
Stormwater (Pollution Prevention) Bylaw 2021

1. Title and Application

- 1.1 The title of this Bylaw is the “Stormwater (Pollution Prevention) Bylaw 2021.
- 1.2 This Bylaw applies within the boundaries of Porirua City

2. Commencement

- 2.1 This bylaw comes into force on 18 March 2021.

3. Revocation

- 3.1 This Bylaw revokes and replaces Part 24 - Silt and Sediment and Part 26 - Stormwater of the Porirua City Council General Bylaw 1991.

4. Purpose

- 4.1 The purpose of this Bylaw is to provide means to manage the public stormwater network and assets to:
 - control the discharge of contaminants into the network
 - require the use of the network for the drainage of stormwater only, including the approval of connections to the network and any required conditions for connection
 - protect the health of urban waterways, Te Awarua-o-Porirua Harbour and the coastal environment
 - ensure compliance with the global consents for discharges from the Council’s public stormwater network
 - protect the network from damage, alteration, misuse or loss.
- 4.2 Nothing in this bylaw shall override any discharges permitted by a rule in a district or regional plan or authorised by a resource consent including of any relevant National Policy Statement, or any regulations under the Resource Management Act.

Users of the stormwater network should check regional and district plans to determine if a resource consent is required.

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5. Interpretation

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

Approve, Approval, or Approved means approved by the Council or by an officer authorised by Council.

Authorised Officer means any officer of the Council or other person authorised by the Council to administer and enforce its bylaws, and any person appointed especially or generally by the Council to enforce the provisions of this Bylaw.

Contaminant is as defined in the Resource Management Act 1991 and means 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 water; 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.

Contaminants may include the things listed in Schedule 1 of this bylaw.

Council means Porirua City Council or any Committee, Sub-committee, or Elected Member of Council or any officer or other person authorised to exercise the authority of Council.

Development in relation to any land or site means activities that materially alter the surface water or stormwater runoff characteristics or water quality and may include increased impervious areas, earthworks, roading, paving, large scale landscaping, stormwater/drainage works, and building work.

Discharge is as defined by the Resource Management Act 1991 and means to emit, deposit, and allow to escape.

Environment has the same meaning as the Resource Management Act 1991.

Hydraulic neutrality means that the peak flow rate of stormwater discharges from a site after it is developed or redeveloped is not greater than the peak flow rate of stormwater runoff prior to development.

Lateral - A lateral is the wastewater or stormwater pipe from an individual property to the council main. The lateral is a continuous pipe which may cross from private to public land (such as a road or recreation reserve), and may serve more than one property.

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Management options means a process or procedure for controlling the discharge of contaminants to the public stormwater network to protect Council's infrastructural assets, including in relation to any adverse effects of the discharge on the quality of fresh and coastal water.

Notice includes a notice to fix, Abatement Notice, infringement notice, or a notice requiring the work to be completed, or corrected, issued to the owner or occupier, for the reason given in that notice.

Nuisance has the same meaning as in section 29 of the Health Act 1956 and in the context of this bylaw includes, but is not limited to:

- (a) a person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort, or convenience of another person;
- (b) danger to life;
- (c) danger to public health;
- (d) flooding of any building floor or sub-floor, or public roadway;
- (e) damage to property;
- (f) damage to the stormwater network;
- (g) erosion or subsidence of land;
- (h) long or short term adverse effects on the environment;
- (i) effects on receiving water quality (stormwater going into streams);
- (j) adverse loss of riparian vegetation
- (k) wastewater overflow to land or water; or
- (l) anything that causes a breach of any stormwater discharge consent condition binding the council, (including an accumulation of chemicals causing a breach).

Occupier is as defined by the Resource Management Act 1991 and means the inhabitant occupier of any property. In relation to any land (including any premises and any coastal marine area) this includes any agent, employee or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land.

Overland flow - Low point in terrain, excluding a permanent watercourse or intermittent river or stream, where surface runoff will flow.

[Note: The Council holds publicly available information showing the modelled Overland Flow Paths].

Owner includes:

- The registered proprietor of the land.
- The occupier of the land.

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- Any agent or person acting for or on behalf of the registered proprietor or occupier of the land.

Person has the meaning given by the Interpretation Act 1999 and includes a corporation sole and also a body of persons, whether corporate or unincorporated.

Private land means any land that is not public land.

Privately owned stormwater network means the [privately owned] network of devices designed to capture, detain, treat, transport and discharge stormwater, including but not limited to kerbs, intake structures, pipes, soak pits, sumps, swales and constructed ponds and wetlands, and that serves more than one property that is not vested in Council.

Public land means any land that is not private land and includes land owned, occupied or managed by the council.

Public Stormwater Network The [publicly owned] network of devices designed to capture, detain, treat, transport and discharge stormwater, including but not limited to kerbs, intake structures, pipes, soak pits, sumps, swales and constructed ponds and wetlands, and that serves more than one property.

Note: this definition is drawn from the definition of 'local authority stormwater network' in the Proposed Natural Resources Plan (PNRP)

Redevelopment means the alteration of a site or a change in activities on a site where this alteration or change materially affects the quality and/or quantity of the stormwater discharge from the site. Redevelopment may include, but is not limited to, work on a site that:

- increases the impervious areas
- involves earthworks
- involves dewatering of the site
- alters the stormwater system;
- changes the land-use e.g. from residential to industrial
- increases the intensity of an existing use of the site.

Resource consent means a resource consent issued under the Resource Management Act 1991

Stormwater has the same meaning as the National Planning Standards and means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within.

Stormwater system - the combined system of the privately and publicly owned stormwater network including the areas of overland flow and ponding up to the 1% Annual Exceedance Probability (the 1 in 100 year flood event).

Stormwater treatment device - A device used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. Includes:

- rain gardens;
- porous or permeable paving;
- infiltration trenches;
- swales;
- sand filters;
- green roofs; and
- proprietary devices.

Watercourse has the same meaning as section 2 of the Land Drainage Act 1908.

Explanatory note: Section 2 of the Land Drainage Act 1908 states: Watercourse includes all rivers, streams, and channels through which water flows.

- 5.2 References to any legislative provision includes any legislative provision that amends or replaces it.
- 5.3 Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act
- 5.4 Explanatory notes have been included for information purposes only. They do not form part of this bylaw, and may be made, amended, or revoked without formal process.

6. Application for Stormwater Connection

- 6.1 If you are constructing a new house or building, undertaking a subdivision or changing the use of a building (such as from residential to commercial) then you may need to connect the discharge of stormwater via lateral pipes or overland flow to the public network, including to the stormwater main, the kerb and channel or another approved stormwater discharge point.

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- 6.2 Anyone requiring a connection to the public stormwater network must make application to Council on the prescribed form and pay the required fees.
- 6.3 Every application must be accompanied by a scaled plan and any such additional information as required by an authorised officer that clearly shows the work proposed to be carried out.
- 6.4 Every application will be assessed against the requirements in the Regional Standard for Water Services
- 6.5 An approved application may contain a set of conditions that must be complied with, including requirements for inspection and as-built drawings.
- 6.6 Conditions shall [may]also include requirements for water quality treatment or stormwater detention to achieve hydraulic neutrality.
- 6.7 The physical connections to the drainage system must be undertaken by a registered drainlayer, and inspected by Wellington Water.
- 7. Discharges into the Public Stormwater Network**
 - 7.1 No person shall discharge or allow the discharge of any contaminants either directly or indirectly into any part of the public stormwater network, including those contaminants identified in Schedule 1 of this bylaw, unless:
 - (a) The discharge is permitted by a rule in a regional plan; or is authorised by a resource consent.
 - 7.2 The Occupier or the property owner must, if requested by Council, prepare a Stormwater Management Plan and submit the plan to Council for approval, or demonstrate to Council that its discharge is being made in accordance with relevant industry standards and industry guidelines.
- 8. Treatment or Works to be Undertaken**
 - 8.1 Council may require the owner or occupier to implement reasonable management options, treatment or works including repair work, to prevent the discharge of contaminants into the public stormwater network or otherwise protect the network from damage or alteration.
 - 8.2 Any management options, treatment or works including repair work shall be implemented in a timeframe stipulated by Council and shall be undertaken and/or maintained at the owner's or occupier's expense.

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- 8.3 The Council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network:
- (a) where certain sensitive activities, such as machinery washdown and bulk storage, are carried out;
 - (b) the installation, use, monitoring and maintenance of water quality treatment devices
 - (c) the installation, use, monitoring and maintenance of stormwater detention or attenuation devices
 - (d) Where there is a health and safety emergency
- 8.4 Any owner, occupier, or person who is present on a premises subject to a control made under clause 8.3 must comply with that control.
- 8.5 Earthworks shall be managed in accordance with district and regional plan requirements and good practice. All earthworks must comply with this Bylaw.

9. Right of Access

- 9.1 The Council has rights under the LGA to enter private land to manage its infrastructure and to inspect private systems including laterals and stormwater treatment devices.
- 9.2 Section 181(1) and (2) of the Local Government Act 2002 allows Council to construct works on or under private land or under a building on private land that it considers necessary for sewage and stormwater drainage. This power is subject to the prior written consent of the owner of the land or compliance with the requirements of Schedule 12 of the Act. (See Schedule 2 of this Bylaw).
- 9.3 Section 181(4) and (5) of the Local Government Act 2002 also allows the council to enter private land to inspect, alter, renew, repair or clean its infrastructure, provided “reasonable notice” is given to the land owner and occupier.

“Inspect” includes the inspection of private devices and private systems to ensure compliance with this Bylaw.

What is “reasonable” will depend on the nature, scale and duration of any proposed works - e.g. hours may be reasonable for an inspection, while 2 weeks may be reasonable for works involving heavy machinery.

10. Building over or near a Public Stormwater Network

- 10.1 No person shall build over or within 3 m of the public stormwater network without Council’s written approval.

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11. Monitoring

- 11.1 Council may inspect private devices and private systems as well as public stormwater networks to ensure compliance with this Bylaw.

12. Maintenance Responsibilities

- 12.1 All privately owned stormwater systems must be designed, constructed, managed and maintained by the owner, at the owner's expense.

- 12.2 All privately owned stormwater systems including water treatment devices, stormwater detention devices, stopbanks and other parts of the systems are to be maintained by or at the expense of the owner.

Note: Activities in the bed of a river or stream, including vegetation removal, in order to meet the maintenance responsibilities under this section, must comply with any relevant rules in a regional plan and any relevant regulations under the Resource Management Act 1991.

- 12.3 Rubbish or debris must not be left on a property in a manner that is likely to cause a nuisance. Council may require the removal of any fences, trees, plants, weeds or growths that obstruct or are likely to obstruct the free flow of water in any waterway or overland flow path in accordance with the Land Drainage Act.

Note: Activities in the bed of a river or stream, including vegetation removal, in order to meet the maintenance responsibilities under this section, must comply with any relevant rules in a regional plan and any relevant regulations under the Resource Management Act 1991.

- 12.4 No person may obstruct any overland flow paths with any material or structures such as buildings, fences, retaining walls and rock gardens.

13. Offences and Breaches

- 13.1 The Council may use its powers under the following legislation to enforce this Bylaw:

- Local Government 2002;
- the Local Government Act 1974;
- the Land Drainage Act 1908,
- the Soil and Conservation and Rivers Control Act 1941;
- the Health Act 1956;
- the Building Act 2004;
- the Litter Act 1979; and
- the Hazardous Substances and New Organisms Act 1996.

- 13.2 Every person breaches this bylaw and commits an offence who:

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- (a) Does, or allows anything to be done, which is contrary to this Bylaw or any part of it; or
 - (b) Fails to do, or allows anything to remain undone, which ought to be done by that person within the time and in the manner required by this Bylaw or any part of it; or
 - (c) Does anything which this Bylaw prohibits; or
 - (d) 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
- Obstructs or hinders any Council officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

14. Penalties and Remedies

- 14.1 Every person who breaches this Bylaw or breaches the conditions of any consent granted under this Bylaw commits an offence and shall be subject to the penalties set out in sections 239 and 242(4) of the local Government Act 2002.
- 14.2 The Council or an authorised officer or agent, may remove or alter any work or thing that is or has been constructed in breach of this Bylaw in accordance with section 163 of the Local Government Act 2002.
- 14.3 Council may recover costs of removing or altering the work or thing that is in breach of this Bylaw from the person who committed the breach. This does not relieve that person of liability for the breach.
- 14.4 The Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this Bylaw in accordance with section 162 of the Local Government Act 2002.
- 14.5 Council may seize and impound property materially involved in the commission of an offence, under and in accordance with sections 164 and 165 of the Local Government Act 2002.
- 14.6 Council will return and may dispose of property seized and impounded in accordance with sections 167 and 168 of the Local Government Act 2002.

15. Exceptions

- 15.1 A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the written directions of an authorised officer or in accordance with an approval of the Council or has been carried out in accordance with conditions in an approved resource consent or a permitted activity rule in a regional plan.

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16. Fees

- 16.1 Council may prescribe fees or charges payable for any certificate, licence, approval, permit or consent form or inspection made by Council under this Bylaw in accordance with section 150 of the Local Government Act 2002.

17. Notice

- 17.1 Council may give notice to any person in breach of this Bylaw to carry out any remedial action to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out and may be extended from time to time.

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SCHEDULE 1

The following are examples of Contaminants and Class of Contaminants which are prohibited from discharge under the Stormwater Bylaw. [Note this list is not exhaustive].

Contaminant name or class	
Cleaning products including vehicle cleaning products, detergents and disinfectants	
Chemical cleaning agents including bleach and other chemical cleaning products eg '30 seconds'	
Water blasting waste	
Paint and other substances used for the purpose of protecting surfaces (including paint wash)	
Solvents, including paint stripper	
Liquid fuels including diesel, petrol, oil and grease (including engine oil, hydraulic oil and transmission oil), except for those in accordance with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (MFE, 1998).	
Radiator coolant	
Cooking oil	
Cement wash, cement slurry and concrete cutting waste - for example from new exposed aggregate driveways	
Silt and sediment	
Herbicides and fertilisers	
Wastewater from toilets	
Greywater from laundries, sinks and showers/bathtubs.	

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SCHEDULE 2

Schedule 12 of the Local Government Act 2002

Conditions of constructing or undertaking works on private land without the owner's consent

- 1 For the purposes of section 181(3)(b), the requirements are as follows:
 - (a) a description of the works, accompanied by a plan (in the case of any works to be constructed), showing how they affect any land or building, must be deposited for public inspection at a place within the district in which the works are to be undertaken
 - (b) the territorial authority must give notice in writing of the intention to construct the works (referring to a plan and description of the works and where the plan and description can be viewed)—
 - (i) to the occupier of the land or building unless there is no occupier or, after all reasonable steps have been taken, the occupier cannot be found; and
 - (ii) to the owner if known
 - (c) however, if there is a change of occupier, it is not necessary to give notice to any subsequent occupier before the work is done
 - (d) if, within 1 month after the notice is given, the occupier or owner serves on the territorial authority a written objection to the proposed works, the territorial authority must—
 - (i) appoint a day for hearing the objection; and
 - (ii) give to the objector reasonable notice of the day, time, and place of hearing so as to enable the objector to attend the hearing
 - (e) the territorial authority must hold a meeting on the day appointed, and may, after hearing any person making any objection, if present, determine—
 - (i) to abandon the works proposed; or
 - (ii) to proceed with the works proposed, with or without any alterations that the territorial authority thinks fit.
- 2 A person who is aggrieved by a determination of the territorial authority under clause 1(e) to proceed with the works proposed (with or without alterations) may appeal to the District Court against the determination within 14 days after the date of the determination.
- 3 Pending the decision of the court on the appeal, the territorial authority must not proceed with the works.
- 4 On the hearing of the appeal, the court, whose decision is final, may confirm or amend or set aside the determination of the territorial authority.

EXPLANATORY NOTE

Stormwater is known to be one of the main causes of water pollution affecting water quality for aquatic and marine life. Silt and sediment entering a waterway from a development site can cause problems for several kilometres downstream. Silt can cause potential damage to aquatic ecosystems, smother aquatic life, affect fish feeding and breeding and cause loss of water quality and clarity. Increased sediment in Porirua Harbour and surrounding coastal areas is reducing water depth.

Development in Porirua is increasingly on small sites or sites with greater building coverage. The cumulative impact from silt and sediment runoff from small sites e.g. new building lots or infill development can be considerable. Left unchecked, sediment build-up in harbour will affect environment quality, aquatic ecosystems, erosion/deposition processes and recreational/commercial activities.

The objectives of the Stormwater (Pollution Prevention) Bylaw are to:

1. Control the discharge of contaminants into the network;
2. Require the use of the network for the drainage of stormwater only, including the approval of connections to the network and any required conditions for connection
3. Protect the health of urban waterways, Te Awarua-o-Porirua Harbour and the coastal environment
4. Ensure compliance with the global consents for discharges from the Council's public stormwater network
5. Protecting the network from damage, alteration, misuse or loss.

This Bylaw is in addition to other controls imposed under the Resource Management Act 1991 by either Greater Wellington Regional Council or Porirua City Council, including those contained in the Operative Porirua City District Plan. Complying with this Bylaw does not remove the need to obtain any consent required under the Resource Management Act 1991, the Building Act 2004, or any other Act, regulation or bylaw and their amendments.