

Decision on proposed amendments to Stormwater Bylaw 2015

File No.: CP2022/04379

Item 10

Te take mō te pūrongo Purpose of the report

1. To adopt the amended Te Kaunihera o Tāmaki Makaurau Te Ture-ā-rohe Wai Āwhā 2015 / Auckland Council Stormwater Bylaw 2015.

Whakarāpopototanga matua Executive summary

2. To enable a decision on whether to adopt the amended Stormwater Bylaw 2015, an appointed Bylaw Panel has deliberated and made recommendations to the proposal based on public feedback and on local board views.
3. The proposed amendments to the Bylaw continue to regulate land drainage and stormwater management by protecting the public stormwater network from damage, misuse, interference and nuisance, and to ensure effective maintenance and operation of private stormwater systems.
4. The Governing Body adopted the proposal for public consultation on 26 August 2021. The council received feedback from 79 people and organisations, and 17 local boards.
5. The Bylaw Panel recommends the Governing Body adopt the proposal with amendments in response to matters raised (Attachments A and B). Taking this approach will more effectively regulate land drainage and stormwater management. Key changes include to:
 - update the register of controls and use related information notes to clarify decision-making requirements on controls
 - amend Proposal Four (restricting or excluding activities for parts of the stormwater network) to prioritise public safety and use related information notes to clarify the decision-making process
 - clarify definitions and include 'permitted activities' to better align with the Auckland Unitary Plan.
6. There is a reputational risk that some people or organisations who provided feedback may not feel that their views are addressed. This can be mitigated by communicating the reasons for the decisions to those who gave feedback.
7. If adopted, staff will publicly notify the decision and publish the new Bylaw when it comes into force on 30 May 2022.

Ngā tūtohunga Recommendations

That the Governing Body:

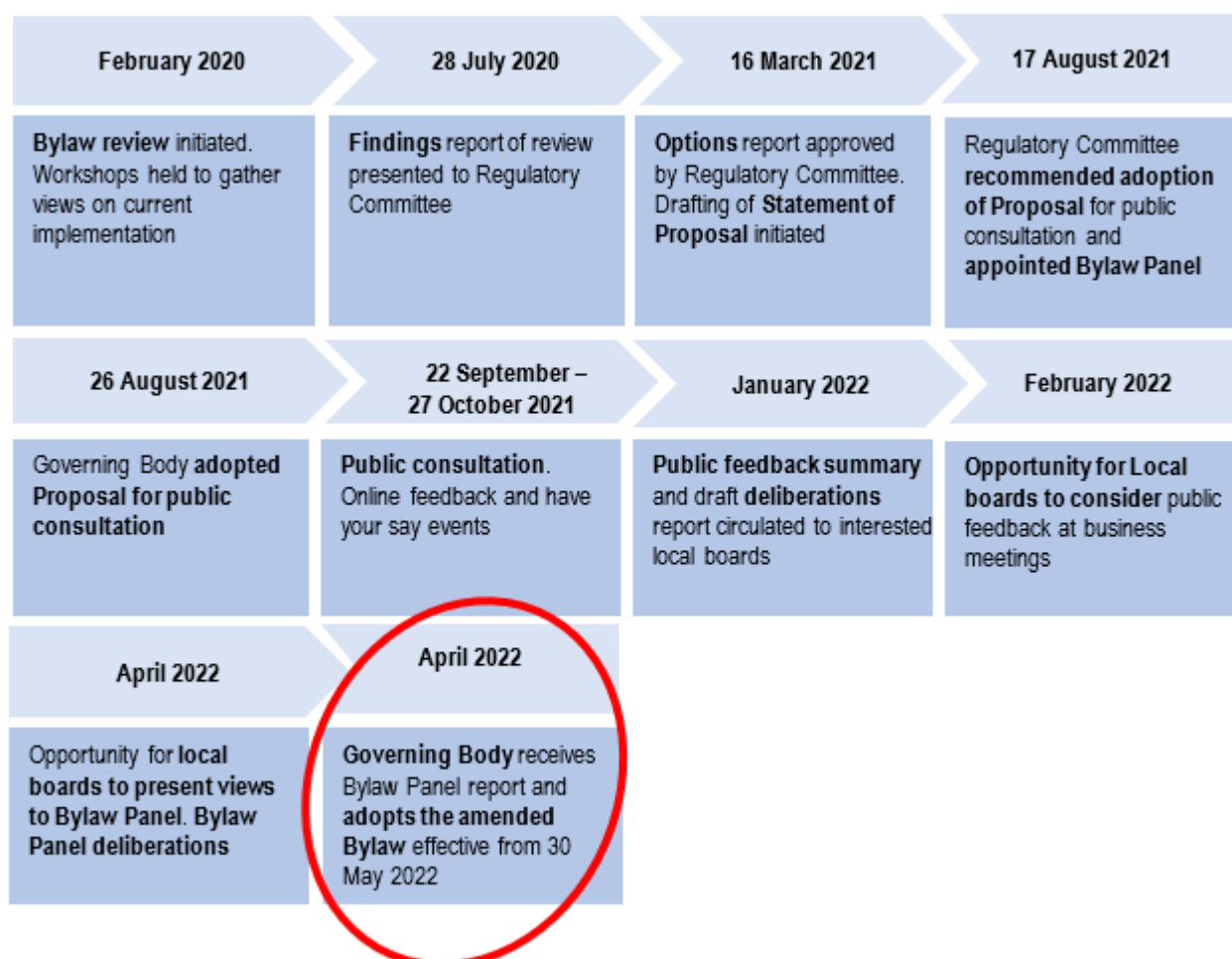
- a) whakaae / approve the Bylaw Panel recommendations on the amended Te Kaunihera o Tāmaki Makaurau Te Ture-ā-rohe Wai Āwhā 2015 / Auckland Council Stormwater Bylaw 2015 in Attachment A and Attachment B of this agenda report.
- b) whakaū / confirm that the recommended amended Stormwater Bylaw 2015 in Attachment C of this agenda report:
 - i) is the most appropriate way to protect the public stormwater network from damage, misuse, interference and nuisance, and to ensure effective maintenance and operation of private stormwater systems
 - ii) is the most appropriate form of bylaw
 - iii) does not give rise to any implications under, and is not inconsistent with, the New Zealand Bill of Rights Act 1990.
- c) tango / adopt the amendments to the Stormwater Bylaw 2015 in Attachment C of this agenda report with effect from 30 May 2022.
- d) whakaū / confirm that the council has considered the views and preferences of persons likely to be affected or have an interest in the controls referenced in the amended Stormwater Bylaw 2015 in Attachment C of this agenda report.
- e) whakapūmau / make the following controls under the amended Stormwater Bylaw 2015, to commence on 30 May 2022:
 - i) [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater \(version 3\)](#)
 - ii) [Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001](#)
 - iii) [Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004](#)
 - iv) [Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021 Guideline Document GD2021/007](#)
- f) tono / request through the Chief Executive to the manager responsible for Healthy Waters to report to the Regulatory Committee on the next update to the Stormwater Code of Practice control, including industry consultation and views.
- g) tono / request through the Chief Executive to the manager responsible for Healthy Waters to prepare a schedule of infringement offences and fees for the Stormwater Bylaw 2015 for approval by the chair of the Regulatory Committee.
- h) whakaae / authorise the chair of the Regulatory Committee to request the relevant minister to commence the process to make the necessary regulations under the Local Government Act 2002 to prescribe the infringement offences and fees in (g).
- i) whakaae / approve the distribution of this agenda report and associated minutes to local boards for their information.
- j) tuku mana / delegate authority through the Chief Executive to the manager responsible for the Bylaw to make any amendments to the Bylaw in Attachment C of this agenda report to correct errors or omissions.

Horopaki Context

The Governing Body adopted a proposal to amend the Bylaw for public consultation

8. The current Stormwater Bylaw 2015 seeks to regulate land drainage through the management of private stormwater systems and protection of public stormwater network from damage, misuse, interference, and nuisance.
9. Following a review, the Regulatory Committee endorsed the review findings including that the 2015 Bylaw is an effective regulatory tool, fills a regulatory gap, and is still needed, but could be improved. The committee subsequently requested amendments to improve the 2015 Bylaw.
10. The Governing Body, on recommendation from the Regulatory Committee, adopted the [proposal](#) for public consultation to amend Te Kaunihera o Tāmaki Makaurau Te Ture-ā-rohe Wai Āwhā 2015 / Auckland Council Stormwater Bylaw 2015. Figure 1 describes the process for the statutory review and the proposal to amend the Bylaw.

Figure 1. Process to review and amend the Stormwater Bylaw 2015



11. Public feedback on the proposal was received from 79 people and organisations. Local boards provided views on public feedback, and an appointed Bylaw Panel² held deliberations and made recommendations contained in this report.

² Councillors Linda Cooper (Chair), Daniel Newman, and Independent Māori Statutory Board Member Glenn Wilcox.

12. More information about the review, proposal, and public consultation can be viewed on council's [Have Your Say](#) and [Hearings](#) webpages.

Tātaritanga me ngā tohutohu Analysis and advice

Bylaw Panel considered feedback and views in accordance with legislative requirements

13. The Bylaw Panel has considered and made recommendations on all public feedback and local board views in accordance with relevant statutory requirements, including that council³:
- must receive public feedback with an open mind and give it due consideration
 - must provide the decisions and reasons to those who provided feedback
 - must ensure all meetings are open to the public
 - may consider or request comment or advice from staff or any other person to assist their decision-making
 - must ensure that the Bylaw is the most appropriate way to regulate land drainage, is the most appropriate form of bylaw, and is not inconsistent with the Bill of Rights Act 1990.
14. The Bylaw Panel structured its deliberations by topic. Each topic and recommendations are summarised in the table below and contained in full in Attachment A.
15. Key recommendations include updating controls and using related information notes to clarify the decision-making process for controls, amending the proposal on restrictions to prioritise public safety and include related information notes, and clarifying definitions and 'permitted activities' in relation to and alignment with the Auckland Unitary Plan. The recommendations are summarised in Table 1.

Table 1. Summary of Bylaw Panel recommendations

Topic	Summary of Bylaw Panel recommendations
Proposal One: Specifying controls, codes of practice, or guidelines for managing the public stormwater network and private stormwater systems	<p>Amend proposal to include a related information note referring to the general decision-making requirements of the Local Government Act 2002 that apply when making controls, including consultation considerations.</p> <p>Amend proposal to replace the register of controls in Schedule 1 with a related information note under relevant clauses (for example, clauses 6 and 8) and to recommend a Governing Body resolution to make the controls.</p> <p>Amend proposal to remove the reference to Schedule 4: Connection Requirements as a control.</p> <p>Reasons include to set standards through controls for public and private stormwater networks to ensure better stormwater outcomes, to streamline controls and use related information notes to clarify the process.</p>
Proposal Two: Considering additional	Adopt proposal as publicly notified.

³ Sections 82(1)(e), 82(1)(f), 83(3), 147A(1)(a) and 155 of the Local Government Act 2002 and sections 46 and 47 of the Local Government Official Information and Meetings Act 1987.

Topic	Summary of Bylaw Panel recommendations
requirements for vesting of public assets and approvals under the Bylaw	Reasons include to continue the framework for approving and vesting of public stormwater assets, while considering Māori values as a legislative requirement and carbon for infrastructure to meet the Auckland Climate Plan goals.
Proposal Three: Requiring approvals for modifications or new engineered wastewater overflow points into the stormwater network	Adopt proposal as publicly notified. Reasons include provision of another tool that the stormwater network utility operator could utilise in collaborating with the wastewater network utility operator to manage engineered overflow points.
Proposal Four: Restricting or excluding certain activities for parts of the stormwater network	Amend proposal to change clause 10(4) to refer “to protect public safety” first, and “to ensure the safe and efficient operation of the network” as a second point. Amend proposal to change the related information note example to refer simply to recreational activities. Amend proposal to include a related information note about the council’s general decision-making requirements. Reasons include assets that are constructed or under the responsibility of the council can sometimes pose safety risks to the public which need to be managed under the Health and Safety and Work Act, for example by preventing public access from the hazard. The rule supports the management of public safety risks around public stormwater assets on a case-by-case basis.
Proposal Five: Updating Bylaw wording, format, and definitions	Amend proposal to change the definition of Annual Exceedance Probability to “the probability of an event being equalled or exceeded within a year”. Amend proposal to add ‘or it is permitted in the Auckland Unitary Plan’ to clauses 12 and 15 to make considerations of the matters consistent. Reasons include to make the Bylaw easier to read, understand, implement, and comply with.
Other matters	Note that enforcement, compliance, and resourcing matters in general have been considered by the Regulatory Committee on 12 April 2022. Recommend requesting Healthy Waters staff to report back to the Regulatory Committee on an update to the Stormwater Code of Practice control, including industry consultation and views. Recommend that a schedule of infringement offences and fees for the Stormwater Bylaw 2015 (similar to the Auckland Council Navigation Bylaw 2021) be sent to the relevant minister to commence the regulation-making process to provide the option for council to issue infringements for breaches of the Bylaw.

16. Where Bylaw Panel recommendations in Attachment A amend the proposal, the recommended changes are shown in a comparison table in Attachment B. The changes:
- assist in regulating land drainage and improve stormwater management
 - are authorised by statute, not repugnant or unreasonable to other legislation
 - improve the Bylaw form (for example, clarity and user friendliness)
 - do not give rise to any implications and are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Resource Management Act 1991.

Bylaw Panel recommends the Governing Body adopt the proposal with amendments

17. The Bylaw Panel recommends that the Governing Body make the necessary statutory determinations to adopt the proposal as amended in Attachment C. The Bylaw in Attachment C incorporates recommended amendments in Attachments A and B. Taking this approach will more effectively regulate land drainage and stormwater management for the public and private stormwater networks, and be easier to read, understand and comply with.

Tauākī whakaaweawe āhuarangi Climate impact statement

18. Effective stormwater management enhances Auckland's response to climate change by regulating land drainage as a response to increased extreme weather events. Carbon emissions from constructed infrastructure can also contribute to climate change.
19. The proposal enables the council to meet its climate change goals and aligns the amended Bylaw with Te Tāruke-ā-Tāwhiri: Auckland's Climate Plan's Built Environment priority.
20. Feedback was received in relation to the latest version of the Stormwater Code of Practice seeking to incorporate the stormwater calculations based on the climate change scenario RCP8.5 identified in Te Tāruke-ā-Tāwhiri: Auckland Climate Plan. This feedback has been forwarded to the relevant council units for consideration.

Ngā whakaaweawe me ngā tirohanga a te rōpū Kaunihera Council group impacts and views

21. The Bylaw impacts the operations of Auckland Council's Healthy Waters department as well as teams involved in the regulation, compliance and enforcement of stormwater such as the Regulatory Engineering and Regulatory Compliance departments. Impacted departments have been consulted with and are aware of the proposal amendments.
22. Healthy Waters staff have also worked closely with Watercare to ensure the amended Bylaw is consistent with the recently updated Water Supply and Wastewater Network Bylaw 2015.
23. Auckland Transport has also submitted its formal feedback on the proposal which has been given due consideration by the Bylaw Panel during the deliberations.

Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe Local impacts and local board views

24. Seventeen local boards provided formal [views](#) on how the Bylaw Panel should address matters raised in public feedback to the proposal ([Deliberations agenda, Attachment G](#)). In addition, six local boards⁴ chose to present their views in person to the Bylaw Panel on 4 April 2022.

⁴ Albert-Eden, Puketāpapa, Devonport-Takapuna, Hibiscus and Bays, Māngere-Ōtāhuhu and Papakura Local Boards.

25. Some local boards explicitly supported the proposals and their views on the proposal aligned with the feedback received from the public. Some local boards raised concerns about the blanket ban or restrictions around locating stormwater infrastructure in parks, as well as provided comments in relation to stormwater infrastructure within local parks.
26. The Bylaw Panel considered all local board views during its deliberations as shown in Attachment A.

Tauākī whakaaweawe Māori

Māori impact statement

27. Pēhi pēhi, pei pei, ko Ranginui e tū iho nei, ko Papatūānuku e takoto nei, hoinei te Wehenga! I muri noa a te wehenga, ka tangihia e Ranginui ōna roimata hei tohu mō tōna aroha rahi ki a Papatūānuku. Hoinei te tino hōhonutanga o te kōrero mō te wai e ai ki ngā mātua tūpuna. Nā ka tīmata te pakanga a ngā atua, ki a Tāwhiri, ā Tangaroa, ā Tāne, ā Tū. Ko Tū ka riri, Tū kai taua, Tū mātā whāiti, Tū mātā uenga!
28. Nā Tūmataunga ngā uri a Tangaroa i kai. Nō te kitenga a Tangaroa ki a ia e kai ana i wana uri, ka toha tōna nguha me tōna pukuriri ki a ia. Nā Tangaroa ngā ngaru nunui me ngā tai i hipoki ki te whenua. Nā ngā tamariki a Tāwhiri ngā āwhā i whiua noa atu ki te ao kia waipuke ai i te whenua. Nō Tāne te kaitakawaenga ki waenga i wana teina kia tau te rangimārie.
29. Ahakoa tēnā, i a wā, ka whāitaita, ka putaina wā rātou riri ki te ao, anei te take mō ngā āwhā me ngā waipuke hoki. Hoinei, te kaupapa a Te Ture a Rohe neke hei tiakitanga o te rerenga o te wai ki te moana kia whakaiti i te riri o ngā waipuke a, e māmā noa iho ana i te whakahaeretanga a tēnā. I a e whakaute tonu ana i te kōrero tuku iho a wō tātou mātua tūpuna.
30. The proposed amended Bylaw supports the Independent Māori Statutory Board Māori Plan for Tāmaki Makaurau key direction of Manaakitanga - Improve Quality of Life by managing land drainage.
31. The Bylaw proposal aligns with the Auckland Council Māori Outcomes Framework – Kia Ora Tāmaki Makaurau: Kia ora te Taiao by enabling mana whenua to exercise kaitiakitanga of stormwater related matters under the Bylaw.
32. Mana whenua were notified of the proposal and given the opportunity to provide feedback through online meetings, in writing via email, or through the online form. There were also hui held with mana whenua during the findings and options development.
33. The majority of submitters who identified as Māori supported Proposals One, Three, Four and Five. There was an even split between those who supported and opposed Proposal Two.
34. Some concerns were raised about Māori customary fishing rights when access to parts of the stormwater network is restricted. Any restrictions for health and safety reasons would be considered on a case-by-case basis and due consideration given to factors such as access for cultural reasons. The Bylaw Panel acknowledged and considered the impact of iwi rights to gathering kai through the deliberations.

Ngā ritenga ā-pūtea

Financial implications

35. There are no financial implications for the council arising from decisions sought in this report. The cost of public notification of the decision and implementation will be met within existing budgets.

36. Public feedback raised concerns regarding the financial cost of implementing the version of the Stormwater Code of Practice incorporating stormwater calculations based on the climate change scenario identified in Te Tāruke-ā-Tāwhiri: Auckland Climate Plan. This feedback (Attachment F) has been forwarded to the relevant council units for consideration.

Ngā raru tūpono me ngā whakamaurutanga Risks and mitigations




37. The following risks have been identified:

If...	Then...	Mitigation
Some people or organisations who provided feedback do not feel their views were addressed.	There may be a negative perception about the recommendations of the Bylaw Panel.	Communicating the reasons for the decisions to those who provided feedback.

Ngā koringa ā-muri Next steps

38. If adopted, staff will notify the public who provided feedback on the proposal of the decision and publish the amended Bylaw when it comes into force on 30 May 2022.

Ngā tāpirihanga Attachments

No.	Title	Page
A 	Deliberations table Bylaw Panel recommendations	157
B 	Comparison of proposed Bylaw and Panel-recommended changes	165
C 	Recommended amended Stormwater Bylaw 2015	173

Ngā kaihaina Signatories

Authors	Councillor Linda Cooper (Chair) Councillor Daniel Newman Independent Māori Statutory Board Member Glenn Wilcox
---------	--

Attachment A – Bylaw Panel recommendations

This attachment contains the Bylaw Panel recommendations in response to public feedback and local board views on the proposal to amend the Auckland Council Stormwater Bylaw 2015. The table format shown is similar to one used by the Bylaw Panel at its meeting on 4 April 2022 to provide a structure for deliberations.

The Bylaw Panel read all the public feedback and local board views in Attachments C to G of its 4 April 2022 deliberations agenda report to ensure that all matters raised received due consideration. Operational and non-bylaw related matters were summarised in Attachment F of that report and will be referred to other council departments and council-controlled organisations where relevant.

Public feedback topic (Proposal 1) (Number of comments in brackets)	Panel recommendations
<p>Specifying controls, codes of practice, or guidelines for managing the public stormwater network and private stormwater systems</p> <p>68 feedback responses: 41 support (60 per cent), 15 oppose (22 per cent), 5 other (7 per cent), 7 don't know (10 per cent), and 47 comments.</p> <p>Key themes in support (17):</p> <ul style="list-style-type: none"> Proposal is best practice for the network (13): <ul style="list-style-type: none"> Best practice, makes sense; logical; good idea, important (7) Bylaw and Code of Practice give consistent standard to protect public and private stormwater systems (5) Key themes opposed (13): <ul style="list-style-type: none"> Concerns about specified controls (6) <ul style="list-style-type: none"> Guidance documents should not be listed as controls (6) Request all controls and changes to be consulted upon (3) Remove reference to controls for private properties (3) Controls on private property (5) Increased cost for landowners and resources required by council to implement rules (3) <p>Local board views</p> <ul style="list-style-type: none"> The views of 17 local boards were received. Henderson-Massey, Hibiscus and Bays, Manurewa, Rodney, and Waitemata Local Boards supported Proposal 1. Ōrakei Local Board raised specific concerns about stormwater infrastructure in parks / reserves. This is further addressed in key changes of Proposal 2. 	<p>That the proposal about specifying controls, codes of practice, or guidelines for managing the public stormwater network and private stormwater systems be amended to:</p> <ul style="list-style-type: none"> include a related information note referring to the general decision-making requirements of the Local Government Act 2002 that apply when making controls, including consultation considerations replace the register of controls in Schedule 1 with a related information note under relevant clauses (for example, clauses 6 and 8) and to recommend a Governing Body resolution to make the controls remove the reference to Schedule 4: Connection Requirements as a control. <p>Reasons include:</p> <ul style="list-style-type: none"> high support for the proposal importance to set standards through controls for public and private stormwater networks to ensure efficient operation of the network and provide for better stormwater outcomes the Auckland stormwater network include private systems that will ultimately flow into public networks that will be the responsibility of council streamlining the controls and using related information notes helps to make the Bylaw easier to read, understand and apply.

1

Public feedback topic (Proposal 1) (Number of comments in brackets)	Panel recommendations
<p>Key changes sought (guidance and code of practice removed as controls) (6)</p> <ul style="list-style-type: none"> Remove guidance documents as they should not be prescribed as a mandatory control document Remove controls with the Code of Practice and Guidance that apply to private properties as they will restrict types of stormwater solutions on private properties <p>Key changes sought (controls to be consulted upon) (3) Controls to be consulted upon before specifying in Schedule 1</p> <p>Key changes sought (remove Schedule 4 NDC) (4)</p> <ul style="list-style-type: none"> Remove Schedule 4 of the Network Discharge Consent from Schedule 1 Controls 	
Public feedback topic (Proposal 2) (Number of comments in brackets)	Panel recommendation
<p>Additional requirements for vesting of public assets and approvals</p> <p>66 feedback responses: 31 support (47 per cent), 22 oppose (33 per cent), 3 other (5 per cent), 10 don't know (15 per cent), and 53 comments.</p> <p>Key themes in support (9):</p> <ul style="list-style-type: none"> Agrees with proposal for better stormwater network standard (2) Important to incorporate climate change and iwi considerations (3) <p>Key themes opposed (21):</p> <ul style="list-style-type: none"> Do not include items relating to race, mana whenua values not related to technicality of stormwater (9) Carbon footprint is nonsense and not technical. Focus should be on stormwater only (5) Add administration costs and fees to the public (5) <p>Local board views</p> <ul style="list-style-type: none"> The views of 17 local boards were received. Hibiscus and Bays, Māngere-Ōtāhuhu, Manurewa, Rodney, and Waitemātā Local Boards supported Proposal 2 Ōrākei Local Board raised specific concerns about stormwater infrastructure in parks / reserves. 	<p>That the proposal about additional requirements for vesting of public assets and approvals be adopted as publicly notified.</p> <p>Reasons include:</p> <ul style="list-style-type: none"> the framework for approving and vesting of public assets ensures they are built to council standards that will last consideration of Māori values is a legislative requirement, including in the Local Government Act 2002 it is important to consider carbon footprint for infrastructure to meet the Auckland Climate Plan goals council staff can provide guidance on Māori values and carbon footprint as an operational matter views of neighbouring landowners where appropriate are considered through the resource consent process landowner approvals are a separate non-statutory processes.

Public feedback topic (Proposal 2) (Number of comments in brackets)	Panel recommendation
<p>Key changes sought (remove mana whenua values) (9)</p> <ul style="list-style-type: none"> Remove mana whenua values as a consideration 	
<p>Key changes sought (remove carbon footprint) (5)</p> <ul style="list-style-type: none"> Remove carbon footprint as a consideration 	
<p>Key changes sought (consider effects on private properties) (1)</p> <ul style="list-style-type: none"> Include under clause 19(1) a requirement to consider the effects on neighbouring landowners and private infrastructure Further consultation with impacted landowners particularly with any additional support required due to public stormwater impacts on private land 	
<p>Key changes sought from Ōrākei Local Board (additional considerations for approvals)</p> <ul style="list-style-type: none"> more local board involvement for stormwater infrastructure within local parks and reserves in relation to council landowner approvals 	
Public feedback topic (Proposal 3) (Number of comments in brackets)	Panel recommendation
<p>Approving modifications or new engineered wastewater overflow points</p> <p>66 feedback responses: 42 support (64 per cent), 3 oppose (5 per cent), 13 (20 per cent), 8 don't know (12 per cent), and 48 comments.</p> <p>Key themes in support (19):</p> <ul style="list-style-type: none"> Important to protect public health and safety (6) Prevent wastewater overflows into our waterways (4) Stormwater assets and overflows need to be regulated and designed properly (2) <p>Key themes opposed (3):</p> <ul style="list-style-type: none"> Should be covered by resource consents (1) Increased cost passed onto end users (1) <p>Local board views</p> <ul style="list-style-type: none"> The views of 17 local boards were received Hibiscus and Bays, Manurewa, Rodney, and Waitematā Local Boards supported Proposal 3. 	<p>That the proposal about approving modifications or new engineered wastewater overflow points be adopted as publicly notified.</p> <p>Reasons include:</p> <ul style="list-style-type: none"> high support for the proposal importance to consider that the engineered wastewater overflow points from the wastewater network will impact stormwater outcomes across the region provision of another tool that the stormwater network utility operator could utilise in collaborating with the wastewater network utility operator to manage engineered overflow points.

3

Public feedback topic (Proposal 3) (Number of comments in brackets)	Panel recommendation
<p>Key changes sought (remove engineered overflow points) (1)</p> <ul style="list-style-type: none"> Remove engineered overflow points as it should be covered by resource consents / RMA Rodney Local Board does not support approvals of Engineered Overflow Points unless it leads to improved stormwater outcomes and environmental enhancement 	
Public feedback topic (Proposal 4) (Number of comments in brackets)	Panel recommendation
<p>Restricting or excluding activities for parts of the stormwater network</p> <p>69 feedback responses: 33 support (48 per cent), 18 oppose (26 per cent), 15 other (22 per cent), 3 don't know (4 per cent), and 50 comments.</p> <p>Key themes in support (18):</p> <ul style="list-style-type: none"> Proposal is best practice for public safety (4) Activity should be done elsewhere (1) <p>Key themes opposed (1):</p> <ul style="list-style-type: none"> It is not council's responsibility to regulate people on water bodies (6) The public should continue to have access to waterways and to undertake restoration activities (5) This will affect iwi rights of gathering kai (1) <p>Key themes in other (1):</p> <ul style="list-style-type: none"> The restrictions should not be a blanket ban, but evaluated case by case (3) Safety should be addressed in the design quality of infrastructure (4) <p>Local board views</p> <ul style="list-style-type: none"> The views of 17 local boards were received Māngere-Ōrākei, Ōrākei, and Waitemātā Local Boards supported Proposal 4. 	<p>That the proposal about restricting or excluding activities for parts of the stormwater network be amended to:</p> <ul style="list-style-type: none"> change clause 10 (4) to refer "to protect public safety" first, and "to enable the safe and efficient operation of the network" as second change the related information note example to refer simply to recreational activities on stormwater ponds and constructed wetlands include a related information note about the council's general decision-making requirements. <p>Reasons include:</p> <ul style="list-style-type: none"> assets that are constructed or under the responsibility of the council can sometimes pose safety risks to the public these risks need to be managed under the Health and Safety and Work Act, for example by preventing public access from the hazard the rule can support the management of public safety risks around public stormwater assets on a case-by-case basis council's general decision-making requirements enable the consideration of gathering kai and recreational activities.

<p>Key changes sought (remove restriction) (6)</p> <ul style="list-style-type: none"> It is not council's responsibility so proposal should be removed <p>Key changes sought (iwi rights of gathering kai) (1)</p> <ul style="list-style-type: none"> Restrictions in the proposal could limit iwi rights of gathering kai from waterways <p>Key changes sought (clarify scope of proposal) (11)</p> <ul style="list-style-type: none"> Restrictions should be assessed on a case-by-case basis and not be a blanket ban Franklin, Hibiscus and Bays, Manurewa, Upper Harbour, and Waitemata Local Boards raised concern about restricting access to community groups undertaking restoration and beautification activities 	
<p>Public feedback topic (Proposal 5) (Number of comments in brackets)</p> <p>Updating the Bylaw wording, format, and definitions</p> <p>67 feedback responses: 49 support (73 per cent), 7 oppose (10 per cent), 7 other (10 per cent), 4 don't know (6 per cent), and 39 comments.</p> <p>Key themes in support (17):</p> <ul style="list-style-type: none"> Proposal is reasonable and improves the Bylaw by making it easier to read (10) Strengthening the enforcement and compliance of the Bylaw is important (2) <p>Key themes opposed (7):</p> <ul style="list-style-type: none"> More clarity around what the Best Practicable Option is and how Code of Practice applies (3) Clarify scope of the Bylaw considering council's bylaw making power for stormwater under the Local Government Act (2) Council is managing effects under the Bylaw which should be an RMA matter (3) <p>Key themes in other (6):</p> <ul style="list-style-type: none"> Council is wasting resources and money doing this (2) Clarity around the scope and limitations of the Bylaw (2) <p>Local board views</p> <ul style="list-style-type: none"> The views of 17 local boards were received. 	<p>Panel recommendation</p> <p>That the proposal about updating the Bylaw wording, format, and definitions be amended to:</p> <ul style="list-style-type: none"> change the definition of Annual Exceedance Probability to "The probability of an event being equalled or exceeded within a year" add 'or it is permitted in the Auckland Unitary Plan' to clauses 12 and 15 to make considerations of the matters consistent add a link to the Health Act in the definition of nuisance. <p>Reasons include:</p> <ul style="list-style-type: none"> high support for the proposal certainly to help make the Bylaw easier to read, understand, implement, and comply with. <p>In relation to other changes sought, the Panel notes that:</p> <ul style="list-style-type: none"> the definition of Best Practicable Option is understood by the industry for stormwater assessments and unnecessary to define in the Bylaw

5

Public feedback topic (Proposal 5) (Number of comments in brackets)	Panel recommendation
<ul style="list-style-type: none"> Albert-Eden, Manurewa, Ōrākei Local Boards supported Proposal 5 Albert-Eden, Devonport-Takapuna, Puketāpapa, and Upper Harbour Local Boards advocated for more enforcement, compliance and resourcing Ōrākei Local Board requested more specific enforcement powers. <p>Key changes sought (definition of BPO) (1)</p> <ul style="list-style-type: none"> Define what Best Practicable Option means as it is unclear <p>Key changes sought (definition of Nuisance) (1)</p> <ul style="list-style-type: none"> Danger to life and public health was removed and needs to be put back <p>Key changes sought (include wetland) (1)</p> <ul style="list-style-type: none"> Wetland management removed from Clause 13 eliminates responsibility for people to manage wetlands <p>Key changes sought (clarify permitted activities) (1)</p> <ul style="list-style-type: none"> Seek to clarify the inclusion of 'permitted activities' under clause 15 in alignment with the Auckland Unitary Plan Seek to add the inclusion of 'permitted activities' under clause 12 in alignment with the Auckland Unitary Plan <p>Key changes sought (definitions) (staff)</p> <p>Seek to amend the definition of Annual exceedance probability / AEP</p> <p>Key changes sought (include Transport Design Manual) (Auckland Transport)</p> <p>Seek to add Auckland Transport - Transport Design Manual into clause 9(1) of Bylaw</p> <p>Key changes sought from Ōrākei Local Board (local board enforcement powers)</p> <p>Local board enforcement powers requested</p>	<ul style="list-style-type: none"> wetlands are now regulated under the Auckland Unitary Plan and in the National Environmental Standard for Freshwater Management reference to public health and safety is provided in the Bylaw purpose (clause 4) and is distinct from public nuisance inclusion of the Transport Design Manual as a control would require further operational assessment by Healthy Waters the delegation of regulatory powers to local boards is a separate matter for the Governing Body to determine.

Other Matters from Staff	Panel recommendation
<p>Key comments / changes recommended (Attachment F)</p> <p>Panel could if it wishes to deliberate on any of the matters in Attachment F categorised as follows</p> <ul style="list-style-type: none"> • Enforcement, compliance and resourcing • Clarification of Implementation and operational processes • Consultation on the Stormwater Code of Practice • Advocacy to central government. 	<p>The Panel:</p> <ul style="list-style-type: none"> • notes that enforcement, compliance, and resourcing matters in general have been considered by the Regulatory Committee on the 12 April 2022 • recommends requesting Healthy Waters staff to report back to the Regulatory Committee on the next update to the Stormwater Code of Practice control, including industry consultation and views • recommends that a schedule of infringement offences and fees for the Stormwater Bylaw 2015 (similar to the Auckland Council Navigation Bylaw 2021) be sent to the relevant minister to commence the regulation-making process to provide the option for council to issue infringements for breaches of the Bylaw • agrees that other matters contained in Attachment F be referred to relevant council departments / council-controlled organisations for consideration • agrees that all matters raised in public feedback and local board views have been given adequate consideration.
<p>Key comments / changes recommended (Any other matters)</p> <p>Panel should deliberate on any matters contained in public feedback and local board views it considers have not been adequately addressed in this Attachment A.</p>	

7

Attachment B: Comparison of proposed and Panel-recommended changes to the proposal

The comparison tables below show only the changes to the proposal recommended by the Bylaw Panel. The table does not show parts of the proposal recommended to be adopted as publicly notified nor editorial changes (for example, to correct errors or clause references). Parts of unchanged clauses that are not shown are marked with [...].

The changes to the proposal recommended by the Panel are shown with additions or amendments underlined and deletions in ~~strikethrough~~.

Proposed amendments to Stormwater Bylaw 2015		Bylaw Panel-recommended changes to the proposal	
5	Interpretation	5	Interpretation
	(1) In this Bylaw, unless the context otherwise requires, – Annual exceedance probability/AEP has the same meaning as in the Auckland Unitary Plan.		(1) In this Bylaw, unless the context otherwise requires, – Annual exceedance probability / AEP means the probability of an event being equalled or exceeded within a year.
Related information The Auckland Unitary Plan states: Annual exceedance probability - The probability of exceeding a given storm discharge or flood level within a period of one year. For example, a 1 per cent AEP flood plain is the area that would be inundated in a storm event of a scale that has a 1 per cent or greater probability of occurring in one year. Equivalent average return intervals (ARI) are: 1 per cent AEP = 100-year ARI 2 per cent AEP = 50-year ARI 10 per cent AEP = 10-year ARI 20 per cent AEP = 5-year ARI 50 per cent AEP = 2-year ARI		Related information The Auckland Unitary Plan states: Annual exceedance probability - The probability of exceeding a given storm discharge or flood level within a period of one year. For example, a 1 per cent AEP flood plain is the area that would be inundated in a storm event of a scale that has a 1 per cent or greater probability of occurring in one year. Equivalent average return intervals (ARI) are: 1 per cent AEP = 100-year ARI 2 per cent AEP = 50-year ARI 10 per cent AEP = 10-year ARI 20 per cent AEP = 5-year ARI 50 per cent AEP = 2-year ARI	
[...]		[...]	

Proposed amendments to Stormwater Bylaw 2015	Bylaw Panel-recommended changes to the proposal
<p>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:</p> <p>[...]</p>	<p>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:</p> <p>[...]</p>
<p>6 Controls specified under the Bylaw</p> <p>(1) Any control specified by council under clauses 8, 14, 15, or 16 of this Bylaw –</p> <p>[...]</p>	<p>6 Controls specified under the Bylaw</p> <p>(1) Any control specified by council under clauses 8, 14, 15, or 16 of this Bylaw –</p> <p>[...]</p> <div> <p>Related information about controls</p> <p>Current controls include:</p> <ul style="list-style-type: none"> • Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater (version 3) (GB/2022/XX) • Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 (GB/2022/XX) • Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 (GB/2022/XX) • Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021 Guideline Document GD2021/007 (GB/2022/XX) <p>To make a control, council must comply with the matters specified in this Bylaw and general decision-making requirements under Subpart 1 of Part 6 of the Local Government Act 2002. This includes using its discretion to determine the nature and extent to which views and preferences are obtained and considered relative to the significance of the matter.</p> </div>

Proposed amendments to Stormwater Bylaw 2015		Bylaw Panel-recommended changes to the proposal
<div>8</div> <div>Controls and code of practice</div> <div>(1) Council may specify controls by guidelines or codes of practice for – [...]</div> <div>Related information Controls specified can be found in Schedule 1 at the end of this Bylaw.</div>	<div>8</div> <div>Controls and code of practice</div> <div>(1) Council may specify controls by guidelines or codes of practice for – [...]</div> <div>Related information about controls Current controls include:<ul style="list-style-type: none">• Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater (version 3) (GB/2022/XX)• Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 (GB/2022/XX)• Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 (GB/2022/XX)</div>	
<div>10</div> <div>Works and activities in close proximity to the public stormwater network</div> <div>[...]</div> <div>(4) The council may restrict or exclude access (or activity) to specific parts of the public stormwater network to enable its safe and efficient operation and to protect public safety.</div> <div>Related information This includes activities such as recreational fishing or kayaking on stormwater ponds and wetlands.</div> <div>Clause 10 amended in accordance with Clause 2(2).</div>	<div>10</div> <div>Works and activities in close proximity to the public stormwater network</div> <div>[...]</div> <div>(4) The council may restrict or exclude access (or activity) to specific parts of the public stormwater network <u>to protect public safety and to enable its safe and efficient operation.</u></div> <div>Related information <u>This could include recreational activities on stormwater ponds and constructed wetlands.</u> <u>Any restrictions will be considered on a case-by-case basis after assessing the risk in accordance with the general decision-making requirements under Subpart 1 of Part 6 of the Local Government Act 2002.</u></div> <div>Clause 10 amended in accordance with Clause 2(2).</div>	

Proposed amendments to Stormwater Bylaw 2015	Bylaw Panel-recommended changes to the proposal
<p>12 Alterations or damage to the public stormwater network</p> <p>(1) No person may damage, modify, or alter the hydraulic performance of the public stormwater network, unless the council approves or that person is expressly authorised by an operative resource consent.</p> <p>Clause 12 amended in accordance with Clause 2(2).</p>	<p>12 Alterations or damage to the public stormwater network</p> <p>(1) No person may damage, modify, or alter the hydraulic performance of the public stormwater network, unless the council approves, or it is permitted in the <u>Auckland Unitary Plan</u>, or that person is expressly authorised by an operative resource consent.</p> <p>Clause 12 amended in accordance with Clause 2(2).</p>
<p>14 Ground soakage systems</p> <p>(1) The council may specify controls for stormwater disposal that occur by way of ground soakage or recharge, by guidelines or codes of practice.</p> <p>[...]</p>	<p>14 Ground soakage systems</p> <p>(1) The council may specify controls for stormwater disposal that occur by way of ground soakage or recharge, by guidelines or codes of practice.</p> <div data-bbox="619 255 762 965"> <p>Related information about controls</p> <p>Current controls include:</p> <ul style="list-style-type: none"> • Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021 Guideline Document GD2021/007 (GB/2022/XX). </div> <p>[...]</p>

Proposed amendments to Stormwater Bylaw 2015	Bylaw Panel-recommended changes to the proposal
<p>15 Discharge of contaminants to the stormwater network</p> <p>(1) No person may discharge directly or indirectly a contaminant into the public stormwater network if the discharge is likely to cause nuisance or adversely affect the operation of the stormwater network unless the council approves or that person is expressly authorised by an operative resource consent.</p>	<p>15 Discharge of contaminants to the stormwater network</p> <p>(1) No person may discharge directly or indirectly a contaminant into the public stormwater network if the discharge is likely to cause nuisance or adversely affect the operation of the stormwater network unless the council approves, <u>or it is permitted in the Auckland Unitary Plan</u>, or that person is expressly authorised by an operative resource consent.</p>
<p>Related information</p> <p>Contaminants that could affect the stormwater network in Clause 15(1) include (but are not limited to) sediment, concrete, cement slurry, wastewater, effluent, solvents, soap, detergents, dissolved metal, hazardous material, fungicide, insecticide, litter and green waste.</p>	<p>Related information</p> <p>Contaminants that could affect the stormwater network in Clause 15(1) include (but are not limited to) sediment, concrete, cement slurry, wastewater, effluent, solvents, soap, detergents, dissolved metal, hazardous material, fungicide, insecticide, litter and green waste.</p>
<p>(2) The council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network:</p> <p>(a) where on any premises certain sensitive activities, such as machinery wash-down and bulk storage, must be carried out;</p> <p>(b) device maintenance requirements, such as catchpit clearance; and</p> <p>(c) the installation and use of treatment and mitigation measures or devices.</p> <p>[...]</p>	<p>(2) The council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network:</p> <p>(a) where on any premises certain sensitive activities, such as machinery wash-down and bulk storage, must be carried out;</p> <p>(b) device maintenance requirements, such as catchpit clearance; and</p> <p>(c) the installation and use of treatment and mitigation measures or devices.</p>
<p>[...]</p>	<p>Related information about controls</p> <p>Current controls include:</p> <ul style="list-style-type: none"> • Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater (version 3) (GB/2022/XX) • Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 (GB/2022/XX) • Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 (GB/2022/XX)

Proposed amendments to Stormwater Bylaw 2015	Bylaw Panel-recommended changes to the proposal
<div>16</div> <div>[...]</div> <div>(5)</div> <div>The council may specify controls for the disposal of stormwater through ground soakage or recharge, including prescribing an AEP storm event, for sites in a specified area.</div> <div><div>Related information</div><div>This clause will apply to both new and existing ground soakage systems in a specified area. The controls specified will not be more stringent than the minimum standard required under the Building Code.</div></div> <div>[...]</div>	<div>16</div> <div>[...]</div> <div>(5)</div> <div>The council may specify controls for the disposal of stormwater through ground soakage or recharge, including prescribing an AEP storm event, for sites in a specified area.</div> <div><div>Related information about controls</div><div>This clause will apply to both new and existing ground soakage systems in a specified area. The controls specified will not be more stringent than the minimum standard required under the Building Code.</div><div>Current controls include:</div><div><ul style="list-style-type: none">• Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater (version 3) (GB/2022/XX)• Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 (GB/2022/XX)• Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 (GB/2022/XX)</div></div> <div>[...]</div>

Proposed amendments to Stormwater Bylaw 2015						Bylaw Panel-recommended changes to the proposal					
Schedule 1 Register of Controls						Schedule 1 Register of Controls					
Action	Description	Date of Decision	Decision Reference	Comment		Action	Description	Date of Decision	Decision Reference	Comment	
Control	Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater	XX XXXX 2022	GB/2022/X	XX XXXX 2022		Control	Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater	XX XXXX 2022	GB/2022/X	XX XXXX 2022	
Control	Stormwater Management Devices in the Auckland Region December 2017	XX XXXX 2022	GB/2022/X	XX XXXX 2022		Control	Stormwater Management Devices in the Auckland Region December 2017	XX XXXX 2022	GB/2022/X	XX XXXX 2022	
Control	Water Sensitive Design for Stormwater March 2015	XX XXXX 2022	GB/2022/X	XX XXXX 2022		Control	Water Sensitive Design for Stormwater March 2015	XX XXXX 2022	GB/2022/X	XX XXXX 2022	
Control	Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021	XX XXXX 2022	GB/2022/X	XX XXXX 2022		Control	Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021	XX XXXX 2022	GB/2022/X	XX XXXX 2022	
Control	Schedule 4: Connection Requirements of Auckland Council Regionwide Stormwater Network Discharge Consent	XX XXXX 2022	GB/2022/X	XX XXXX 2022		Control	Schedule 4: Connection Requirements of Auckland Council Regionwide Stormwater Network Discharge Consent	XX XXXX 2022	GB/2022/X	XX XXXX 2022	

Schedule 1 added in accordance with Clause 2(2).



Te Ture-ā-rohe Wai Āwhā 2015 Stormwater Bylaw 2015

(as at **xx xxxx 2022**)

Made by the Governing Body of Auckland Council

in resolution GB/2015/78

on 30 July 2015

Bylaw made under [sections 145\(a\) and \(b\)](#) and [146\(b\)\(iv\)](#) of the Local Government Act 2002.

Summary

This summary is not part of the Bylaw but explains the general effects and scope.

The safe and efficient operation of stormwater networks is crucial to the wellbeing of Aucklanders. Damage, misuse and interference of these networks can result in risks to public health and safety, and can result in public nuisance. The purpose of this Bylaw is to regulate land drainage and protect the public stormwater network so that it is safe efficient by –

- regulating connections and activities that may damage or interfere with the network (clauses 8, 9, 10, 11, 12, 13)
- specifying controls for the design and construction of ground soakage systems (clause 14)
- protecting the operation of the public stormwater network to ensure council can protect its stormwater assets and assist with complying with any relevant stormwater network discharge consents. This is consistent with council's position that the Stormwater Bylaw focuses on managing activities that have impact on the stormwater network, while the Resource Management Act 1991 considers effects (clause 15)
- regulating the maintenance and operation of private stormwater systems (clauses 16 and 17).

Other parts of this Bylaw assist with administration by –

- stating the name of this Bylaw, when it comes into force and where it applies (clauses 1, 2 and 3)
- stating the purpose of this Bylaw and defining terms used (clauses 4 and 5)
- specifying certain controls and public notification (clause 6)
- clarifying relationship of the Bylaw with other legislation (clause 7)
- requiring applications for approvals, conditions and compliance (clauses 18, 19, 20, 21 and 22)
- enabling Bylaw enforcement (clauses 23, 24, 25 and 26).

This Bylaw is part of a wider framework. The Bylaw is not inconsistent with –

- rules and activities regulated by the [Building Act 2004](#)
- rules and activities regulated by the [Resource Management Act 1991](#) and [Auckland Unitary Plan](#), including discharges of contaminants into the environment.

Cover page reformatted and Summary inserted in accordance with Clause 2(2).

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Contents

1	Title	4
2	Commencement	4
3	Application	4
	Part 1	
	Preliminary provisions	
4	Purpose	4
5	Interpretation	5
	Part 2	
	General	
6	Controls specified under the Bylaw	11
7	Relationship with other legislation	12
	Part 3	
	Safe and efficient stormwater network	
8	Controls and code of practice	12
9	Stormwater network development and connections	13
10	Works and activities in close proximity to the public stormwater network	14
11	Obstructions and diversions of stormwater	15
12	Alterations or damage to the public stormwater network	15
13	Alterations or damage to green infrastructure	16
14	Ground soakage systems	16
15	Discharge of contaminants to the stormwater network	16
16	Maintenance and operation of private stormwater systems	17
17	Removal of redundant system	18
	Part 4	
	Approvals, permits and administrative matters	
18	Application for approval of the council	19
19	Consideration of an application for approval	19
20	Conditions of approval	21
21	Non-compliance with conditions of approval	22
22	Maintenance and construction requirements	22
	Part 5	
	Enforcement, offences and penalties	
23	Enforcement	23
24	Removal of construction	23
25	Breaches of the Bylaw	24
26	Exceptions	24
	Part 6	
	[Repealed]	

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

1 Title

- (1) This Bylaw is Te Ture-ā-rohe Wai Āwhā 2015 Stormwater Bylaw 2015.

Clause 1 amended in accordance with Clause 2(2).

2 Commencement

- (1) This Bylaw comes into force on 1 November 2015.
- (2) Amendments made by resolution GB/2022/XX come into force on XXXX.

Related information about amendments

Council decided on dd month year to make amendments to the Bylaw. Key changes included:

- specifying controls, codes of practice, or guidelines for managing the public stormwater network and private stormwater systems
- considering additional requirements for vesting of public assets and approvals under the Bylaw
- requiring approvals for modifications or new engineered wastewater overflow points into the stormwater network
- restricting or excluding certain activities for parts of the stormwater network
- updating Bylaw wording, format, and definitions.

A comparison of the Bylaw before and after the amendments were made can be viewed in Item # of the Auckland Council Governing Body meeting agenda dated dd month year.

Clause 2 amended in accordance with Clause 2(2).

3 Application

- (1) This Bylaw applies to Auckland.

Part 1

Preliminary provisions

4 Purpose

- (1) The purpose of this Bylaw is to regulate land drainage, including to –
- (a) enable council to manage the development, operation and maintenance of the public stormwater network, and the land, structures, and infrastructure associated with that network, in accordance with the Stormwater Network Discharge Consent, including to comply with the conditions of the Stormwater Network Discharge Consent;
 - (b) protect the public stormwater network, and the land, structures, and infrastructure associated with that network, from damage, misuse, interference, and nuisance;
 - (c) manage the use of the public stormwater network, and the land, structures, and infrastructure associated with that network, and provide for the

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- conditions on which connections to the public stormwater network may be made or maintained;
- (d) ensure that discharges into the public stormwater network do not damage the network;
 - (e) prevent interference with the public stormwater network, and the land, structures, and infrastructure associated with that network;
 - (f) manage the public stormwater network, and the land, structures, and infrastructure associated with that network, to protect the public from nuisance and promote and maintain public health and safety;
 - (g) provide measures to manage the ground soakage systems that form part of the stormwater network;
 - (h) ensure the maintenance and operation of private stormwater systems, the removal or de-commissioning of redundant stormwater systems on private land to prevent damage to the stormwater network, to protect the public from nuisance, and to promote and maintain public health and safety.

Clause 4 amended in accordance with Clause 2(2).

5 Interpretation

- (1) In this Bylaw, unless the context otherwise requires, –

Annual exceedance probability / AEP means the probability of an event being equalled or exceeded within a year.

approval means the prior written approval of the council issued under Part 4 of this Bylaw and **approve** has a corresponding meaning.

Auckland has the meaning given by [section 4\(1\)](#) of the Local Government (Auckland Council) Act 2009.

Related information

The Local Government (Auckland Council) Act 2009 enabled the Local Government Commission to determine Auckland's boundaries in a map titled [LGC-Ak-R1](#). The boundaries were formally adopted by [Order in Council](#) on 15 March 2010, and came into effect on 1 November 2010.



Auckland Unitary Plan means any proposed or operative plan made by the council under the Resource Management Act 1991.

Auckland water organisation means an Auckland water organisation as defined in section 4 of the Local Government (Auckland Council) Act 2009.

Code of Practice means the latest approved version of the Auckland Council Code of Practice for Land Development and Subdivision in relation to the public stormwater network made under Part 2 of this Bylaw.

contaminant has the same meaning as in the Resource Management Act 1991.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Related information

The [Resource Management Act 1991](#) states:

contaminant includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat —

- (a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of 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.

council means the Governing Body of the Auckland Council or any person delegated or authorised to act on its behalf. In relation to making a control, the Governing Body of Auckland Council may only delegate this power to a committee and / or the Chief Executive of Auckland Council who may sub-delegate to a third-tier manager or above.

Related information

As at 12 November 2019, the Auckland Council Regulatory Committee has delegated authority to hear, determine, and make recommendations to the Governing Body regarding all bylaws and associated controls (GB/2019/109).

Auckland Council's Infrastructure and Environmental Services has delegated authority on the powers, duties and functions in this Bylaw (except clauses 6, 8, 14(1), 14(2), 15(2), 16(5) for specifying controls) as at 28 July 2015 (GB/2015/78).

defence against water has the same meaning as in section 2 of the Soil Conservation and Rivers Control Act 1941.

Related information

Section 2 of the [Soil Conservation and Rivers Control Act 1941](#) states:

defence against water includes any dam, weir, bank, carriageway, groyne, or reservoir, and any structure or appliance of whatsoever kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a watercourse, of water including flood waters.

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

Related information

Section 2 of the [Land Drainage Act 1908](#) states:

drain includes every passage, natural watercourse, or channel on or underground through which water flows continuously or otherwise, except a navigable river, but does not include a water race as defined in section 58 hereof.

Engineered Overflow Point means a location where a discharge of wastewater from an engineered overflow structure occurs.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Item 10

engineering approval means the approval of the council to develop public stormwater infrastructure, including any asset that is to be vested to the council as part of a new development.

floodplain has the same meaning as in the Auckland Unitary Plan.

Related information

The [Auckland Unitary Plan](#) states:

floodplain - the area of land that is inundated by runoff from a specified rainfall event, with an upstream catchment generating 2m³/s or greater of above ground flow, taking into account:

- any increases in impervious areas that would arise from changes in land use enabled by the policies and zonings of the Plan;
- the effects of climate change over a 100-year timeframe in respect of the frequency and duration of rain fall events and a 1m sea level rise; and
- assuming that primary drainage is not blocked.

green infrastructure means natural systems and built products, technologies, and practices that primarily use natural elements, or engineered systems that mimic natural processes, to provide utility services for stormwater management. This includes built infrastructure ("green" devices, for example rain gardens), natural elements in modified environments (for example, planted trees in landscaped areas), and natural assets (for example, streams).

infrastructure has the same meaning as in the Auckland Unitary Plan.

Related information

The [Auckland Unitary Plan](#) states:

Infrastructure has the same meaning as in section 2 of the [Resource Management Act 1991](#): and also means:

- bulk storage for wholesale or distribution purposes of natural or manufactured gas over 15 tonnes, or petroleum over 1 million litres;
- storage and treatment facilities for a water supply distribution system;
- storage, treatment and discharge facilities for a drainage or sewerage system;
- municipal landfills;
- national defence facilities; and
- facilities for air quality and meteorological services.

manager means a person who controls or manages any premises, or any activity or event on any premises, or operates a part of the stormwater network on the premises, regardless of whether that person has a proprietary interest in those premises or that activity or event or that part of the stormwater network.

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) person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort, or convenience of another person;
- (b) flooding of any building floor or sub-floor, or public roadway;

Attachment C

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- (c) damage to property;
- (d) damage to the stormwater network;
- (e) erosion or subsidence of land;
- (f) adverse loss of riparian vegetation; or
- (g) anything that causes a breach of any stormwater discharge consent condition binding the council, (including an accumulation of chemicals causing a breach).

occupier, in relation to any premises, means the person occupying that premises.

overland flow path has the same meaning as in the Auckland Unitary Plan.

Related information

[The Auckland Unitary Plan](#) states:

Low point in terrain, excluding a permanent watercourse or intermittent river or stream, where surface runoff will flow, with an upstream contributing catchment exceeding 4,000m².

owner means the person or legal entity who owns premises from which stormwater originates or on which stormwater is located.

person includes an individual, a corporation sole, a body corporate, and an unincorporated body and includes the Crown and any successor of a person.

pest plant means any tree or vegetation listed as a plant pest within the Regional Pest Management Plan 2020-2030, Department of Conservation Pest Plants List or the National Pest Plant Accord (excluding research organisms) under the Biosecurity Act 1993.

premises means either:

- (a) a property or allotment which is held under separate certificate of title or for which a separate certificate of title may be issued and in respect of which a building consent has or may be issued; or
- (b) a building that has been defined as an individual unit by a cross lease, unit title or company lease and for which a certificate of title exists; or
- (c) an individual unit in a building where units are separately leased; or
- (d) land held in private or public ownership.
- (e) private land means any land that is not public land.

private stormwater system means any component of the stormwater network that drains water from premises on private land to a receiving environment or up to the point of service connection with the public stormwater network and includes pipes, gutters, downpipes, catchpits, swales, subsoil drains, stormwater treatment devices, rain water tanks and any stormwater management device or redundant stormwater system.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Item 10

public land means any land that is not private land and includes land owned, occupied or managed by the council or Auckland Transport, or an Auckland water organisation.

public stormwater network means:

- (a) any stormwater pipe, drain, land drainage work or treatment facility, vested in or under the control of the council; and
- (b) any drain, land drainage work or treatment facility declared by the council to be a public drain under section 462 of the Local Government Act 1974.

redundant system means a system, structure or device that has been replaced by another system, structure or device and is no longer required as part of the stormwater network under any building or resource consent condition or engineering approval related to the site.

resource consent means a resource consent issued under the Resource Management Act 1991 and operative resource consent means a resource consent that has commenced and has not lapsed or been surrendered.

service connection has the same meaning as in section 197 of the Local Government Act 2002.

Related information

Section 197 of the [Local Government Act 2002](#):

service connection means a physical connection to a service provided by, or on behalf of, a territorial authority.

soakage means disposal of stormwater into the ground by way of specifically designed pits, trenches or bores.

stormwater has the same meaning as in the Auckland Unitary Plan.

Related information

The [Auckland Unitary Plan](#) states:

stormwater - rainfall runoff from land, including constructed impervious areas such as roads, pavement, roofs, and urban areas, which may contain dissolved or entrained contaminants, and which is diverted and discharged to land, and water.

stormwater management device has the same meaning as in the Auckland Unitary Plan.

Related information

The [Auckland Unitary Plan](#) states:

stormwater management device - a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. Includes:

- rain gardens
- porous or permeable paving
- infiltration trenches
- green roofs
- wetlands
- ponds

Attachment C

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- swales
- sand filters
- proprietary devices.

stormwater management plan means a plan that details the best practicable option for the long-term management of stormwater from a catchment, sub-catchment or development area.

Related information

The [Auckland Design Manual](#) provides guidance on the preparation and content of a stormwater management plan. Minimum requirements may also be specified in a [Stormwater Network Discharge Consent](#).

Stormwater Network Discharge Consent means a resource consent for the diversion and discharge of stormwater from the public stormwater network.

stormwater network means a set of facilities and devices, either natural or built components, which are used to convey run off of stormwater from land, reduce the risk of flooding, and to improve water quality, and includes:

- open drains and watercourses, overland flow paths, inlet structures, pipes and other conduits, manholes, chambers, traps, outlet structures, pumping stations, treatment structures and devices;
- the public stormwater network; and
- private stormwater systems.

subsoil drain means any drain installed within the ground in order to remove water from the soil and includes any drain with perforations connected to the stormwater network.

vested stormwater asset means a stormwater asset funded privately, either wholly or partially, that if completed and approved will be transferred to the council for incorporation within the public stormwater network.

Related information

In this instance, "privately" means funded outside of the council.

wastewater has the same meaning as in the Auckland Unitary Plan.

Related information

The [Auckland Unitary Plan](#) states:

wastewater - liquid (and liquids containing solids) waste from domestic, industrial, commercial premises including (but not limited to) toilet wastes, sullage, trade wastes and gross solids.

wastewater network means the facilities, pipes and drains and devices used for sewerage and receipt, treatment, and disposal of wastewater and sewage, including any network owned by an Auckland water organisation.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

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

Related information

Section 2 of the [Land Drainage Act 1908](#) states:

watercourse includes all rivers, streams, and channels through which water flows.

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

Related information

Section 2 of the [Resource Management Act 1991](#) states:

wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

- (2) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 and used, but not defined, in this Bylaw has the meaning given by that Act
- (3) Related information and links to webpages do not form part of this Bylaw, and may be inserted, changed or removed without any formality.
- (4) [The Interpretation Act 1999](#) applies to this Bylaw.

Clause 5 amended in accordance with Clause 2(2).

Part 2
General

6 Controls specified under the Bylaw

- (1) Any control specified by council under clauses 8, 14, 15, or 16 of this Bylaw -
 - (a) must be made by a council resolution that is publicly notified, after considering the views and preferences of persons likely to be affected or have an interest in the particular control; and
 - (b) may:
 - (i) prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;
 - (ii) apply to all activities or to any specified category of activity;
 - (iii) apply to Auckland or to a specified part of Auckland; and/or
 - (iv) apply at all times or at any specified time or period of time.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Related information about controls

Current controls include:

- [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater \(version 3\) \(GB/2022/XX\)](#)
- [Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 \(GB/2022/XX\)](#)
- [Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 \(GB/2022/XX\)](#)
- [Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021 Guideline Document GD2021/007 \(GB/2022/XX\)](#)

To make a control, council must comply with the matters specified in this Bylaw and general decision-making requirements under Subpart 1 of Part 6 of the [Local Government Act 2002](#). This includes using its discretion to determine the nature and extent to which views and preferences are obtained and considered relative to the significance of the matter.

Clause 6 amended in accordance with Clause 2(2).

7 Relationship with other legislation

- (1) Compliance with the requirements of this Bylaw does not remove the need to comply with the requirements of any Act, regulation, or other Bylaw.
- (2) Unless expressly specified in this Bylaw, compliance with the requirements of any Act, regulation, or other Bylaw does not remove the need to comply with the requirements of this Bylaw.
- (3) Nothing in this Bylaw shall derogate from the Resource Management Act 1991.

Related information

The effect of this clause is to make it clear that works and activities regulated by the [Resource Management Act 1991](#) must be authorised pursuant to that Act before they may be carried out, even if they are in accordance with this Bylaw.

Where activities subject to any consent, licence, permit, or similar approval issued under any Act, regulation, or other Bylaw are also regulated by this Bylaw, compliance with the requirements of this Bylaw may be made a condition of the other consent or approval.

Alternatively, the council may determine that the terms of the other consent, licence, permit, or approval are sufficient to satisfy the requirements of this Bylaw in that particular case, and issue an approval under this Bylaw accordingly. This is a matter for council's discretion.

Part 3

Safe and efficient stormwater network

8 Controls and code of practice

- (1) Council may specify controls by guidelines or codes of practice for –
 - (a) the maintenance and construction of any work that affects the public stormwater network;

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- (b) access to the built components of the public stormwater network; or
- (c) the effective and efficient operation of the stormwater network and private stormwater systems.

Clause 8 amended in accordance with Clause 2(2).

Related information about controls

Current controls include:

- [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater \(version 3\) \(GB/2022/XX\)](#)
- [Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 \(GB/2022/XX\)](#)
- [Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 \(GB/2022/XX\)](#)

9 Stormwater network development and connections

- (1) Unless the council approves otherwise, any vested stormwater asset must comply with the Code of Practice on the date the asset is vested in the council.
- (2) Any vested stormwater asset must be of a type, design, location, and performance that enables council to comply with the relevant conditions of a stormwater network discharge consent, including any relevant stormwater management plan that has been adopted into a stormwater network discharge consent.

Related information

The conditions of the Auckland [Regionwide Stormwater Network Discharge Consent](#), the [stormwater management plan templates](#), as well as the [adopted stormwater management plans](#) can be found on the Auckland Design Manual.

- (3) A person must obtain approval from the council before:
 - (a) undertaking work to:
 - (i) construct a vested stormwater asset; or
 - (ii) alter or modify any part of the public stormwater network, or existing service connection; or
 - (b) making any new service connection to the public stormwater network.
- (4) A person must obtain approval from the council and the Auckland water organisation before making any new service connection for the discharge of stormwater to the wastewater network.
- (5) Any stormwater asset to be vested remains the responsibility of the owner of the premises until it is vested in the council.
- (6) Any stormwater asset to be vested may be inspected by the council to ensure compliance with approval conditions prior to the asset being vested.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- (7) Any new connection or modification of an Engineered Overflow Point to the public stormwater network requires approval from the council.

Related information

A resource consent under the [Resource Management Act 1991](#) and/or a building consent under the [Building Act 2004](#) may also be required in addition to an approval under this Bylaw.

Clause 9 amended in accordance with Clause 2(2).

10 Works and activities in close proximity to the public stormwater network

- (1) Unless the council approves otherwise, any structure on, over, or within the proximate distances from the public stormwater network specified in the Code of Practice must comply with the Code of Practice with regard to the protection of the public stormwater network.
- (2) A person must obtain approval from the council before:
- (a) undertaking any excavation that is likely to result in damage to the public stormwater network;
 - (b) removing any existing cover material or placing any additional material over or within the zone of influence of the public stormwater network specified in the Code of Practice that is likely to result in damage to the public stormwater network;
 - (c) covering any stormwater inlet, outlet, treatment device, service opening or manhole in a way that is likely to restrict access to the public stormwater network or detrimentally affect the performance of the public stormwater network; or
 - (d) causing a temporarily or permanently sustained excessive load on the public stormwater network that is likely to result in damage to the network.

Related information

The council will apply [the New Zealand Transport Agency Bridge Manual](#) that limits the load on infrastructure to that of the soil overburden together with the weight of a HN-HO-72 wheel or axle load in assessing if a load is excessive.

- (3) Every person must comply with the Code of Practice when accessing any built component of the public stormwater network.

Related information

The [Code of Practice](#) prescribes the process of gaining access along with health and safety requirements.

- (4) The council may restrict or exclude access (or activity) to specific parts of the public stormwater network to protect public safety and to enable its safe and efficient operation.

Related information

This could include recreational activities on stormwater ponds and constructed wetlands.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Any restrictions will be considered on a case-by-case basis after assessing the risk in accordance with the general decision-making requirements under Subpart 1 of Part 6 of the [Local Government Act 2002](#).

Clause 10 amended in accordance with Clause 2(2).

11 Obstructions and diversions of stormwater

- (1) Unless the council approves otherwise or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent, no person may stop, obstruct, alter, interfere with, or divert any watercourse, flood plain, overland flow path, drain, or wetland on public land, in a manner likely to:
 - (a) adversely affect the performance of the watercourse, flood plain, overland flow path, drain or wetland;
 - (b) adversely alter the velocity of stormwater; or
 - (c) adversely divert the flow of stormwater.
- (2) Unless the council approves otherwise or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent, the owner, occupier, or manager of any premises on private land must ensure that any watercourse, flood plain, overland flow path, drain or wetland on the premises is kept free from obstruction that is likely to:
 - (a) adversely affect the performance of the watercourse, flood plain, overland flow path, drain or wetland;
 - (b) adversely alter the velocity of stormwater; or
 - (c) adversely divert the flow of stormwater.
- (3) No person may discharge stormwater from a premises with an impervious area greater than that permitted in the Auckland Unitary Plan or an operative resource consent.
- (4) The owner, manager, or occupier of a premises must take reasonable preventative measures to avoid nuisance during a flood event.

Clause 11 amended in accordance with Clause 2(2).

Related information

Reasonable preventative measures to avoid nuisance would include measures to reduce risks posed by positioning of materials at a property. For example, a reasonable preventative measure would include not placing, storing, or leaving any material on the premises in a manner or location that may, during a flood event on the premises result in the material obstructing or diverting the flow of stormwater.

12 Alterations or damage to the public stormwater network

- (1) No person may damage, modify, or alter the hydraulic performance of the public stormwater network, unless the council approves, or it is permitted in the Auckland Unitary Plan, or that person is expressly authorised by an operative resource consent.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Clause 12 amended in accordance with Clause 2(2).

13 Alterations or damage to green infrastructure

- (1) No person may remove vegetation from or damage vegetation forming a component of green infrastructure, if the removal or damage is likely to adversely affect the ability of the green infrastructure to continue to providing its stormwater management function, unless the council approves or that person is expressly authorised by an operative resource consent.
- (2) Subclause (1) does not apply to the removal or damage of pest plants.

Clause 13 amended in accordance with Clause 2(2).

14 Ground soakage systems

- (1) The council may specify controls for stormwater disposal that occur by way of ground soakage or recharge, by guidelines or codes of practice.

Related information about controls

Current controls include:

- [Stormwater Soakage and Groundwater Recharge in the Auckland Region 2021 Guideline Document GD2021/007 \(GB/2022/XX\)](#).

- (2) The council may specify areas in Auckland on any premises within which stormwater disposal must be by ground soakage or recharge unless site conditions prevent it.
- (3) No person may discharge a contaminant into a ground soakage or recharge system if the discharge is likely to cause nuisance or adversely affect the operation of the ground soakage or recharge system, unless the council approves, or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent.
- (4) Any new ground soakage or recharge system must comply with the requirements of the Code of Practice and any applicable council soakage design manuals.

Related information

The [Building Code](#) allows territorial authorities to develop alternative verification methods based on hydrological modelling. The controls specified in this Bylaw will not be more stringent than allowed for under the Building Code.

A building consent is required for construction or alteration of any private stormwater disposal system using ground soakage. Areas for soakage include (but are not limited to) parts of Ellerslie, Penrose, Onehunga, Mt Eden, Epsom, Mt Roskill, Mt Albert, Papakura, Takanini, Pukekohe, Waiuku and Mangere Bridge.

Clause 14 amended in accordance with Clause 2(2).

15 Discharge of contaminants to the stormwater network

- (1) No person may discharge directly or indirectly a contaminant into the public stormwater network if the discharge is likely to cause nuisance or adversely affect the operation of the stormwater network unless the council approves, or it

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

is permitted in the Auckland Unitary Plan, or that person is expressly authorised by an operative resource consent.

Related information

Contaminants that could affect the stormwater network in Clause 15(1) include (but are not limited to) sediment, concrete, cement slurry, wastewater, effluent, solvents, soap, detergents, dissolved metal, hazardous material, fungicide, insecticide, litter and green waste.

- (2) The council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network:
- (a) where on any premises certain sensitive activities, such as machinery wash-down and bulk storage, must be carried out;
 - (b) device maintenance requirements, such as catchpit clearance; and
 - (c) the installation and use of treatment and mitigation measures or devices.

Related information about controls

Current controls include:

- [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater \(version 3\) \(GB/2022/XX\)](#)
- [Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 \(GB/2022/XX\)](#)
- [Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 \(GB/2022/XX\)](#)

- (3) Any owner, occupier, manager, or person who is present on a premises subject to a control made under subclause (2) must comply with that control.

Clause 15 amended in accordance with Clause 2(2).

16 Maintenance and operation of private stormwater systems

- (1) Unless the council approves otherwise, the owner and manager of any private stormwater system is responsible for the operation of that system.
- (2) The owner and manager of a private stormwater system must ensure that the system:
 - (a) is maintained in good operating condition; and
 - (b) does not cause or contribute to nuisance.
- (3) The owner, occupier, and manager of a premises on which there is a watercourse, stop bank, or other defence to water, must maintain that watercourse, stop bank, or other defence to water in an operational state which ensures the free flow of water.
- (4) Subclause (3) does not apply to any watercourses, stop banks, or other defences against water that are part of the public stormwater network.
- (5) The council may specify controls for the disposal of stormwater through ground soakage or recharge, including prescribing an AEP storm event, for sites in a specified area.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Related information about controls

This clause will apply to both new and existing ground soakage systems in a specified area. The controls specified will not be more stringent than the minimum standard required under the [Building Code](#).

Current controls include:

- [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater \(version 3\) \(GB/2022/XX\)](#)
- [Stormwater Management Devices in the Auckland Region December 2017 Guideline Document 2017/001 \(GB/2022/XX\)](#)
- [Water Sensitive Design for Stormwater March 2015 Guideline Document 2015/004 \(GB/2022/XX\)](#)

- (6) The owner, occupier, or manager of a premises that has a ground soakage or recharge system as part of a private stormwater system which may cause a nuisance must ensure that the ground soakage or recharge system disposes of the stormwater from the site in accordance with any controls the council specifies.
- (7) The owner or manager of a private stormwater management device must, on request by the council:
- (a) provide such information as is required to demonstrate that the stormwater management device is operated and maintained to achieve its purpose including not causing nuisance in a storm event up to the standard specified in the control under subclause (5) or by an operative resource consent, consent notice, easement or covenant; and
 - (b) carry out such works as are required to ensure the stormwater management device meets its purpose.
- (8) The owner or manager of a private on-site stormwater management device must:
- (a) keep a copy of the operations and maintenance manual (owner's manual) and as built drawings for the device available; and
 - (b) produce that copy of the owner's manual and as built drawings upon request by the council.

Clause 16 amended in accordance with Clause 2(2).

17 Removal of redundant system

- (1) To prevent damage to the stormwater network, protect the public from nuisance or promote and maintain public health and safety, the council may require the owner of a private stormwater system or any part thereof, including any stormwater management device, culvert, or stormwater detention pond that has become redundant as part of the primary method of stormwater drainage, to remove or de-commission that system or part thereof.
- (2) The owner of a redundant part of the stormwater system that has been removed or de-commissioned must ensure that the premises on which the system is located or was previously located is restored to the satisfaction of the council.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Related information about applications for approval

The removal or de-commissioning of a redundant system may be required to address health and safety concerns and/or potential risks to the stormwater network. The requirement to remove a redundant system will in most cases be determined when the owner, occupier or manager applies for a building consent and/or engineering approval is in relation to installing a new stormwater system at the property.

Part 4

Approvals, permits and administrative matters

18 Application for approval of the council

- (1) An application to obtain the approval of the council under this Bylaw must be:
 - (a) made in the prescribed form; and
 - (b) accompanied by:
 - (i) payment of the application and processing fees; and
 - (ii) any further supporting information.
- (2) Having received and considered an application for approval, the council may at its discretion:
 - (a) inspect places related to the application; or
 - (b) grant the application subject to such conditions as the council considers fit; or
 - (c) decline the application.

Clause 18 amended in accordance with Clause 2(2).

Related information

Where activities subject to any consent, licence, permit, or other approval issued under any Act, regulation, or other Bylaw in a particular case overlap with the activities subject to this Bylaw, compliance with the requirements of this Bylaw may be made a condition of the other consent, licence, permit, or approval. Alternatively, the council may determine that the terms of the other consent, licence, permit, or approval are sufficient to satisfy the requirements of this Bylaw in that particular case, and issue an approval under this Bylaw accordingly. This is a matter for council's discretion.

19 Consideration of an application for approval

- (1) When considering an application for approval under this Bylaw, and the conditions to which the approval will be subject should the application be granted, the council may take into account any of the following:
 - (a) any known past operational or compliance issues which may affect, or may in the future affect, the performance of the stormwater network;

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Item 10

Attachment C

- (b) the characteristics, features, and nature of the infrastructure, premises, stormwater asset, device, private stormwater system, and public stormwater network;
 - (c) any applicable requirements of a stormwater network discharge consent, including conditions and schedules, or a Stormwater Management Plan adopted into a stormwater network discharge consent;
 - (d) compliance with the Code of Practice if applicable;
 - (e) compliance with the Auckland Unitary Plan, and any applicable Acts, regulations, and other Bylaws;
 - (f) the extent to which the approval will promote:
 - (i) the achievement of the council's strategies and policies for the management of stormwater;
 - (ii) the achievement of any applicable national environmental standards; and
 - (iii) the outcomes of any applicable national policy statements.
 - (g) any operational policy, guidance document, or management practice approved by the council;
 - (h) any potential cumulative harmful effect which may arise over time or in combination with other effects due to approvals granted by the council in the affected sub-catchment;
 - (i) the complexity of the issue and the cost required to suitably resolve it;
 - (j) compliance with any related resource consent conditions, consent notices, easements and covenants;
 - (k) mana whenua values and Te Mana o te Wai if the application involves a significant decision in relation to land or a body of water;
 - (l) carbon footprint to construct, maintain, operate and decommission the asset; and
 - (m) any other reasonable considerations the council considers appropriate.
- (2) The council may grant an application for approval only if it is satisfied that:
- (a) the approval will not significantly prejudice council in achieving the Bylaw's purpose; and
 - (b) at least one of the following applies:
 - (i) the work, thing, or issue that approval is applied for is in substantial compliance with the Bylaw and further compliance is unnecessary; or
 - (ii) the work, thing, or issue provided for, under the approval is as effective as, or more effective than, compliance with the Bylaw.

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Item 10

(iii) events have occurred that make compliance with the Bylaw unnecessary or inappropriate in the particular case.

(iv) the work does not compromise the ability of council to comply with the conditions of any stormwater network discharge consent.

Clause 19 amended in accordance with Clause 2(2).

20 Conditions of approval

- (1) The council may make an approval subject to the following matters:
- (a) the location of the work or activity;
 - (b) the design and specifications of the work or activity;
 - (c) construction and maintenance requirements for the work or activity;
 - (d) the specific approved point(s) of service connection to the stormwater network into which the stormwater must be discharged;
 - (e) the average and maximum volume of the discharge of stormwater, the average and maximum rate of the discharge of stormwater, and the duration of any maximum volume or rate of the discharge of stormwater;
 - (f) the provision by the owner, occupier, and manager of the premises, at his or her expense, of appropriate screens, grease traps, silt traps, or other partial or preliminary pre-treatment process, equipment, or storage facilities designed to regulate the quality, quantity, and rate of discharge or other characteristics of stormwater prior to the point of discharge to the public stormwater network;
 - (g) the frequency with which any equipment required by the approval must be maintained and cleaned;
 - (h) the design, location, and specification of, and any material alteration to, the private stormwater system;
 - (i) the implementation of any stormwater management plan adopted by the council;
 - (j) the provision of a bond or insurance in favour of the council where failure to comply with the approval could result in damage to the public stormwater network or the council being in breach of any statutory obligation;
 - (k) recording the presence of any on-site stormwater management device as an encumbrance on the certificate of title for the premise;
 - (l) council inspection requirements prior to asset vesting;
 - (m) inspection requirements to ensure appropriate operation;
 - (n) meeting mana whenua cultural requirements;
 - (o) the minimising of carbon footprint;
 - (p) the duration of approval and period of lapse; and

Attachment C

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- (q) any other reasonable conditions the council considers appropriate.

Clause 20 amended in accordance with Clause 2(2).

21 Non-compliance with conditions of approval

- (1) Where a person does not comply with the terms and conditions of the approval granted by the council, the council may take one or more of the following steps:
- (a) issue a written warning to the person, which may be considered as evidence of a prior breach of a condition or approval during any subsequent review of the approval.
 - (b) review the approval, which may result in:
 - (i) amendment of the approval; or
 - (ii) suspension of the approval; or
 - (iii) withdrawal of the approval; or
 - (iv) no further action.
 - (c) charge fees for the inspection in relation to the non-compliance.
 - (d) initiate enforcement action in accordance with Part 5 of this Bylaw.

Clause 21 amended in accordance with Clause 2(2).

22 Maintenance and construction requirements

- (1) The owner, occupier, or manager of a premises on which work occurs and council approval has been given under this Bylaw must maintain the approved work in good condition and must comply with the conditions of approval, guidelines, and Code of Practice set by the council.
- (2) The council may inspect a private stormwater system at suitable intervals and notify the owner, occupier or manager of a premises if maintenance must be carried out. Maintenance must be carried out within the advised timeframe and to the standard specified by the council.
- (3) The council may recover costs from the owner, occupier, or manager of a premises associated with the inspection of private stormwater systems required by the council under this Bylaw.

Clause 22 amended in accordance with Clause 2(2).

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Item 10

Attachment C

Part 5

Enforcement, offences and penalties

23 Enforcement

- (1) Council may use its powers under the Local Government Act 2002, the Local Government Act 1974, the Land Drainage Act 1908, the Soil Conservation and Rivers Control Act 1941, and the Health Act 1956 to enforce this Bylaw.

Related information about enforcement

The following enforcement provisions available to the council include, but are not limited to:

- Subpart 2 of Local Government Act 2002, sections 162, 163, 164, 165, 168, 171, 172, 175, 176 and 178
- Subpart 3 of Local Government Act 2002, sections 185, 186, 187, and 188
- Local Government Act 1974, sections 451, 462, 467, 168, 511 and Schedule 14
- Land Drainage Act 1908, sections 23, 25, 26, 27, 62, 63 and Part 4
- Soil Conservation and Rivers Control Act 1941, sections 134 and 154
- Health Act 1956, section 33, 34, 128, 134.

- (2) Owners, occupiers, and managers of premises on private land are jointly and individually responsible for compliance with this Bylaw in respect of those premises.
- (3) The council may require the owner, occupier or manager of a premises to, in a manner, or within any time specified in a written notice (Bylaw Notice) remedy any breach of this Bylaw.

Clause 23 amended in accordance with Clause 2(2).

Related information about controls

Steps taken by the council will be against the person most able to ensure compliance with the Bylaw. This is a matter for the council's discretion.

As reprinted on 1 July 2021, enforcement powers under the Local Government Act 2002 included court injunction (section 162), seizure and disposal of property (sections 164, 165, 168), powers of entry (sections 171, 172, 173), cost recovery for damage (sections 175, 176), and power to request name and address (section 178).

As reprinted on 29 June 2021, enforcement powers under the Health Act 1956 included court orders (section 33), cost recovery for council to abate nuisance (section 34), powers of entry (section 128), and power to request name and address (section 134).

24 Removal of construction

- (1) The council may, pursuant to section 163 of the Local Government Act 2002:
- (a) remove or alter a work or thing that has been constructed in breach of this Bylaw; and

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

- (b) recover any costs of removal or alteration from the owner, occupier or manager of the premises who committed the breach.

Clause 24 amended in accordance with Clause 2(2).

25 Breaches of the Bylaw

- (1) A person who fails to comply with this Bylaw (for example a requirement, Bylaw Notice, approval, or conditions of approval) commits a breach of this Bylaw and:
- (a) is liable to a penalty under sections 239 and 242 of the Act; and
- (b) in the particular circumstances, may also be liable to a penalty under the Resource Management Act 1991, the Health Act 1956, the Land Drainage Act 1908, the Bylaws Act 1910, the Soil Conservation and Rivers Control Act 1941, the Litter Act 1979, or any other applicable Act.

Clause 25 amended in accordance with Clause 2(2).

Related information

A person who is convicted of an offence against this Bylaw is liable to a fine not exceeding \$20,000 under [section 242](#) of the Local Government Act 2002.

26 Exceptions

- (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.

Part 6

[Repealed]

Part 6 deleted in accordance with Clause 2(2).

Last updated
XX XXXX 2022

Auckland Council Stormwater Bylaw 2015

Related information, Bylaw History

Date	Description
01 November 2010	Made legacy bylaws about stormwater (section 63 Local Government (Auckland Transitional Provisions) Act 2010))
01 November 2010	Commencement of legacy bylaws about stormwater (section 63 Local Government (Auckland Transitional Provisions) Act 2010)
19 August 2014	Review of legacy bylaws about stormwater completed (RBC/2014/34)
28 August 2014	Proposal to make new bylaw about stormwater and to revoke legacy bylaws (GB/2014/89)
30 July 2015	Made the Auckland Council Stormwater Bylaw 2015 (GB/2015/78)
	Public notice of new Auckland Council Stormwater Bylaw 2015
01 November 2015	Commencement of new Auckland Council Stormwater Bylaw 2015 and revocation of legacy bylaws
28 July 2020	Review of Auckland Council Stormwater Bylaw 2015 completed (REG/2020/43)
26 August 2021	Proposal to amend Auckland Council Stormwater Bylaw 2015 (GB/2021/102)
XX X 2022	Made amended Auckland Council Stormwater Bylaw 2015 (GB/2022/XX)
XX X 2022	Public notice of amendments to Stormwater Bylaw 2015
XX X 2022	Commencement of amendments to Auckland Council Stormwater Bylaw 2015 (GB/2022/XX)

¹ Legacy bylaws made: Auckland City Council Bylaw No 18 Stormwater Management 2008; Papakura District Council Stormwater Bylaw 2008; and Chapter 21 (Stormwater drainage) of the Rodney District Council General Bylaw 1998.

Related information, next bylaw review

This Bylaw must be reviewed by 28 July 2030. If not reviewed by this date, the Bylaw will expire on 28 July 2032.

Item 10

Attachment C



Find out more: **phone 09 301 0101**
or visit **aucklandCouncil.govt.nz**