occur:
- 12.1.1 Any works on a Council system or a watercourse managed by the Council;
  - 12.1.2 Any modification to a bank structure, including widening, deepening, damming, diverting or planting or removing any vegetation from any part of a Council system or from the banks of any watercourse managed by the Council, including use of herbicide in such a way as to impede the flow of water or destabilise the bank structure; or
  - 12.1.3 The erection of a structure, or placement of any material or planting of any vegetation (e.g. tree or hedge) where these impede access by machinery or



apparatus used to clean, maintain or improve any part of a proposed or existing Council system; or

12.1.4 The erection of any new vehicle or stock crossing over a watercourse managed by the Council.

12.2 The following activities are forbidden:

12.2.1 Any alteration, interference with or obstruction of any Council system;

12.2.2 Allowing any stock or vehicles to do anything that damages or is likely to cause damage to any Council system or watercourse managed by the Council.

### **13 WORKS IN PROXIMITY TO SYSTEMS**

13.1 Any person who proposes to undertake any works or activities that may result in damage to any part of a Council system, including excavation works, must obtain Council's approval before beginning such works.

13.2 The person undertaking the works or activities is responsible for locating any buried services.

13.3 Any person who damages or causes disruption to any Council system is liable for the full costs of any repairs and associated costs incurred as a result of the damage or disruption. Any possible damage or disruption to any Council system must be reported to the Council immediately.

13.4 Following any works in proximity to a Council system, bedding and backfill must be reinstated in accordance with the Engineering Code of Practice.

## **PART 4: ACCESS, MAINTENANCE AND MONITORING**

### **14 SYSTEM ACCESS**

14.1 An owner/occupier shall allow Council access to and about all facets of all Council systems for the purposes of monitoring, testing and maintenance in accordance with Sections 171-173 and 182 of the Local Government Act 2002 (or other such notice as otherwise arranged with any owner/occupier).

14.2 In emergency conditions, or for the purpose of ascertaining whether a stormwater or land drainage system is being misused or this bylaw is not being complied with, an owner/occupier shall allow Council access to and about all facets of the system in accordance with sections 171-173 and 182 of the Local Government Act 2002.

### **15 WATER QUALITY MONITORING**

15.1 Council may independently monitor, sample and analyse discharged stormwater or land drainage water and recover costs from the property owner/occupier, where failure to comply with any Pollution Prevention Plan relating to the property is evident.

15.2 Where it is suspected that any discharge within the District is in breach of any part of sections 8 to 11, the Council may independently monitor, sample and analyse discharged stormwater or land drainage water, and where an offence is proven, may recover the costs of investigating, sampling and analysing the discharge, from the property owner/occupier.

## PART 5: PRIVATE SYSTEMS

### 16 PRIVATE SYSTEM MAINTENANCE

- 16.1 All private systems must be designed, constructed, managed and maintained by the owner/occupier, at the owner/occupier's expense or by some other arrangement acceptable to the Council.
- 16.2 The owner/occupier of a private system must ensure that it is maintained in good operating condition and does not cause or contribute to nuisance.
- 16.3 The owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that watercourse, stop bank, overland flow path or flood plain in an operational state which does not cause or contribute to nuisance.

*Explanatory note – the alteration or construction of works on a watercourse, overland flow path, flood plain or stop bank may require a consent from Environment Canterbury in accordance with the Canterbury Land and Water Regional Plan. Activities within the beds of lakes and rivers may be subject to rules in regional plans in accordance with Section 13 of the Resource Management Act 1991.*

## PART 6: OFFENCES, PENALTIES AND ENFORCEMENT

### 17 OFFENCES

- 17.1 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00 as set out in section 242 of the Local Government Act 2002.

### 18 FEES AND CHARGES

- 18.1 The Council may in accordance with the Local Government Act 1974 and Local Government Act 2002 set charges or fees to recover the cost of any of the following:
- a. Processing the assessment of Pollution Prevention Plans, their review, approvals and monitoring of compliance with the plans;
  - c. Processing the assessment of any other approval, consent, or any other monitoring, investigation, sampling or analysis charge that is required under any part of this bylaw;
  - d. Processing the assessment, approval or monitoring of any Erosion and Sediment Control Plan required under this bylaw.

### 19 REMEDIES

- 19.1 In the event of a breach of statutory or other legal requirements including this bylaw, the Council may serve notice on the owner/occupier advising the nature of the breach and the steps to be taken within a specified period to remedy it. If after the specified period, the owner/occupier has not remedied the breach, the Council may charge a re-inspection fee.
- 19.2 At any time after the specified period in 19.1 has elapsed, the Council may carry out any remedial work required in order to make good the breach, and recover from the owner/occupier all reasonable costs incurred in connection or associated with the remedial work together with any resulting damages.

- 19.3 If however the breach is such that public health or safety considerations or nuisance, or risk of consequential damage to council assets is such that delay would create or be likely to create unacceptable results, the Council may take immediate action to rectify the defect, and recover all reasonable costs and damages from the owner/occupier.

**SCHEDULE 1 – MEDIUM-RISK AND HIGH-RISK ACTIVITIES AND SITES (OPERATING PHASE DISCHARGES)**

**A) High-Risk** activities and sites include sites where an activity is occurring that is described in the current version of the Canterbury Land and Water Regional Plan Schedule 3 “*Hazardous Industries and Activities List*”, unless any such activity or site is specifically identified as “medium-risk” in Schedule 1B of this bylaw.

**B) Medium-Risk** activities and sites include any of the following:

- i. Aggregate and material storage/stockpiled yards,
- ii. Commercial analytical laboratory sites,
- iii. Construction and maintenance depots (that exclude areas used for refueling or bulk storage of hazardous substances),
- iv. Demolition yards that exclude hazardous wastes,
- v. Dry cleaning premises,
- vi. Engineering workshops with metal fabrication,
- vii. Engine reconditioning workshops,
- viii. Food and beverage manufacturers,
- ix. Motor vehicle workshops,
- xi. Any other activity or premises that has failed to meet the requirements of Section 8, unless that activity or site is otherwise defined as a “high-risk” in Schedule 1(a).

## Memorandum of Understanding for Process for Exclusion from Stormwater Discharge Consent CRC184601 in Waimakariri District

Memorandum dated

April 2023

BETWEEN

The Reticulated Network Operator (Waimakariri District Council)

AND

Canterbury Regional Council (Environment Canterbury)

### Purpose

1. The purpose of this Memorandum of Understanding (MoU) is to record the Parties' agreement **about the process through which the risk to surface water and groundwater quality from discharges from sites or activities described in condition 4 (specific exclusions) can be assessed and accepted under the reticulated network operator's stormwater network discharge consent from 1 January 2025.**

### Background

2. Policy 4.16A of the Canterbury Land and Water Regional Plan (LWRP) requires network operators to manage the quality of all stormwater discharges into and out of their network by 1 January 2025, however the network operator (Waimakariri District Council, (WDC)) proposed to develop a process in collaboration with Environment Canterbury (ECan) to continue excluding sites that pose an unacceptably high environmental risk after this date.
3. This exclusion should occur only in exceptional circumstances i.e., when all other means available to WDC to ensure that site owners reduce the risk (e.g., by improving site management practices) have been exhausted, and is subject to the confirmation from the Canterbury Regional Council that the process outlined in Condition 6 has been followed.
4. Under the WDC resource consent, exclusions from the Rangiora reticulated stormwater network consent from 1 January 2025 are subject to the process for exclusions set out in conditions (5) to (7). Condition (5) states Waimakariri District Council (the network operator), in agreement with Canterbury Regional Council is required to develop a process for the assessment of risk to surface water and groundwater quality.

### Specific Exclusions

5. Condition 4 allows for sites which **may be** excluded from the Rangiora reticulated stormwater network consent if the site or activity has been identified by WDC as posing an unacceptable risk to the receiving environment (subject to condition 6). Condition 4(b) states 'Any site listed on the Canterbury Regional Council Listed Land-Use Register or where a HAIL Activity described in Schedule 3 of the Canterbury Land and Water Regional Plan has historically occurred, where the discharge of stormwater from that site or activity is considered by WDC to pose an unacceptably high risk of surface water or groundwater contamination.'

6. In the interest of managing efficiency in risk assessment related to LLUR and HAIL sites and activities, a process is agreed which will allow sites which are not explicitly excluded from the Rangiora reticulated stormwater network consent and are listed on the LLUR or where a HAIL activity has historically or is currently occurring, to be accepted by WDC under their resource consent. This process will assist in reducing the need for consultation with ECan or the need for specialist advice.

## **Proposed Process**

7. The following process to be agreed to:
  - i. Stormwater discharges from sites flagged on Environment Canterbury's LLUR and sites not flagged on the LLUR but which have been identified as having had HAIL activities in accordance with Schedule 1 of the Stormwater Drainage and Watercourse Protection Bylaw will be assessed by the network operator against the criteria for definition of medium or high risk sites in Schedule 1 of the Bylaw to determine whether the level of risk posed by the discharge is deemed acceptable.
  - ii. Those discharges which are explicitly prohibited for coverage under the reticulated network operator's consent shall be referred to Environment Canterbury for separate resource consent.
  - iii. Those discharges from medium or high risk sites which are not explicitly prohibited for coverage will be assessed by the reticulated network operator against the criteria outlined in the attachment 'Assessment Criteria for HAIL Sites'.
  - iv. Those discharges (either construction phase, operational phase, or both) assessed by the reticulated network operator as having a risk to the environment that is deemed to be acceptable in accordance with the attachment 'Assessment Criteria for HAIL Sites' **will be** accepted by the reticulated network operator under the stormwater discharge consent. At its discretion, the network operator may consult with Environment Canterbury to seek agreement that the level of risk is able to be effectively managed by the operator and to ensure suitable conditions of discharge are provided through the approval.
  - v. Those discharges (either construction phase, operational phase or both) assessed by the reticulated network operator as generating an unacceptable risk to the receiving environment in accordance with the attachment 'Assessment Criteria for HAIL Sites' will be referred to Environment Canterbury for consideration. Environment Canterbury will assess these and either:
    - a. Require a resource consent for stormwater discharge from Environment Canterbury; or
    - b. Judge them to of an acceptable risk and refer them back to the network operator.



Execution

Jason Recker

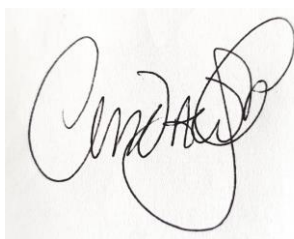
21/09/23

Signature

Date

Name

Position, Reticulated Network Operator (Waimakariri District Council)

A handwritten signature in black ink, appearing to read 'Andrew Arps', written on a light-colored background.

Name: Andrew Arps

Date 4<sup>th</sup> July 4, 2023

Position: Northern Zones Manger - Environment Canterbury

## Attachment - Assessment Criteria for HAIL Sites from 1 January 2025

### Construction Phase Discharges:

#### Acceptable Risk

1. The following site discharges are considered to present an acceptable risk to the receiving environment:
  - i. Sites not listed on the LLUR.
  - ii. Sites on the LLUR where only a portion of the site is identified as a historic or current HAIL activity and proposed construction will not occur on that portion of the site based on a PSI / DSI.
  - iii. Sites where construction is proposed with the following LLUR categories:
    - 'at or below background concentrations'; and
    - with toxicant concentrations below the Default Guideline Values from the Australia and New Zealand Guidelines for Fresh and Marine Water Quality website – toxicant **default** guideline values for sediment quality measured in mg/kg of dry weight; and
    - 'below human health guideline values for' the proposed site use (e.g. to demonstrate compliance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESC)).

*Note: this assessment does not cover direct private property construction phase discharges into land and groundwater.*

#### Risk Assessment Required

2. Notwithstanding clause 1, sites with the following LLUR categories are considered to be medium or high risk sites and will require a further specific risk assessment by the reticulated network operator:
  - i. 'contaminated for'
  - ii. 'significant adverse environmental effects'
  - iii. 'managed for'
3. Sites with all other LLUR categories ('not investigated', 'partially investigated', 'non-verified HAIL', etc.) and sites which are not listed on the LLUR but have been identified as having had HAIL activities will be dealt with under the following guidelines:
  - i. Developments or redevelopments that do not disturb greater than 25 cubic metres (m<sup>3</sup>) of soil per 500 square metres (m<sup>2</sup>) of land are considered to be of acceptable risk, unless a DSI is specifically requested by the Council for that site which indicates compliance with clause 1(iii) is not being achieved; or
  - ii. Developments or redevelopments that disturb greater than 25 m<sup>3</sup> of soil per 500 m<sup>2</sup> of land and that do not achieve compliance with clause 1 (iii); and
4. For sites being assessed under (2), 3 (i) and 3 (ii), the level of risk posed by the discharge will be determined by the network operator, taking into account whether the applicant proposes suitable measures to dispose of or contain contaminated material onsite such that the proposed disturbance of land will create no additional risk to the environment; and

- i. if deemed necessary then agreement will be sought with Environment Canterbury that the level of assessed risk can be approved and managed by the network operator; and
- ii. if the network operator deems the risk unacceptable following the process specified in 4, then the site will be individually referred to Environment Canterbury for a final decision regarding risk, and:
  - Sites judged to be of acceptable risk will be referred back to the network operator for inclusion under its consents.
  - Sites judged to be of unacceptable risk will require resource consent for stormwater discharge from Environment Canterbury.

### **Operational Phase Discharges:**

#### **Acceptable Risk**

1. The following site discharges are considered to present an acceptable risk to the receiving environment:
  - i. Sites and activities not described in Schedule 1 of the Stormwater Drainage and Watercourse Protection Bylaw;
  - ii. Sites where only a portion of the site is identified as a current HAIL activity in accordance with Schedule 1 of the Bylaw, and where no stormwater discharge is occurring from that portion of the property (e.g. the HAIL activity discharge is fully contained within that part of the site and all runoff with entrained contaminants is removed or treated within an on-site treatment device such as a grease trap or similar).

#### **Risk Assessment Required**

2. Notwithstanding clause 1, sites with current HAIL activities defined in Schedule 1 of the Bylaw will be deemed to present an acceptable risk to the environment when the activity and discharge are effectively being managed through an approved pollution prevention plan.
3. Sites that do not comply with their approved pollution prevention plan and that do not subsequently amend their activities in accordance with the network operator requirements notified under condition 6 of the Rangiora Stormwater Network Consent CRC184601, will be deemed to present an unacceptable risk to the receiving environment and will require resource consent for the stormwater discharge from Environment Canterbury.

# CULTURAL ADVICE REPORT

## J6351 – Stormwater Drainage and Watercourse Bylaw Review

To: Waimakariri District Council

Contact: Janet Fraser

### 1.0 Mana Whenua Statement

Ngāi Tahu are tangata whenua of the Canterbury region and hold ancestral and contemporary relationships with Canterbury. The contemporary structure of Ngāi Tahu is set down through the Te Rūnanga o Ngāi Tahu Act 1996 (TRoNT Act). The TRoNT Act and Ngāi Tahu Claims Settlement Act (NTCSA) 1998 sets the requirements for recognition of tangata whenua in Canterbury.

The Te Rūnanga o Ngāi Tahu Act 1996 and the NTCSA 1998 gives recognition to the status of Papatipu Rūnanga as kaitiaki and mana whenua of the natural resources within their takiwā boundaries. Each Papatipu Rūnanga has their own respective takiwā, and each is responsible for protecting the tribal interests in their respective takiwā, not only on their own behalf of their own hapū, but again, on behalf of the entire tribe.

The following Rūnanga hold mana whenua over the project's location, as it is within their takiwā:

- Ngāi Tūāhuriri Rūnanga

### 2.0 Summary of Proposal

Waimakariri District Council is reviewing the Stormwater Drainage and Watercourse Bylaw and has requested review and input from Te Ngāi Tūāhuriri Rūnanga.

The bylaw provides the legal basis for the Waimakariri District Council (WDC) to protect waterways by preventing discharges of contaminants in the WDC stormwater system from connected properties.

Public consultation on the draft Stormwater Drainage and Watercourse Bylaw is expected to be undertaken later in 2024.

### 3.0 Consultation Methodology

Mahaanui Kurataiao Limited review the application documents and undertake an assessment of the application against the Mahaanui Iwi Management Plan.

A briefing report is prepared for Kaitiaki representatives who have been mandated by the Papatipu Rūnanga they represent to speak on behalf of hapū on environmental issues.

A Mahaanui Kurataiao Limited staff member meets with Kaitiaki representatives to discuss the application and Kaitiaki provide feedback based on Mātauranga Māori.

The Cultural Advice Report is provided to outline the relevant policies in the Mahaanui Iwi Management Plan and the feedback provided by Kaitiaki representatives.

The relevant policies and Kaitiaki feedback for this application are provided in the following sections of this report.

## 4.0 Mahaanui Iwi Management Plan 2013

The Mahaanui Iwi Management Plan (IMP) is a written expression of kaitiakitanga, setting out how to achieve the protection of natural and physical resources according to Ngāi Tahu values, knowledge, and practices. The plan has the mandate of the six Papatipu Rūnanga, and is endorsed by Te Rūnanga o Ngāi Tahu, as the iwi authority.

Natural resources – water (waterways, waipuna (springs), groundwater, wetlands); mahinga kai; indigenous flora and fauna; cultural landscapes and land - are taonga to mana whenua and they have concerns for activities potentially adversely affecting these taonga. These taonga are integral to the cultural identity of ngā rūnanga mana whenua and they have a kaitiaki responsibility to protect them. The policies for protection of taonga that are of high cultural significance to ngā rūnanga mana whenua are articulated in the IMP.

The policies in this plan reflect what Papatipu Rūnanga support, require, encourage, or actions to be taken with regard to resolving issues of significance in a manner consistent with the protection and enhancement of Ngāi Tahu values, and achieving the objectives set out in the plan.

The relevant Policies of the IMP to this proposal have been identified as:

### 5.1 KAITIAKITANGA

**K2.3** In giving effect to Te Tiriti, government agencies and local authorities must recognise and provide for kaitiakitanga and rangatiratanga. As the tāngata whenua who hold manawhenua, Ngāi Tahu interests in resource management extend beyond stakeholder or community interests.

#### EFFECTIVE RECOGNITION OF KAITIAKITANGA

**K3.4** To require that Mahaanui IMP 2013 is recognised and implemented as a collective and mandated manawhenua planning document.

**Comment:** *The exercise of kaitiakitanga is enhanced through working alongside local government, central government and the wider community. As tāngata whenua, Ngāi Tahu can bring the community together under a common kaupapa: a healthy environment as the basis for a healthy community and economy.*

### 5.3 WAI MĀORI

## TĀNGATA WHENUA RIGHTS AND INTERESTS IN FRESHWATER

**WM1.2** Te Tiriti o Waitangi is the basis for the relationship between Ngāi Tahu and local authorities (and water governance bodies) with regard to freshwater management and governance in the takiwā.

## CHANGING THE WAY WATER IS VALUED

**WM2.1** To consistently and effectively advocate for a change in perception and treatment of freshwater resources: from public utility and unlimited resource to wāhi taonga.

**WM2.2** To require that water is recognised as essential to all life and is respected for its taonga value ahead of all other values.

**WM2.3** To require that decision making is based on intergenerational interests and outcomes, mō tātou, ā, mō kā uri ā muri ake nei.

## PRIORITIES FOR USE

**WM3.1** To advocate for the following order of priority for freshwater resource use, consistent with the Te Rūnanga o Ngāi Tahu Freshwater Policy Statement (1999):

- (1) That the mauri of fresh water resources (ground and surface) is protected and sustained in order to:
  - (a) Protect instream values and uses (including indigenous flora and fauna);
  - (b) Meet the basic health and safety needs of humans, specifically the provision of an untreated and reliable supply of drinking water to marae and other communities; and
  - (c) Ensure the continuation of customary instream values and uses.
- (2) That water is equitably allocated for the sustainable production of food, including stock water, and the generation of energy; and
- (3) That water is equitably allocated for other abstractive uses (e.g. development aspirations).

## WATER QUALITY

**WM6.1** To require that the improvement of water quality in the takiwā is recognised as a matter of regional and immediate importance.

**WM6.2** To require that water quality in the takiwā is of a standard that protects and provides for the relationship of Ngāi Tahu to freshwater. This means that:

- (a) The protection of the eco-cultural system (see Box - Eco-cultural systems) is the priority, and land or resource use, or land use change, cannot impact on that system; and
- (b) Marae and communities have access to safe, reliable, and untreated drinking water; and
- (c) Ngāi Tahu and the wider community can engage with waterways for cultural and social well-being; and
- (d) Ngāi Tahu and the wider community can participate in mahinga kai/food gathering activities without risks to human health.

**WM6.5** To require that water quality standards in the takiwā are set based on “where we want to be” rather than “this is the point that we can pollute to”. This means restoring waterways and working toward a higher standard of water quality, rather than establishing lower standards that reflect existing degraded conditions.

### *Addressing the source of the problem*

**WM6.6** Where there are water quality issues, we need to address the source of the problem, and not just dig deeper wells or find new ways to treat water.

### *Discharges*

**WM6.8** To continue to oppose the discharge of contaminants to water, and to land where contaminants may enter water.

**WM6.9** To require that local authorities work to eliminate existing discharges of contaminants to waterways, wetlands and springs in the takiwā, including treated sewage, stormwater and industrial waste, as a matter of priority.

**WM6.10** To require that the regional council classify the following discharge activities as prohibited due to significant effects on water quality:

(a) Activities that may result in the discharge of sewage (treated or untreated), stormwater, industrial waste, animal effluent or other contaminants to water, or onto land where contaminants may enter water; and

(b) Stock access to waterways and waterbodies (including drains and stock races), regardless of the size of the waterway and type of stock.

#### *Costs and benefits*

**WM6.22** To require that local authorities afford appropriate weight to tāngata whenua values when assessing the costs and benefits of activities that may have adverse effects on water quality.

**WM6.23** To ensure that economic costs do not take precedence over the cultural, environmental and intergenerational costs of poor water quality.

### ACTIVITIES IN THE BEDS AND MARGINS OF RIVERS AND LAKES

#### *Access*

**WM12.3** To require that local authorities recognise and provide for the following cultural matters associated with access and use of the beds and margins of rivers and lakes:

(a) The need to protect sites of cultural significance to tāngata whenua when considering public access; and

(b) The need to protect and maintain Ngāi Tahu access to sites associated with wāhi tapu, wāhi taonga, mahinga kai and other cultural resources, including Fenton reserves, Fenton Entitlements and Nohoanga.

#### *Use and enhancement of river margins in the built/ urban environment*

**WM12.4** All waterways in the urban and built environment must have indigenous vegetated healthy, functioning riparian margins.

**WM12.5** To require that all waterways in the urban and built environment have buffers or set back areas from residential, commercial or other urban activity that are:

(a) At least 10 metres, and up to 30 metres; and

(b) Up to 50 metres where there is the space, such as towards river mouths and in greenfield areas.

### DRAIN MANAGEMENT

**WM14.1** To require that drains are managed as natural waterways and are subject to the same policies, objectives, rules and methods that protect Ngāi Tahu values associated with freshwater, including:

(a) Inclusion of drains within catchment management plans and farm management plans;

(b) Riparian margins are protected and planted;

(c) Stock access is prohibited;

(d) Maintenance methods are appropriate to maintaining riparian edges and fish passage; and

(e) Drain cleaning requires a resource consent.

## INVASIVE WEEDS IN RIVERBEDS AND MARGINS

**WM15.1** To oppose the planting of willows and poplars along waterways, for erosion control or otherwise.

***Comment:** Water management should effectively provide for the taonga status of water, the Treaty partner status of Ngāi Tahu, the importance of water to cultural well-being, and the specific rights and interests of tāngata whenua in water.*

## 5.4 PAPATŪĀNUKU

### STORMWATER

**P6.1** To require on-site solutions to stormwater management in all new urban, commercial, industrial and rural developments (zero stormwater discharge off site) based on a multi tiered approach to stormwater management:

- (a) Education - engaging greater general public awareness of stormwater and its interaction with the natural environment, encouraging them to take steps to protect their local environment and perhaps re-use stormwater where appropriate;
- (b) Reducing volume entering system - implementing measures that reduce the volume of stormwater requiring treatment (e.g. rainwater collection tanks);
- (c) Reduce contaminants and sediments entering system - maximising opportunities to reduce contaminants entering stormwater e.g. oil collection pits in carparks, education of residents, treat the water, methods to improve quality; and
- (d) Discharge to land based methods, including swales, stormwater basins, retention basins, and constructed wetponds and wetlands (environmental infrastructure), using appropriate native plant species, recognising the ability of particular species to absorb water and filter waste.

**P6.2** To oppose the use of existing natural waterways and wetlands, and drains, for the treatment and discharge of stormwater in both urban and rural environments.

**P6.3** Stormwater should not enter the wastewater reticulation system in existing urban environments.

**P6.4** To require that the incremental and cumulative effects of stormwater discharge are recognised and provided for in local authority planning and assessments.

**P6.5** To encourage the design of stormwater management systems in urban and semi urban environments to provide for multiple uses: for example, stormwater management infrastructure as part of an open space network that provides for recreation, habitat and customary use values.

**P6.5** To support integrated catchment management plans (ICMP) as a tool to manage stormwater and the effects of land use change and development on the environment and tāngata whenua values, when these plans are consistent with Policies P6.1 to P6.4. **P6.6** To oppose the use of global consents for stormwater discharges.

### SOIL CONSERVATION

**P9.4** To support the following methods and measures to maintain or improve soil organic matter and soil nutrient balance, and prevent soil erosion and soil contamination:

- (a) Matching land use with land capability (i.e. soil type; slope, elevation);
- (b) Organic farming and growing methods;



- (c) Regular soil and foliage testing on farms, to manage fertiliser and effluent application levels and rates;
- (d) Stock management that avoids overgrazing and retires sensitive areas;
- (e) Restoration and enhancement of riparian areas, to reduce erosion and therefore sedimentation of waterways;
- (f) Restoration of indigenous vegetation, including the use of indigenous tree plantations as erosion control and indigenous species in shelter belts; and
- (g) Avoiding leaving large areas of land/soil bare during earthworks and construction activities.

**Comment:** *An important kaupapa of Ngāi Tahu resource management perspectives and practice is the protection and maintenance of the mauri of Papatūānuku, and the enhancement of mauri where it has been degraded by the actions of humans.*

## 5.5 TĀNE MAHUTA

### MAHINGA KAI

**TM1.1** Ngāi Tahu whānui, both current and future generations, must be able to access, use and protect mahinga kai resources, as guaranteed by Te Tiriti o Waitangi.

**TM1.2** To advocate that the protection and restoration of traditional and contemporary mahinga kai sites and species is recognised and provided for as a matter of national importance under the RMA 1991.

#### *Ki Uta Ki Tai*

**TM1.4** To promote the principle of Ki Uta Ki Tai as a culturally appropriate approach to mahinga kai enhancement, restoration and management, in particular:

- (a) Management of whole ecosystems and landscapes, in addition to single species; and
- (b) The establishment, protection and enhancement of biodiversity corridors to connect species and habitats.

#### *Freshwater management*

**TM1.5** To require that freshwater management recognises and provides for mahinga kai, by:

- (a) Customary use as a first order priority;
- (b) Restoring mahinga kai values that were historically associated with waterways, rather than seeking to maintain the existing (degraded) mahinga kai value of a waterway; and
- (c) Protecting indigenous fish recruitment and escapement by ensuring that waterways flow Ki Uta Ki Tai and there is sufficient flow to maintain an open river mouth.

#### *Remnant areas*

**TM1.7** To require that district and regional plans include policy and rules to protect, enhance and extend existing remnant wetlands, waipuna, riparian margins and native forest remnants in the takiwā given the importance of these ecosystems as mahinga kai habitat.

## INDIGENOUS BIODIVERSITY

### *Ngāi Tahu interests in biodiversity*

**TM2.1** To require that local authorities and central government actively recognise and provide for the relationship of Ngāi Tahu with indigenous biodiversity and ecosystems, and interests in biodiversity protection, management and restoration, including but not limited to:

- (a) Importance of indigenous biodiversity to tāngata whenua, particularly with regard to mahinga kai, taonga species, customary use and valuable ecosystem services;

- (b) Recognition that special features of indigenous biodiversity (specific areas or species) have significant cultural heritage value for Ngāi Tahu;
- (c) Connection between the protection and restoration of indigenous biodiversity and cultural well-being;
- (d) Role of mātauranga Ngāi Tahu in biodiversity management; and
- (e) Role of Ngāi Tahu led projects to restoring indigenous biodiversity (e.g. Mahinga Kai Enhancement Fund; Kaupapa Kēreru).

**TM2.2** To recognise Te Tiriti o Waitangi as the basis for the relationship between central and local government and tāngata whenua with regard to managing indigenous biodiversity, as per the duty of active protection of Māori interests and the principle of partnership.

#### *Biodiversity corridors*

**TM2.9** To advocate for the establishment of biodiversity corridors in the region, Ki Uta Ki Tai, as means of connecting areas and sites of high indigenous biodiversity value.

**Comment:** *The protection and enhancement of indigenous biodiversity and mahinga kai occurs through a shared, coordinated effort between tāngata whenua, local authorities, conservation groups and communities.*

### **4.1 Guidance to Moderate Impacts on Cultural Values**

The above policies from the Mahaanui IMP provide a framework for assessing the potential negative impacts of the proposed activity on cultural values and provide guidance on how these effects can be moderated.

Te Tiriti o Waitangi guarantees tāngata whenua the right to fulfill their kaitiaki obligations to protect and care for taonga in the environment, including land, waterways, natural features, wāhi tapu and flora and fauna with tribal areas.

Mana whenua represents the ability to influence and exercise control over a particular area or region and act as its kaitiaki. Mana whenua is derived from whakapapa, and protected and secured through continued occupation of ancestral lands (ahi kā roa), the continued use of resources (e.g. mahinga kai) and the protection of the mauri of resources and the environment mō tātou, ā, mō kā uri ā muri ake nei.

The discharge of contaminants to the Waimakariri River, its tributaries and Te Tai o Mahaanui is inconsistent with Ngāi Tahu values and interests. The mauri and mahinga kai values of the Waimakariri and its tributaries and associated springs, wetlands and lagoons need to be protected and restored; mō tātou, ā, mō kā uri ā muri ake nei.

Mauri is often described as the 'life force' or 'life principle' of any given place or being. It can also be understood as a measure or an expression of the health and vitality of that place or being. The notion embodies the Ngāi Tahu understanding that there are both physical and metaphysical elements to life, and that both are essential to overall well-being. It also associates the human condition with the state of the world around it. Mauri, therefore, is central to kaitiakitanga; that is, the processes and

practices of active protection and responsibility by Mana whenua for the natural and physical resources of the takiwā.

Mauri can change either naturally or through intervention and Ngāi Tahu use both physical and spiritual indicators to assess its relative strength. Physical indicators include, but are not limited to, the presence and abundance of mahinga kai fit for consumption or cultural purpose. Spiritual indicators include the kaitiaki referred to above. They are often recalled in kōrero pūrākau to explain the intrinsic connection between the physical and metaphysical realms of our world.

To incorporate the Kaitiaki views and values into the objectives of the Stormwater Drainage and Watercourse Protection Bylaw the following have been provided:

The Stormwater Drainage and Watercourse Protection Bylaw should:

- Provide for improvement in the quality of waterways.
- Provide for protection and enhancement of waterways, mahinga kai, indigenous species and habitat.
- Provide for the protection of wahi tapu, wahi taonga, wai tapu and wai taonga.

For tāngata whenua, the current state of cultural health of the waterways and groundwater is evidence that water management and governance in the takiwā has failed to protect freshwater resources. Surface and groundwater resources are over-allocated in many catchments and water quality is degraded as a result of urban and rural land use. This has significant effects on the relationship of Ngāi Tahu to water, particularly with regard to mauri, mahinga kai, cultural well-being and indigenous biodiversity.

A significant kaupapa that emerges from the Mahaanui Iwi Management Plan is the need to rethink the way water is valued and used, including the kind of land use that water is supporting, and the use of water as a receiving environment for contaminants such as sediment and nutrients. Fundamental to tāngata whenua perspectives on freshwater is that water is a taonga, and water management and land use should reflect this importance.

All potential contaminants that may enter water such as nutrients, sediments and chemicals should be managed onsite and at site rather than be discharged into the drainage and waterway system. The discharge of contaminants to waterways is not supported and stormwater should be treated prior to discharge into natural or manmade waterways. There should be controls on land use, including prohibiting activities that have a negative impact on water quality.

The effects of development activity on values of importance to Ngāi Tahu is the 'cultural footprint' of the development. The cultural footprint is dependent on the nature and extent of values on site, and the wider cultural landscape context within which the development sits. It is also a reflection of the ability of the development to moderate cultural effects, and realise opportunities to provide cultural benefit (e.g. waterways enhancement). Low impact design methods, such as, minimising impervious surface area and rainwater collection and reuse systems should be encouraged within developments to reduce the level of runoff within catchments. Compliance monitoring and enforcement is a significant concern. Rules are only effective when there are enforceable penalties and enforced remediation.

## 6.0 Recommendations

The following recommendations are provided to incorporate Kaitiaki views and values within the Bylaw Review.

Suggested objectives: The Stormwater Drainage and Watercourse Protection Bylaw should:

- Provide for improvement in the quality of waterways.
- Provide for protection and enhancement of waterways, mahinga kai, indigenous species and habitat.
- Provide for the protection of wahi tapu, wahi taonga, wai tapu and wai taonga.

Comments to provisions of the Bylaw:

- The discharge of contaminants to waterways is not supported.
- Minimisation of impervious surface area and onsite solutions are recommended.
- All stormwater should be treated prior to discharge into natural or manmade waterways.
- Compliance with rules within the Bylaw should be monitored and enforced.

On behalf of Mahaanui Kurataiao Ltd, this report has been prepared by Kelly Sunnex | Mahaanui Kurataiao Ltd Environmental Advisor, and peer reviewed by Henrietta Carroll | Mahaanui Kurataiao Ltd Kaihautū.

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