

## Submission by

## Hamilton City Council Staff

### WAIKATO DISTRICT COUNCIL'S PROPOSED STORMWATER BYLAW 2021

15 July 2021

It should be noted that the following submission is from staff at Hamilton City Council and does not necessarily represent the views of the Council itself.

#### 1.0 EXECUTIVE SUMMARY

- 1.1 Hamilton City Council staff support the overall direction and content of Waikato District Council's Stormwater Bylaw 2021.
- 1.2 Hamilton City Council staff appreciate efforts made to seek subregional alignment of bylaws as intended under the Future Proof Three Waters Strategy.
- 1.3 Hamilton City Council staff support the provision of clauses within the bylaw which provide protection of the stormwater system, enable the consideration of Integrated Catchment Management Plans and resource consents which recognise catchments outside of the Waikato District for new stormwater connections, provide for the management and disposal of pool water, and enables Waikato District Council to enforce non-compliances with the Bylaw.
- 1.4 Hamilton City Council staff request clarification in terms of High Risk Facilities and Waste Plans, recognising that there are facilities that will be deemed High Risk Facilities (as defined by Waikato District Council's Stormwater Bylaw), but will not be required to take any actions as they are not a 'Trade Waste Identified High Risk Facility'.
- 1.5 Hamilton City Council staff recommend that this definition of 'Overland Flow Path' is revisited to ensure clear instruction to those who give effect to Waikato District Council's Stormwater Bylaw.

#### 2.0 INTRODUCTION

- 2.1 Hamilton City Council staff (hereafter referred to as 'staff') welcome the opportunity to make a submission to Waikato District Council's Proposed Stormwater Bylaw 2021 (the Bylaw).
- 2.2 Staff acknowledge the Future Proof Sub-Regional Three Waters Strategy (of which both Waikato District Council and Hamilton City Council are partners) which seeks alignment of strategic direction.
- 2.3 Staff support the inclusion of Te Ture Whaimana o te Awa o Waikato (the Vision and Strategy) which seeks the restoration and protection of the Waikato River.

2.4 Staff have provided the following submission points for Waikato District Council to consider.

### 3.0 KEY MESSAGES

3.1 Staff support the overall direction and content of the Bylaw. Of particular note, staff are supportive of actions which increase alignment of bylaws in the subregion.

3.2 Staff note numerous similarities of the Bylaw with Hamilton City Council's Stormwater Bylaw, which is to come into force on 1 October 2021. This bylaw is provided as **Attachment 1**.

3.3 Staff note that both Hamilton City Council and Waikato District Council, along with Waipa District Council, have existing operational relationships.

3.4 Of particular note is the fact that both Hamilton City Council and Waikato District Council share numerous stormwater drainage catchments. A consistent approach to managing stormwater which conveys through both Hamilton City and Waikato District is not only welcomed by staff, but is also anticipated to be welcomed by our community.

3.5 Staff support clauses which:

- Provide protection of the stormwater system;
- Enable the consideration of Integrated Catchment Management Plans and Resource Consents which recognise catchments outside of the Waikato District for new stormwater connections;
- Provide for the management and disposal of pool water; and
- Enables Waikato District Council to enforce non-compliances with the Bylaw.

### 4.0 CLARIFICATION OF HIGH-RISK FACILITIES AND TRADE WASTE PLANS

4.1 Hamilton City Council's Stormwater Bylaw requires that any 'High Risk Facility' develop, maintain, and keep available for inspection a Pollution Control Plan (Clause 8.7 a - m). These clauses have been maintained within the **Hamilton City Council Stormwater Bylaw 2021 (Attachment 1)** to ensure that any high-risk facility which could potentially discharge contaminants into the stormwater network are captured and required to prepare Pollution Control Plans.

4.2 In contrast to the Hamilton City Council Stormwater Bylaw, the Bylaw leans on Trade Waste Plans and Waikato District Council's Trade Waste and Wastewater Bylaw (Clause 6.2 d, e, f) to manage stormwater discharges from facilities which may have high risk contaminants.

4.3 The three clauses within the Bylaw refer to 'Trade Waste identified High Risk Facilities' and will only apply to those 'High Risk Facilities' which have trade waste agreements.

4.4 Staff query whether this method of control may unintentionally not provide for some high-risk facilities that do not have trade waste agreements.

4.5 As previously discussed, Hamilton City Council and Waikato District Council share several stormwater drainage catchments. Of these, Hamilton City Council is generally located at the lower section of stormwater drainage catchments which overlap the jurisdiction of Waikato District Council.

4.6 Staff consider that this has the ability to impact Hamilton City Council's compliance with our Comprehensive Stormwater Discharge Consent should an event compromising water quality within one of these shared catchments was to occur.

4.7 Staff want to be confident that there are sufficient controls to ensure that pollutants from high-risk facilities located within the Waikato District do not enter Hamilton City Council's jurisdiction and compromise our ability to comply with our Comprehensive Stormwater Discharge Consent and to give effect to the Vision and Strategy of the Waikato River.

## 5.0 DEFINITION OF 'OVERLAND FLOW PATH'

5.1 The Bylaw defines 'Overland Flow Path' as the following:

*Means the route along which stormwater flows. A subset of an 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 network.*

5.2 Staff have made several observations with regards to this definition.

5.3 Firstly, the definition of Overland Flow Path as drafted includes "the route along which stormwater flows" and may unintentionally capture all areas subject to the movement of stormwater, including the likes of rooftops, artificial drains, water courses and any areas which are graded to such a degree where stormwater does not soak away.

5.4 Secondly, the definition is not consistent with the Regional Infrastructure Technical Standards (RITS).

5.5 Staff note that any disturbance of soil (no matter how minor the disturbance is) may constitute the damage or destruction of an overland flow path.

5.6 Staff recommend that this definition is revisited to ensure clear instruction to those who give effect to the Bylaw. Referring to the RITS is considered by staff as a good starting point.

## 6.0 FURTHER INFORMATION AND OPPORTUNITY TO DISCUSS OUR SUBMISSION

6.1 Should Waikato District Council require clarification of the above points, or additional information, please contact **Kyall Foley** (Environmental Policy Analyst - City Waters) on 07 245 0040, email [kyall.foley@hcc.govt.nz](mailto:kyall.foley@hcc.govt.nz) in the first instance.

6.2 Staff would welcome the opportunity to discuss the content of our submission with Waikato District Council in more detail.

Yours faithfully



**Richard Briggs**  
**CHIEF EXECUTIVE**

**ATTACHMENT 1**  
**HAMILTON STORMWATER BYLAW 2021**

# Hamilton City Council BYLAW



Approved By: Hamilton City Council	Date Adopted: 29 April 2021
Date In Force: 1 October 2021	Review Date: To be reviewed by 29 April 2031

## PROPOSED AMENDED HAMILTON STORMWATER BYLAW 2021

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Hamilton City Council, in exercise of its powers and authorities given to it under the Local Government Act 2002 and the Health Act 1956 and any subsequent amendments to the Acts and all other relevant powers, makes the following bylaw.

### 1. INTRODUCTION

Hamilton City Council (the Council) has the power to make bylaws for managing, regulating, and protecting land drainage, as well as powers to protect, promote and maintain public health and safety). In addition, the Council has a duty under Section 17 of the Waikato River Settlement Act 2010, to have particular regard to Te Ture Whaimana o Te Awa o Waikato (the Vision and Strategy for the Waikato River) where the vision is “for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come”. In this regard the Council recognises the special cultural, social, environmental, and economic relationship of Waikato-Tainui with the Waikato River and the need to protect and restore the Waikato River.

Hamilton City Council’s Comprehensive City-Wide Stormwater Discharge Resource Consent and Stormwater Management Plan aims to manage Stormwater discharge for quality and quantity and to avoid, remedy and mitigate any adverse effects on the environment.

The Bylaw is a means of complying with the Comprehensive City-Wide Stormwater Discharge Resource Consent and Stormwater Management Plan.

The Bylaw ultimately aims to assist in achieving the Vision and Strategy for the Waikato River by helping to protect aquatic habitats, minimising scour, erosion, and flooding and improving bathing water quality.

*(Note: the above introduction does not form part of this bylaw and is intended to be read as an introductory note)*

### 2. SHORT TITLE, COMMENCEMENT AND APPLICATION

- 2.1. The bylaw shall be known as the “Hamilton Stormwater Bylaw 2021”.
- 2.2. The bylaw shall apply to the Hamilton City Council District.
- 2.3. The bylaw shall come into force on 1 October 2021

### 3. REVOCATION OF EXISTING BYLAW

- 3.1 The Hamilton Stormwater Bylaw 2015 is hereby revoked.

### 4. SCOPE

- 4.1. This bylaw shall apply to the district of Hamilton City pursuant to the Local Government Act 2002. This bylaw applies to both Public and Private Stormwater Systems and Watercourses.

### 5. PURPOSE

- 5.1. The purposes of this bylaw are to enable Council to:

- a) Protect the public from Nuisance
- b) Protect, promote, and maintain public health and safety.
- c) Prevent or minimise the entry of contaminants into the Stormwater System
- d) Meet compliance requirements of the Council's Stormwater discharge consents.
- e) Assist in meeting Council's duty under s 17 of the Waikato River Settlement Act 2010 to have regard to the Vision and Strategy for the Waikato River by contributing to the protection and restoration of the health and wellbeing of the Waikato River, including sites of ecological and cultural significance.
- f) Manage the land, structure or infrastructure associated with Stormwater drainage within its control.
- g) Protect and regulate against damage, misuse, or loss of the land, structures, or infrastructure related to Stormwater drainage.
- h) Prevent the unauthorised use of the land, structures or infrastructure related to Stormwater drainage.
- i) Ensure Watercourses, that form part of the Council's Stormwater Systems, remain unobstructed.

## 6. COMPLIANCE WITH OTHER ACTS AND CODES

- 6.1. This Bylaw has been developed in accordance with all relevant legislation Council Policy relating to Stormwater and guidance.
- 6.2. Compliance with the requirements of this bylaw does not remove the need to comply with the requirements of any Act, Regulation, other bylaw or other relevant Codes and Standards.

## 7. DEFINITIONS

- 7.1. For the purposes of implementing this bylaw the following definitions shall apply:

<b>Approval</b>	Means approved in writing by the Council, either by resolution of the Council or by any Authorised Officer of the Council.
<b>Authorised Officer</b>	An employee or contractor of the Council authorised to carry out general or specific duties in relation to stormwater.
<b>Council</b>	Means Hamilton City Council or an employee or contractor of the Council appointed to carry out duties relating to Stormwater management.
<b>Defect Notice</b>	Means a Notice that requires a person to remedy any part of a Private Stormwater System.
<b>Ecological device</b>	Means devices including, but not limited to, fish ramps and constructed fish protection structures designed to preserve or enhance aquatic ecosystems and/or fish passage.

<b>Enforcement Officer</b>	Means an employee or contractor of the Council warranted under the Local Government Act 2002, authorised to carry out general or specific duties in relation to Stormwater including enforcement arising from any of the provisions of this act and this bylaw.
<b>High-Risk Facility</b>	Means a facility carrying out or intended to carry out any of the activities listed in the High-Risk Facilities Register, Schedule One of this Bylaw, and includes the land and buildings of the site.
<b>Occupier</b>	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.
<b>Nuisance Material</b>	<p>In the context of stormwater means anything that is not Stormwater, including but not limited to material, by reason of its nature or volume, that;</p> <ul style="list-style-type: none"><li>(a) Cause a breach of any Stormwater discharge consent condition binding the Council</li><li>(b) Cause adverse loss of riparian vegetation</li><li>(c) Cause a negative effect on the efficient operation of a Stormwater System</li><li>(d) Cause damage to property</li><li>(e) Cause damage to any part of a Stormwater System</li><li>(f) Cause erosion or subsidence of land</li><li>(g) Cause flooding of any building floor or sub-floor, or public roadway</li><li>(h) Cause long or short-term adverse effects on the environment</li><li>(i) Cause wastewater overflow to land or water</li><li>(j) Pose a danger to life; or</li><li>(k) Pose a danger to public health.</li></ul>
<b>Overland Flow Path</b>	A low point in the terrain, excluding a permanent Watercourse, where surface water 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 network.
<b>Pollution Control Plan</b>	Means a plan for a High-Risk Facility held on-site which includes appropriate policies and procedures, and a mechanism for review to guide appropriate management of any material (either held onsite or intended or likely to be onsite) that may cause entry of Nuisance materials into the Stormwater System or any other breach of this bylaw.
<b>Stormwater</b>	<p>Surface water runoff that:</p> <ul style="list-style-type: none"><li>(a) Enters or may enter the Stormwater System as a result of a rain event and;</li></ul>

- (b) Contains any substance where the type and concentration of the substance is consistent with the contributing catchment land use(s) and that of the receiving environment.

**Stormwater Management Device**

Means a device or facility used to reduce Stormwater runoff volume, flow and/or intercept or treat contaminant loads prior to discharge to the Public Stormwater System.

Including, but not limited to:

- green roofs
- infiltration trenches
- ponds
- porous paving
- propriety devices
- interception systems
- rain gardens
- rainwater tanks
- sand filters
- soakage system
- swales
- constructed wetlands

**Stormwater System**

Includes any land, structure or infrastructure associated with Stormwater drainage, including a Private Stormwater System, a Public Stormwater System, and a Watercourse as follows:

- (a) **Private Stormwater System** - Means all privately owned components of a Stormwater System, including, pipes, roof spouting, gutters, downpipes, catchpits, Stormwater Management Devices, and interception systems that are located on private property whether residential, commercial, or industrial, up to the point of discharge into the Public Stormwater System or a Watercourse.
- (b) **Public Stormwater System** - Means all components of the Stormwater System owned by the Council, including, pipes, open drains, kerb, and channel, catch pits, manholes, lateral connections, and Stormwater Management Devices that are used for the treatment, detention, or conveyance of Stormwater, whether or not any part of the system passes through private property or is subject to any easement.
- (c) **Watercourse** - Means a channel, whether natural or not, that conveys water regardless of whether it passes through private property. This includes channels where, due to seasonal variations, water does not flow.

**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.

## 8. STORMWATER SYSTEMS REQUIREMENTS

### 8.1. Protection of the Stormwater System

- a) A person must not, without the prior Approval of the Council, discharge or allow to be discharged any material including chemicals, detergents, tradewaste, wastewater, rubbish, litter, sediment, concrete, cement slurry, effluent, solvents, fungicide, insecticide, green waste, or other substance that causes or is likely to cause a Nuisance, into the Stormwater System.
- b) All new connections for the discharge of swimming pool or spa pool water or backwash filter water shall be to the wastewater system except with the Approval of Council
- c) The Council may impose conditions on an Approval for the discharge of swimming pool or spa pool water.
- d) Swimming or spa pool water arising from emptying or backwashing, and which does not have Council Approval, may not be discharged into the Public Stormwater System or any Watercourse. Disposal of such water should be to the Wastewater System as provided for in the Hamilton Tradewaste and Wastewater Bylaw or may be discharged to land in a controlled manner in such a way that it can soak into a vegetated area and cannot reach the reticulated public Stormwater System or any Watercourse.
- e) A Person must take all practicable steps to store, handle, transport and use materials in a way that protects the Stormwater System from Nuisance.
- f) A Person undertaking earthworks or building activities must ensure that controls are in place to prevent sediments entering the Stormwater System.
- g) Any person who knows of the entry or imminent entry of materials causing Nuisance to the Stormwater System must immediately:
  - i. Take all practicable steps to stop the imminent entry or further entry of any materials causing Nuisance to the Stormwater System; and
  - ii. Inform an Authorised Officer /the Council as soon as reasonably practicable.

*Note 1 (This note does not form part of the bylaw) –for further information on sediment control refer to The Council’s “A Guide to Sediment Control on Building Sites’ and Waikato Regional Council’s “Erosion and Sediment Control: Guidelines for Soil Disturbing Activities, 2009”.*

*Note 2: (This note does not form part of the bylaw) – This Bylaw prohibits the discharge of materials causing Nuisance\* to the Stormwater System. Materials causing Nuisance\* may be able to be discharged to the wastewater system in accordance with the current Trade Waste and Wastewater Bylaw and any Trade Waste Consent which may be required.*

*Note 3: (This note does not form part of the bylaw) The conditions imposed by Council under 8.1(c) may include a period of non-chlorination, a period of being left uncovered, and a temperature requirement.*

### 8.2. Damage to the Public Stormwater System

- (a) No person shall cause or allow to be caused any damage to, or destroy any part of the Public Stormwater System, including any:
  - i. Dam
  - ii. Weir
  - iii. Stormwater Management Device
  - iv. Swale
  - v. Stopbank
  - vi. Headworks
  - vii. Building; or, treatment device
  - viii. Drainage reserve land
  - ix. Ecological device
  - x. Erosion and scour control structure
  - xi. Stormwater inlet or outlet structure
  - xii. Stormwater pipe
  - xiii. Stormwater pump system; or
- (b) No person shall modify, interfere with, or remove items listed in Clause 8.2 (a) without the prior Approval of the Council.
- (c) 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 Stormwater System.
- (d) No person shall cause a temporary or permanently sustained excessive load on the piped Public Stormwater System that is likely to result in damage to the network.
- (e) Any person who knows of damage to the Public Stormwater System must report it to Council or an Authorised Officer immediately.

### 8.3. Obstructions and Capacity of the Stormwater System

- (a) A person must not, without the prior Approval of the Council:
  - i. Do anything that directly or indirectly obstructs, alters or impedes the natural flow of the Stormwater System;
  - ii. Obstruct or hinder any part of any Public or Private Stormwater System in a manner that is likely to cause Nuisance;
  - iii. Erect any structure or stop bank, grow any vegetation, deposit any waste, or carry out any activity that is likely to cause Nuisance to the Public Stormwater System;
  - iv. Obstruct or alter any Overland Flow Paths identified in a consent notice, or District Plan of the Council or other documents made available to the public by Council resolution;
  - v. Pump or divert water into any Watercourse or Public Stormwater System; or
  - vi. 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.

- (b) A person must not, without the prior Approval of the Council:
  - i. Stop, modify, divert, or deepen any open drain or;
  - ii. Divert any open drain or otherwise cause Stormwater to flow into the Wastewater System.
- c) Owners and Occupiers are responsible for ensuring the maintenance of any Watercourse on their premises, including the removal of any obstruction that impedes or is likely to impede the free flow of water.

*Note 4: (This note does not form part of the bylaw) – Obstructions to the flow of water include but are not limited to earth bunds, buildings, fences, retaining walls, rock gardens, earth, stone, timber, trees, plants, weeds and growths of all kinds that will impede the free flow of water.*

*Note 5: (This note does not form part of the bylaw) To avoid adverse effects on ecological biodiversity, any removal of vegetation to ensure free flow of water must be in accordance with Waikato Regional Plan and Hamilton City District Plan rules. Where trees and plants are obstructing stormwater flow, but may have ecological value, owners and occupiers shall seek advice from Council prior to removal.*

#### **8.4. Building works in Proximity to the Stormwater System**

- (a) A person must ensure that any new building works over or within five metres of the Public Stormwater System complies with the requirements of the Regional Technical Infrastructure Specifications.
- (b) A person intending to do new building works over or within five metres of the Public Stormwater System must make an application to Council and must not proceed with the works unless Approval is granted.
- (c) If Approval is granted under clause 8.4(b), the owner or Occupier must notify Council 10 working days prior to commencement of the works.

#### **8.5. Connecting to the Stormwater System**

- a) No person may, without the Council's Approval, connect to the Public Stormwater System.
- b) Any Person wishing to connect to, disconnect from, or work on the Public Stormwater System, must write to the Council for Approval and provide any information specified by the Council.
- c) Prior to any authorisation the Council may require:
  - i. Demonstration that the connection complies with requirements of any Integrated Catchment Management Plan or Water Impact Assessment, or Consent Notice required under the Hamilton District Plan.
  - ii. Demonstration from the owner or Occupier of a site that a discharge of Stormwater to the network does not cause Council to breach the Council's Comprehensive Citywide Stormwater Resource Consent (Consent 105279 clause 3).
  - iii. The Council may impose conditions on a connection Approval.

### 8.6. Private Stormwater System Requirements

- a) An owner must ensure that stormwater is not discharged to the Public Stormwater System from a premise with an impervious area greater than that permitted in the Hamilton District Plan or an operative resource consent.
- b) No person shall allow Stormwater to enter the Wastewater System without prior Approval from the Council.
- c) An owner must not allow the condition of the Private Stormwater system within their premises to deteriorate to the point where damage to a Watercourse occurs or is likely to occur.
- d) If an Enforcement Officer believes on reasonable grounds that a breach of the Bylaw has occurred, they require the owner or Occupier of a property to implement management options, treatment or works to prevent the discharge of materials causing Nuisance into the Public Stormwater System or otherwise protect the system from damage or alteration.
- e) Any management options, treatment or works required by the Authorised Officer shall be implemented in a timeframe stipulated by the Council and shall be undertaken and maintained at the owner or Occupier's expense.
- f) An owner or Occupier must ensure that a Stormwater Management Device in a Private Stormwater System is adequately maintained to perform the intended function/design including, but not limited to:
  - i. the removal of any obstruction or material that impedes or is likely to impede the free flow or draining of water; and
  - ii. the repair or replacement of any part of the Stormwater Management Device that prevents or impedes the full functioning of the device;
- g) Owners and Occupiers of premises with Private Stormwater Management Devices must, on request by the Council:
  - i. provide such information to demonstrate that the device is operated and maintained to the standard specified and approved by the Council. Where no standard is specified by the Council then the manufacturers specifications and maintenance recommendations shall apply.
  - ii. submit copies of the as-built drawings for the Stormwater Management Device to the Council for inclusion in the Council's property file for the premises within 2 months of installation.
- h) Where an operations and maintenance manual or procedure is required for the Stormwater Management Device, the Owner or Occupier of the premises must keep a copy on the premises and produce a copy of such manual or procedure upon request by the Council, except for High-Risk Facilities, where clauses 8.7a-h apply.
- g) Where it is identified that a Stormwater System is not operating effectively, the Council may issue a Defect Notice to require an owner/ Occupier to fix a Private Stormwater System, including Stormwater Management Devices, at the owner's cost, to meet original design specifications.

- h) No owner or Occupier may, without the Council's written Approval, remove a Private Stormwater System or do anything which reduces its effectiveness.

### **8.7. High-Risk Register and High-Risk Facilities**

- a) The Council may, by resolution, specify any activity to be included in or removed from the High-Risk Facilities Register.
- b) Any owner or Occupier of a High-Risk Facility must install and maintain at their own cost an appropriate private interception system to avoid as far as practicable and otherwise minimise the risk of Nuisance Material entering the Public Stormwater System.
- c) An owner or Occupier who manages or controls a High-Risk Facility must ensure, so far as is reasonably practicable, that employees and contractors are made aware of the Pollution Control Plan.
- d) Any owner or Occupier of a High-Risk Facility must develop, maintain, and keep available for inspection a Pollution Control Plan on the premises which eliminates as far as is practicable and otherwise minimises the risk of breach of this bylaw.
- e) Spill response procedures must be visually displayed at each High-Risk Facility, including unstaffed facilities.
- f) Any owner or Occupier of a High-Risk Facility must have a Pollution Control Plan available for inspection within one month of commencing the land use activity. The Council may require the Pollution Control Plan to be submitted for Approval.
- g) The Pollution Control Plan must include:
- i. a suitably scaled drawing showing the site layout, boundaries, all aspects of the Private Stormwater System and wastewater drainage including the point of connection to the public networks, relevant buildings, and outdoor spaces (including their use); and
  - ii. a site assessment identifying all actual and potential sources of Stormwater contamination (including Nuisance Materials); and
  - iii. methods in place to eliminate as far as is practicable and otherwise minimise the risk of materials causing Nuisance entering the Public Stormwater System including but not limited to; site design and management, training requirements and procedures; and
  - iv. a description of the maintenance procedures for the Stormwater interception system in place and proposed; and
  - v. spill prevention and spill response procedures.
- h) The owner or Occupier of a High-Risk Facility must review the Pollution Control Plan every three years.
- i) The owner, Occupier, and all persons on the site of a High-Risk Facility must comply with the requirements of the Pollution Control Plan.
- j) The Council may require that any Pollution Control Plan be revised at any time where there have been significant changes in the High-Risk Facility concerned or its operational procedures. The owner or Occupier must submit the revised Pollution Control Plan to Council for Approval within one month of receiving notice that it is required.

- k) If an Authorised Officer determines that the Pollution Control Plan will not eliminate as far as practicable and otherwise mitigates the risk of breach of the Bylaw, the Authorised Officer may require a revised Pollution Control Plan within one month of notice in writing to address any deficiency.
- l) A failure to submit an initial or revised Pollution Control Plan is a breach of the Bylaw.
- m) Where an Authorised Officer has reasonable grounds to suspect that any discharge is in breach of this bylaw, or there has been a failure to comply with the Pollution Control Plan, the Council may monitor, sample, and analyse Stormwater discharges and the receiving environment to detect breaches of this bylaw.

*Note 6: (This note does not form part of the bylaw) – Stormwater Management Devices, must be fit for purpose to manage the effects of the discharge. Stormwater interception devices must be specific to the contaminant requiring control.*

### **9. ACCESS**

- 9.1. In accordance with section 171 of the Local Government Act 2002, an Enforcement Officer may enter and inspect any land or building (other than a dwelling house):
  - (a) for routine inspection or monitoring or for post breach monitoring. The Enforcement Officer must give at least 24 hours' notice of the intended entry.
  - (b) of a High-Risk Facility for routine inspection and monitoring. The Enforcement Officer must give at least 24 hours' notice of the intended entry.
- 9.2. In accordance with section 172 of the Local Government Act 2002, an Enforcement Officer may enter and inspect any land for the purpose of detecting a breach of this bylaw if the Enforcement Officer has reasonable grounds for suspecting that a breach has occurred or is occurring on the land. The Enforcement Officer must give reasonable notice unless the giving of notice would defeat the purpose of entry.
- 9.3. In accordance with section 173 of the Local Government Act 2002, in the event of a sudden emergency causing or likely to cause damage to property or the environment or where there is danger to any works or adjoining property, an Enforcement Officer may enter occupied land or buildings. Notice is not required.

### **10. FEES & CHARGES**

- 10.1. In accordance with Section 150 of the Local Government Act 2002, the Council may charge a fee for any approval, inspection or re-inspection carried out under this bylaw. Approval, inspection, and re-inspection fees will be set by Council resolution.

### **11. BREACHES**

- 11.1. It is a breach of this bylaw to:
  - (a) Fail to comply with any requirement of this bylaw;
  - (b) Fail to comply with any Defect Notice issued by an Authorised Officer pursuant to this bylaw;
  - (c) Obstruct an Authorised Officer in the performance of their function under this bylaw.

- 11.2. The Authorised Officer may report breaches or imminent breaches to Waikato Regional Council and the Environment Protection Authority for further enforcement.
- 11.3. A person is not in breach of this Bylaw if that person proves that the act or omission complained of was:
- (a) Necessary:
    - i. To save or protect life or health or prevent injury; or
    - ii. To comply with the Council's obligations under the Health Act 1956 and any subsequent amendments
    - iii. To prevent serious damage to property; or
  - (b) To avoid actual or likely damage to the environment; and
    - i. The conduct of the person was reasonable in the circumstances; and
    - ii. The effects of the act or omission were adequately remedied or mitigated by the defendant after the offence occurred.
- 11.4. Where a person does not comply with the terms and conditions of an Approval granted by the Council, the Council will take a staged approach through the following steps:
- a) Issue a written warning to the person, which may be considered as evidence of a prior breach of a condition of the Approval during any subsequent review of the Approval;
  - b) Undertake a review of the Approval, which may result in:
    - i. amendment of the Approval; or
    - ii. suspension of the Approval;
  - c) Following further non-compliance with terms and conditions of an Approval, after the above steps have been taken, Council will consider withdrawal of the Approval, taking into account the seriousness and effects of that non-compliance.
  - d) Notwithstanding the process above, Council retains full discretion to use the range of enforcement options available to it.

## **12. REMEDIAL WORK COSTS OF REMEDYING DAMAGE ARISING FROM BREACH OF BYLAW**

- 12.1. In accordance with section 186 of the Local Government Act 2002, if an Authorised Officer serves a notice on the owner or Occupier requiring works to be carried out or materials to be provided in connection with the premises, the Council or an Authorised Officer may carry out the work or provide the materials where the owner or Occupier fails to comply with the notice, either:
- (a) within the time specified in the notice, or
  - (b) within 24 hours if notice certifies that the work is urgent, or
  - (c) if the owner or Occupier fails to proceed with the work with all reasonable speed.
- 12.2. In accordance with section 187 of the Local Government Act 2002, if an Authorised Officer serves a notice on any person under this bylaw, and the person fails to take the steps within the time specified, and the Council or any Authorised Officer takes the steps set out in the

notice then Council may recover the cost of doing the work, together with reasonable administrative and supervision charges.

12.3. In accordance with section 163 of the Local Government Act 2002, Council may remove or alter any work or thing that has been constructed in breach of a bylaw and may recover the costs of removal or alteration from the person who committed the breach.

12.4. In accordance with section 176 of the Local Government Act 2002, a person who has been convicted of any offence against this bylaw is liable to pay to the Council the costs of remedying any damage caused in the course of committing the offence. The costs must be assessed by a District Court Judge and are recoverable summarily as if they were a fine.

*Note 7: (This note does not form part of the bylaw) Costs recoverable under this clause are in addition to any other penalty under other legislation for which the person who committed the offence is liable.*

### **13. OFFENCES AND PENALTIES**

13.1. A person who breaches this bylaw and is convicted of an offence is liable to a penalty not exceeding \$20,000 pursuant to Section 242(4) under the Local Government Act 2002.

# Hamilton City Council

## BYLAW



The foregoing bylaw was made by the **HAMILTON CITY COUNCIL** by Special Consultative Procedure and confirmed at a meeting of the Council held on the 29 April 2021. This bylaw becomes operative on the 1 October 2021.

# Hamilton City Council

## STORMWATER BYLAW

### Stormwater High Risk Facilities Register

#### Schedule One

#### High Risk Facilities Register

Approved By: Council Resolution	Date Adopted: 29 April 2021
Date in Force: 1 October 2021	Date Amended:

Activity	Reason for High Risk Classification
<b>Mechanical workshops and service stations</b>	These sites use and handle large volumes of oils and other petroleum products. Spillages of these substances are not uncommon, hence the greater risk of stormwater discharges to the environment.
<b>Printers</b>	Relatively large quantities of dyes and paints are handled at these sites. The risk of spillages is relatively high.
<b>Spray painting facilities</b>	Paints can not only be spilt at these sites but can enter stormwater as a consequence of drift from spray painting operations.
<b>Meat, fish, and shellfish processing industries</b>	Wastes from these industries can typically have a high BOD. This can cause significant adverse effects.
<b>Dairy products processing</b>	Wastes from these industries can typically have a high Biological Oxygen Demand (BOD). This can cause significant adverse effects.
<b>Waste management sites (transfer stations, compost sites, landfills etc.)</b>	Litter, hazardous substances, and high BOD wastes can all enter stormwater systems from these sites.
<b>Truck wash facilities</b>	The activity of truck washing can generate hazardous contaminants from trucks as well as sediments and wastes from spillages on site.
<b>Unenclosed manufacturing and bulk storage of fertiliser</b>	Fertilisers can give rise to high levels of nutrient in stormwater discharges. Where fertilisers are manufactured or stored in such a way that fertilisers can enter stormwater the risk of adverse effects is unacceptably high.
<b>Textile fibre and textile processing industries where dyeing and washing of fabric occurs</b>	Large quantities of dye and high BOD wastes (from wool scourers for instance) are handled on these sites. The risk of spillages that could enter stormwater is high.
<b>Tanneries and leather finishing</b>	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages that could enter stormwater is high.
<b>Footwear manufacture</b>	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages that could enter stormwater is higher.

**Hamilton City Council**  
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**Schedule One**

<b>Manufacture of paper and paper products</b>	Hazardous substances such as chlorine-based bleaches and dyes are regularly handled on these sites. The risk of spillages etc. entering stormwater can be high.
<b>Manufacture or processing of chemicals, and of petroleum, coal, rubber, and plastic products</b>	The risk of spillages associated with hazardous substances used in these industries can be high.
<b>Manufacture of clay, glass, plaster, masonry, asbestos and related mineral products</b>	The risk of spillages associated with hazardous substances used in these industries can be high.
<b>Manufacture of fabricated metal products, machinery, and equipment</b>	The risk of spillages associated with hazardous substances used in these industries can be high.
<b>Electroplaters, Foundries, galvanizers, and metal surfacing</b>	The risk of spillages associated with hazardous substances used in these industries can be high.
<b>Concrete batching plants and, asphalt manufacturing plants</b>	The risk of spillages associated with hazardous substances used in these industries can be high.
<b>Stock saleyards</b>	High BOD run-off can be associated with these sites.
<b>Bakeries</b>	Outside washing of trays, dishes and pans can result in high BOD, fats, greases, and detergents entering stormwater systems.
<b>Car wash and valet services</b>	High oil, solvent and solid discharges can occur from these activities.
<b>Commercial laundries (excluding self-service launderettes and Laundromats)</b>	The risk of spillages associated with detergents, alkalis and salts used in this industry can be high.
<b>Furniture/wood manufacturing and refinishing industries</b>	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 out of these sites can include high solids, BOD, and high pH.
<b>Timber preservation, treatment and storage sites where chemically treated timber is sorted</b>	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.
<b>Stockpiled tyres</b>	Large quantities of tyres when ignited can produce hazardous air emissions and toxic effluent run-off which have adverse health and environmental implications.