

WAIPA DISTRICT STORMWATER BYLAW 2019

This bylaw is made by the Waipa District Council under the powers given to it by the Local Government Act 2002 and any amendments to that act.

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1 Short Title, Commencement and Application

- 1.1 This Bylaw shall be known as the “Waipa District Stormwater Bylaw 2019”.
- 1.2 This Bylaw shall apply to the Waipa district.
- 1.3 The Bylaw shall come into force on the 30 September 2019.

2 Revocation of Existing Bylaws

- 2.1 The Waipa District Council Land Drainage and Stormwater Bylaw 2008 is hereby revoked.

3 Scope and Purpose

- 3.1 This Bylaw shall apply within the boundaries of the Waipa district to both public and private stormwater systems, land drainage systems, flowpaths, ponding areas and watercourses and includes any land, property, buildings, work or catchment under the control or ownership of the Council.
- 3.2 The purpose of this Bylaw is to:
 - (a) Protect the public from nuisance;
 - (b) Protect, promote, and maintain public health and safety;
 - (c) Reduce the risk of flooding of land and property from Council’s stormwater and land drainage systems
 - (d) Protect and manage Council’s stormwater and land drainage infrastructure
 - (i) Manage the entry of prohibited materials into the stormwater system
 - (ii) Contribute to achieving appropriate environmental outcomes consistent with Te Ture Whaimana (Vision and Strategy) and the Future Proof Sub-Regional Three Waters Strategy.

4 Compliance with Other Acts and Codes

- 4.1 Compliance with this Bylaw does not remove the need to comply with the requirements of any Act, Regulation, other Bylaw or other relevant Codes and Standards.
- 4.2 Nothing in this Bylaw shall override any conditions of a resource consent granted by the Waikato Regional Council or permitted activities under the Waikato Regional Plan which specifically address discharges into the stormwater system except where this Bylaw requires a higher standard than the Waikato Regional Plan or a resource consent.

- 4.3 In principle, compliance with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998) will be accepted as providing appropriate mitigation of stormwater risks at petroleum industry sites.
- 4.4 In principle, compliance with the Waikato Regional Infrastructure Technical Specifications 2016, and subsequent amendments, is acceptable for meeting the requirements of this Bylaw.

5 Definitions

5.1 For the purposes of this Bylaw the following definitions will apply:

Term	Definition
Approval	The prior written approval by the Council, either by resolution of the Council or by any Authorised Officer of the Council.
Authorised Officer	Any officer of the Council or other person authorised under the Local Government Act 2002 and authorised by the Council to administer and enforce its Bylaws
Connection	Has the same meaning as in the Local Government Act 2002
Council	Waipa District Council or any person delegated or authorised to act of its behalf
High Risk Facility	The catchment where activities listed in the High Risk Facilities Register in Schedule 1 may be undertaken and which may result in the discharge of environmentally hazardous substances associated with that activity onto or into stormwater.
Land Drainage System	Any system that collects and transports stormwater or groundwater through a series of open drains or ditches and may include culverts and pipes in areas of vehicle or road crossings.
Occupier	The person or legal entity having a legal right to occupy, and use all or part of the premises, and includes a tenant, lessee, licensee, manager, foreperson or any other person acting in the general management of the premises
Overland Flow Path	A low point in terrain, excluding a permanent watercourse, where surface runoff will flow over the ground surface. A subset of overland flow path is called “secondary flow path”. These routes carry water which cannot flow through the primary stormwater system (usually piped) because the water flow has exceeded the capacity of that primary stormwater system.
Person	Has the same meaning as in the Interpretation Act 1999.

Term	Definition
Permit	means a permit or written permission issued by the Council and can include a resource consent
Pollution Prevention Plan	A plan that includes procedures to ensure appropriate management of any hazardous material handled, stored or used on site, or intended to be handled, stored or used on site, to avoid or mitigate the potential for the discharge of prohibited materials into the public stormwater system.
Private Stormwater System	The components of a stormwater system that are located on private property, up to the point of discharge into the public stormwater system or a watercourse.
Prohibited Materials	Anything that is not stormwater, that may ; <ul style="list-style-type: none"> (a) pose a danger to life (b) pose a danger to public health (c) cause flooding of any building floor or sub-floor, or public roadway (d) cause damage to property (e) cause a negative effect on the efficient operation of a stormwater system (f) cause damage to any part of a stormwater system (g) accelerate or amplify erosion or subsidence of land (h) include organic or inorganic chemical pollutants (i) cause long or short term adverse effects on the environment (j) cause adverse loss of riparian vegetation or (k) anything that causes a breach of any stormwater discharge consent condition binding Council.
Public Stormwater System	All components of the stormwater system owned by the Council, including drains, kerb and channel, catch pits, pipes, manholes, lateral connections, detention devices, treatment devices and structures that carry away stormwater, whether or not any part of the system passes through private property or is subject to any easement.
Service Opening	A manhole or similar means for gaining access for inspection, cleaning or maintenance of a public stormwater system.
Stock	Cattle, sheep, pigs, horses or other animals
Stormwater	Surface water runoff resulting from rainfall.

Term	Definition
Stormwater Operation and Maintenance Plan	A plan that outlines specific operation and maintenance procedures to be implemented to ensure the long term effectiveness of the stormwater system in achieving stormwater management treatment and attenuation functions in accordance with the Waikato stormwater management guideline (TR2018/01).
Stormwater Device	Any equipment or infrastructure used for detention or treatment of stormwater to limit outflow or improve quality.
Watercourse	A channel that conveys water whether or not it passes through private property. This includes channels where, due to seasonal variations, water does not flow at all times.
Wastewater System	Includes all pipes, fittings, manholes, pumps, pump stations; and any land, buildings, treatment works which are under the control of the Council for the purpose of providing a wastewater service.

6 General

- 6.1 A permit is required for all connections and discharges to the public stormwater system, and for any works that may affect the proper and efficient functioning of the public stormwater system, including the installation of new drains or the removal, or replacement, of existing drains.
- 6.2 In accordance with Sections 150 of the Local Government Act 2002, Council may charge a fee for any permit or inspection or re-inspection or remedial work carried out under this Bylaw.
- 6.3 Where disposal of stormwater is accepted by Council it will be subject to:
- (a) the premises being situated within an area which is served by a public stormwater system;
 - (b) sufficient existing capacity within the public stormwater system, and the resilience of the system to increasing and extreme volumes of stormwater;
 - (c) provision of a pollution prevention plan if deemed necessary by Council;
 - (d) alignment with a Comprehensive Stormwater Discharge Consent;
 - (e) alignment with any relevant catchment management plans;
 - (f) conditions as set by Council;
 - (g) payment of the appropriate fees; and
 - (h) fulfilment of the requirements of this Bylaw.
- 6.4 The owner/occupiers shall give ten (10) working days' notice in writing of their intention to demolish or remove a building connected to the public stormwater

system. The demolition or removal shall not commence until the property has been disconnected from the public stormwater system and any drain has been capped to a standard approved by an Authorised Officer.

- 6.5 An owner or occupier of the land on either side of any land drainage or stormwater system must not, unless permitted by the Council
- (a) remove, damage, or cause or allow to be removed or damaged, all or any part of a land drainage or stormwater system;
 - (b) allow stormwater to overflow into Council's wastewater system.
- 6.6 An owner or occupier of the land on either side of any land drainage or stormwater system who removes, damages, or causes or allows to be damaged, all or any part of any land drainage or stormwater system shall be liable for repairs to that land drainage or stormwater system.
- 6.7 Any person who has responsibility for any part of a land drainage system or stormwater system owes a civil duty of care not to cause any nuisance to other landowners downstream and to prevent overflow and flooding on other properties.

7 Protection of Land Drainage Systems

- 7.1 An owner or occupier of the land on either side or upstream of any land drainage system must not deposit, or cause or permit to be deposited any material or thing that could cause or likely to cause an obstruction to the land drainage system or a reduction in the capacity of a flood zone.
- 7.2 An owner or occupier of the land on either side of any land drainage system must not damage or alter or remove any part of a land drainage system, or cause or permit any damage or alteration or removal of any part of a land drainage system.
- 7.3 An owner or occupier of the land on either side of any land drainage system must not allow any stock to have access into, or to graze the sides within 3 metres of the centre of, any open drain.
- 7.4 Where Council requires stormwater pollution mitigation measures to be implemented, an Authorised Officer shall require the owner or occupier of a land with a land drainage system to submit in writing plans and options for treatments or works to prevent the discharge of prohibited materials into the public stormwater network or watercourse or otherwise protect the network from damage or alteration. Any plans and options for treatments or works shall be implemented in a reasonable timeframe stipulated by Council and shall be undertaken and maintained at the owner or occupier's expense.
- 7.5 Owners and occupiers of private land drainage assets and systems must ensure they are adequately maintained to perform their intended function/design, including:

- (a) the removal of any obstruction that impedes or is likely to impede the free flow of water;
- (b) the repair or replacement of any part of the system that prevents the full functioning of the stormwater system;
- (c) installing new drains where necessary to improve the proper functioning of the stormwater system;
- (d) the maintenance, and protection from damage or obstruction, of all overland flowpaths.

8 Protection of the Public Stormwater System

8.1 A person must not, without a permit:

- (a) cause or allow to be caused any damage to, or interfere with or destroy any part or function of the public stormwater system;
- (b) directly or indirectly obstruct, alter or impede the natural flow of the public stormwater system, including overland flow paths and ponding areas;
- (c) stop, modify, divert or deepen any public open drain;
- (d) pump or divert water (including from any well, spring or borehole) into any watercourse or public stormwater system;
- (e) cause water to flow into a watercourse or public stormwater system, from outside the catchment area where, in the opinion of the Authorised Officer, the water will overload the capacity or will otherwise interfere with the proper functioning of the watercourse or public stormwater system; or
- (f) allow wastewater or trade waste discharges to enter the public stormwater system. [Advice Note: Trade waste must be discharged in accordance with the Trade Waste Bylaw 2011 or subsequent update.].

8.2 A person must take all practicable steps to store, handle, transport and use materials in a way that prevents prohibited materials entering the public stormwater system.

8.3 Any person who knows of the entry or imminent entry of prohibited materials to the public stormwater system must immediately:

- (a) take all practicable steps to stop the imminent entry or further entry of any prohibited materials to the public stormwater system; and
- (b) inform Council as soon as reasonably practicable.

8.4 A person must not place any load or material on or over any public stormwater drain or allow any heavy material or heavy vehicles to be placed over any public stormwater drain which may, in the assessment of an Authorised Officer, compromise the structural integrity of the drain.

- 8.5 Service openings must not be covered in any way unless approved by an Authorised Officer. Removal of any covering material or adjustment of the service opening situated on private property shall be at the property owner's expense.
- 8.6 Every person excavating or working around the public stormwater system must take due care to ensure that the excavation or work is carried out in a manner that does not damage and/or compromise the integrity of the public stormwater system.

9 Private Stormwater Systems

- 9.1 An Authorised Officer may require the owner or occupier of a premises to submit to the Council a Stormwater Operation and Maintenance Plan and implement management options, treatment or works to prevent the discharge of prohibited materials into the public stormwater network or otherwise protect the network from damage or alteration. Any management options, treatment or works shall be implemented in a reasonable timeframe stipulated by Council and shall be undertaken and maintained at the owner or occupier's expense.
- 9.2 Owners and occupiers of private stormwater assets and systems must ensure they are adequately maintained to perform their intended function/design, including:
- (a) the removal of any obstruction that impedes or is likely to impede the free flow of water;
 - (b) the repair or replacement of any part of the system that prevents the full functioning of the stormwater system;
 - (c) installing new drains where necessary to improve the proper functioning of the stormwater system;
 - (d) the maintenance, and protection from damage or obstruction, of all overland flowpaths.
- 9.3 Owners and occupiers of premises with private stormwater treatment or detention devices must, on request by Council:
- (a) provide such information as is required to demonstrate that the treatment or device is operated and maintained to the standard specified by Council; Pollution Prevention Plans
 - (b) submit copies of the as-built drawings for the stormwater device to the Council for inclusion in the Council's property file for the premises

10 Pollution Prevention Plans

- 10.1 The owner or occupier of a high risk facility, listed in Schedule 1 of this bylaw, may be required to prepare a pollution prevention plan and submit the plan to Council for approval. The plan must include:

- (a) a suitably scaled drawing showing the site layout, boundaries, all private stormwater drainage including the point of connection to the public networks, relevant buildings and outdoor spaces (including their use);
- (b) a site assessment identifying all actual and potential sources of stormwater contamination;
- (c) methods in place to eliminate as far as is practicable and otherwise minimise the risk of prohibited materials entering the public stormwater system;
- (d) methods and timeframes proposed to avoid as far as is practicable or otherwise minimise the discharge of prohibited materials to the public stormwater system;
- (e) a description of the maintenance procedures for the stormwater assets in place and proposed; and
- (f) spill prevention and spill response procedures.

10.2 Within three months of being requested to do so, the owner or occupier must provide the pollution prevention plan to Council for review and approval.

10.3 Once the pollution prevention plan has been approved by an Authorised Officer the owner or occupier must comply with all provisions, including timeframes specified, of the pollution prevention plan.

10.4 The owner or occupier must review the pollution prevention plan every three years and provide it to Council for review and approval.

10.5 Notwithstanding Clause 10.4, Council may require that any pollution prevention plan be revised at any time where there have been significant changes in the facility concerned or its operational procedures

10.6 Where an Authorised Officer suspects that any discharge is in breach of this Bylaw, or failure to comply with the pollution prevention plan is evident, Council may monitor, sample and analyse stormwater discharges and the receiving environment to ensure compliance with this Bylaw.

11 Site Development and Construction Activities

11.1 Any person undertaking earthworks or building activities must ensure that controls are in place to prevent the displacement of flood waters to neighbouring properties and prevent sediments entering the public stormwater system.

12 Access And Monitoring

12.1 Council may inspect private and public stormwater systems in order to ensure compliance with this Bylaw.

13 Breaches and Offences

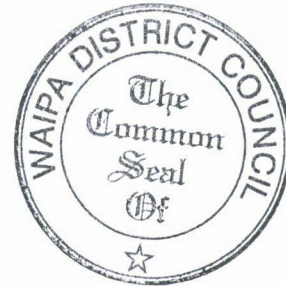
- 13.1 Every person breaches this Bylaw and commits an offence who:
- (a) does, or allows to be done, anything which is contrary to this Bylaw or any part of it;
 - (b) fails to do, or allows to remain undone, anything which ought to be done by that person within the time and in the manner required by this Bylaw or any part of it;
 - (c) fails to comply with any notice given to that person under this Bylaw or any part of it or any condition of a licence granted by the Council; or
 - (d) obstructs or hinders any Authorised Officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

14 Penalties and Remedies

- 14.1 A person who commits an offence against this Bylaw shall be subject to the penalties set out in section 242 of the Local Government Act 2002
- 14.2 An Authorised Officer may serve a notice to any person in breach of this Bylaw to carry out remedial action in order to comply with the Bylaw, specifying the period in which remedial action will be carried out.
- 14.3 Under the Local Government Act 2002 an Authorised Officer or Council appointed person may;
- (a) recover costs incurred to carry out remedial action in order to comply with the bylaw from the person who committed the breach (if after the specified period under Clause 14.2, the remedial action has not been carried out);
 - (b) if an Authorised Officer is of an opinion that there is a risk to public health and safety, or damage to Council is significant and such that delay would create unacceptable results, they may take immediate action to rectify any breach of the Bylaw and recover costs incurred;
 - (c) remove or alter any work of thing that is or has been constructed in breach of this Bylaw and recover costs of doing so from the person who committed the breach.

The foregoing Bylaw was made by the **WAIPA DISTRICT COUNCIL** by Special Consultative Procedure and confirmed at a meeting of Council held on the 27 August 2019. This Bylaw becomes operative on the x30 September 2019.

IN WITNESS WHEREOF the Common Seal of the **WAIPA DISTRICT COUNCIL** was hereunto affixed pursuant to a resolution of Council passed on the 27 August 2019 in the presence of:



Mayor:

J. Hylchrest

Chief Executive:

[Handwritten signature]

Schedule 1: High Risk Facilities Register

This schedule is from the Waikato Regional Plan (section 3.5.12) and may be updated by Council resolution from time to time.

Schedule 1: High Risk Activities and Sites

Activity	Reason for High Risk Classification
1. Mechanical workshops and service stations.	These sites use and handle large volumes of oils and other petroleum products. Spillages of these substances are not uncommon and as such can end up in the public stormwater system.
2. Printers.	Relatively large quantities of dyes and paints are handled at these sites. The risk of spillages entering the public stormwater system is relatively high.
3. Spray painting facilities; paint supply and distribution facilities.	Not only can paints be spilt at these sites entering the public stormwater system they can also enter as a consequence of drift from spray painting operations.
4. Meat, fish and shellfish processing industries.	Wastes from these industries typically have a high BOD so if they enter the freshwater system via the public stormwater system they can cause significant adverse effects.
5. Dairy products processing.	Wastes from these industries typically have a high BOD so if they enter the freshwater system via the public stormwater system they can cause significant adverse effects.
6. Waste management sites (transfer stations, compost sites, landfills, car wreckers, scrap metal dealers, lead battery outlets and storage, etc.).	Litter, hazardous substances and high BOD wastes can all enter the public stormwater systems from these sites.
7. Truck wash facilities	The activity of truck washing can result in hazardous contaminants of trucks as well as sediments and wastes from spillages on site.
8. Unenclosed manufacturing and bulk storage of fertiliser.	Fertilisers can give rise to high levels of nutrients in stormwater discharges. Where fertilisers are manufactured or stored in such a way that fertilisers can enter the public stormwater system the risk of adverse effects is unacceptably high.

Activity	Reason for High Risk Classification
9. Textile fibre and textile processing industries where dyeing and washing of fabric occurs.	Large quantities of dye and high BOD wastes (from wool scourers for instance) are handled on these sites. The risk of spillages entering the public stormwater system is high.
10. Tanneries and leather finishing.	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages entering the public stormwater system is high.
11. Footwear manufacture.	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages entering the public stormwater system is high.
12. Manufacture of paper and paper products.	Hazardous substances such as chlorine based bleaches and dyes are regularly handled on these sites. The risk of spillages entering the public stormwater system is high.
13. Manufacture or processing of chemicals, and of petroleum, coal, rubber and plastic products.	The risk of spillages associated with hazardous substances used in these industries entering the public stormwater system is high.
14. Manufacture of clay, glass, plaster, masonry, asbestos and related mineral products.	The risk of spillages associated with hazardous substances used in these industries entering the public stormwater system is high.
15. Manufacture of fabricated metal products, machinery and equipment.	The risk of spillages associated with hazardous substances used in these industries entering the public stormwater system is high.
16. Electroplaters, Foundries, galvanizers and metal surfacing.	The risk of spillages associated with hazardous substances used in these industries entering the public stormwater system is high.
17. Concrete batching plants and, asphalt manufacturing plants.	The risk of spillages associated with hazardous substances used in these industries entering the public stormwater system is high.
18. Stock saleyards.	High BOD run-off can be associated with these sites and effects of this run-off entering the public stormwater system is high and unacceptable.
19. Bakeries.	Outside washing of trays, dishes and pans can result in high BOD, fats, greases and detergents entering public stormwater systems.
20. Car wash and valet services.	High oil, solvent and solid discharges can occur from these activities and the risk of these entering the public stormwater system is high.

Activity	Reason for High Risk Classification
21. Commercial laundries (excluding self-service laundrettes and Laundromats).	The risk of spillages associated with detergents, alkalis and salts used in this industry entering the public stormwater system is high.
22. Furniture/wood manufacturing and refinishing industries.	Some of these industries work outside extensively, usually with no stormwater treatment, Contaminants such as sawdust, glues and alkali stripper solution in the stormwater coming of these sites can include high solids, BOD and high pH.
23. Timber preservation, treatment and storage sites where chemically treated timber is sorted.	A range of hazardous substances are used on these sites (e.g. Copper Chrome, Arsenic, Boron and copper-quinoline compounds). In addition, timber treatment chemicals have been shown to be able to leach from treated wood in storage.

SCHEDULE 2: PERMITS

1 General

- (a) Any application for a permit under this Bylaw must be accompanied by all relevant documentation and fees.
- (b) Any application may be declined by the Authorised Officer where in the opinion of that Officer, the purpose for which the permit is sought may be contrary to the purposes of this Bylaw or may breach a statutory requirement or policy.
- (c) No person(s) shall commence any work on any stormwater system until a permit has been issued by the Authorised Officer, and only then in accordance with the conditions of that permit.

2 Access without a permit

- (a) Every person, other than the Council or its authorised agents, who accesses the stormwater water system without a valid permit breaches this Bylaw.

3 Permit requirements for obstruction of stormwater systems

- (a) Every application for a permit to carry out work on or in a stormwater or land drainage system must be accompanied by drawings and specifications of the proposed work. The drawings must show the location of the site, plans and profile of the work, with sufficient details to describe adequately the works and materials proposed.
- (b) Two sets of drawings must be submitted to the Authorised Officer for approval.
- (c) The drawings must also provide sufficient details of adjoining premises to determine the effects of the proposed work on those premises and any ponding that proposed work might cause, together with proposals for the control of silt as required by the Waikato Regional Council.
- (d) The drawings and specifications shall be provided free of charge to the Authorised Officer from a suitable qualified practitioner. The Authorised Officer may decline or request further information on any drawings or specifications submitted if the quality is not to an adequate level.
- (e) A permit may be issued subject to any conditions and requirements that the Authorised Officer may deem appropriate including, a requirement for the Authorised Officer to be notified of certain stages so an inspection of the drainage system can be made.
- (f) In the design of any proposed work in, under or over a stormwater or land drainage system, a secondary flow path shall be provided for which can accommodate all, or any part not carried by an open drain or piped system,), of an Annual Exceedance Probability storm as may be specified in a management plan, without causing significant damage. Any secondary flow path shall be kept free from buildings or obstructions that would impede the

free flow of water. In approving work that includes the provision of a secondary flow path, the Authorised Officer shall require the registration of a Memorandum of Encumbrance on the land title, defining the secondary flow path and the protection required.

- (g) All work under this Bylaw shall be carried out in compliance with the approved drawings, specifications and terms and conditions as determined by the Authorised Officer.
- (h) A minimum notice period of 5 working days, advised in writing shall be given to the Authorised Officer prior to the commencement of work or of any inspection required by a permit. Sufficient access must be provided to enable the Authorised Officer to carry out the required inspection.

4. Revoking, modifying or cancelling a permit

- (a) Council may revoke, modify or cancel any permit if
 - (i) The conditions of the permit are not complied with, or
 - (ii) There is a material change which requires the permit to be revoked or amended; or
 - (iii) The information provided to Council in support of the permit application is incorrect or misleading.

5 Fees and charges

- (a) In accordance with section 150 of the Local Government Act 2002, fees for the issue of any approvals or permits under this bylaw are in accordance with Council's published Schedule of Fees and Charges.

6 Appealing permit conditions

- (a) Any person who is applying for a permit, other than a building consent or a resource consent, issued under this Bylaw may appeal to the Chief Executive of the Council the decision of an Authorised Officer to impose terms and conditions or decline the application. The Chief Executive may, at his discretion, refer the matter to Council or a Council committee to determine.