Waimakariri District Council

Agenda
Stormwater Drainage
Bylaw Review Hearing

Tuesday 27 February 2018

9.00am

Council Chambers
215 High Street
Rangiora

Hearing Panel Members:

Councillor Sandra Stewart
Deputy Mayor Kevin Felstead
Councillor Al Blackie
Hearing Panel Members,

**Hearing to Review the Stormwater Drainage Bylaw 2018**

The hearing and deliberations will be held in the COUNCIL CHAMBERS, 215 HIGH STREET, RANGIORA on TUESDAY 27 FEBRUARY 2018 commencing at 9.00AM.

Sarah Nichols
GOVERNANCE MANAGER

**BUSINESS**

**1. APPOINT A HEARING PANEL CHAIRPERSON**

**2. APOLOGIES**

**3. CONFLICTS OF INTEREST**

Conflicts of interest (if any) to be reported for minuting.

**4. HEARING OF SUBMISSIONS**

4.1 9.00am Environment Canterbury
4.2 9.15am Burton Consultants on behalf of Oil Companies
4.3 9.30am Edge Landscape Projects
4.4 9.45am Mandeville Residents Association

**5. STAFF REPORT**

5.1. **Report to Hearing Panel Submissions on Stormwater Drainage Bylaw – Janet Fraser (Utilities Planner) and Owen Davies (Drainage Asset Manager)**

**RECOMMENDATION**

THAT the Stormwater Drainage Bylaw Review Hearing Panel:

(a) Receives report No.180119004273.

(b) Considers all submissions on the draft bylaw.

(c) Confirms it will accept and consider the further evidence provided by Environment Canterbury on Friday 16 February 2018.

(d) Notes that the changes recommended in this report are all shown as "track changes" in the attached draft bylaw.
(e) **Amends** Section 2.3 to state that “This bylaw applies to the following: Council stormwater systems; Council managed land drainage systems or watercourses; Privately managed stormwater systems, land drainage systems, watercourses, flood plains, overland flow paths or stop banks”, as requested by staff to clarify the scope of the bylaw.

(f) **Amends** objective 3.1 (c) to update the bylaw objective to state: “Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment”, as requested in the submission from the Oil Companies.

(g) **Amends** the definition of “Council System” to mean “a land drainage or stormwater system which is under the control of the Council. For the purposes of the bylaw, drains within New Zealand Transport Agency, Kiwirail or Environment Canterbury owned land are deemed to be part of a Council system”, to clarify that systems managed by public agencies other than the Council are viewed as “private systems” in terms of the bylaw, to address concerns in the submission from Environment Canterbury concerning management of its network utility drains.

(h) **Amends** the definition of “Private System” to mean “any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system. For the purposes of the bylaw, drains that are managed by the New Zealand Transport Agency, Kiwirail or Environment Canterbury are deemed to be part of a private system”, to clarify that systems managed by public agencies other than the Council are viewed as “private systems” in terms of the bylaw.

(i) **Amends** Section 5 “Acceptance of Stormwater and Land Drainage Water”, clause 5.1 to state that “every person seeking a connection to a Council system shall be entitled to have the stormwater or land drainage water from the premises accepted by the Council subject to: b) the owner of the premises has prior written approval from the Council for the new or altered connections…” and further consequential changes to Section 5, to clarify that this section only applies to new or altered connections to assist to address the concerns raised in the submission from the Oil Companies.

(j) **Adds** an explanatory note to Section 5.1 to state “An altered connection refers to an increase in the quantity of, or contaminant loading within, stormwater being discharged from the site”, to assist to address concerns raised by the Oil Companies.

(k) **Amends** Sections 6.1 (g), 9.3.3, 11.2 and definitions to update the references to the “Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury” (previously referred to as “Environment Canterbury Erosion and Sediment Control Guidelines”), as requested in the submission from Environment Canterbury.

(l) **Amends** Section 6.3 to state “For sites being re-developed, Council may require retrofit stormwater mitigation and/or implementation of site specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas, in order for Council to comply with consent conditions which control the quality or quantity of discharges from any Council system into the receiving environment” to assist to address concerns in the submission from the Oil Companies.
(m) **Amends** Section 7 “Point of Connection” to clarify maintenance requirements and insert an updated diagram to more clearly set out responsibilities for private and Council connection and discharge points and associated maintenance, as recommended by staff.

(n) **Amends** Section 9.2 of the bylaw to state “The owner/occupier undertaking any existing medium risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, if requested by the Council, prepare and implement a site specific Pollution Prevention Plan…”, as a consequential change to align the proposed approach for existing medium risk sites with the proposals for existing high risk sites.

(o) **Amends** Section 9.4 of the bylaw to require evidence of ongoing compliance with any Pollution Prevention Plan to be provided “every 3 years at the time the Plan is reviewed, or at any other time upon request of Council” as requested in the submission from McAlpines Ltd.

(p) **Amends** clause 10.1 of the bylaw to clarify that “the owner/occupier undertaking any new high risk activity on any site as defined in Schedule 1 which would discharge either directly or indirectly into any Council or private stormwater or land drainage system shall apply for and obtain a any necessary resource consent from Environment Canterbury for the discharge”, to clarify that this requirement will be mandatory for all new activities on sites defined as high risk in Schedule 1, for discharges into Council systems.

(q) **Amends** Section 10.2 of the bylaw to require “the owner/occupier undertaking an existing high risk activity on any site as defined in Schedule 1 which causes a discharge, either directly or indirectly, into any Council or private stormwater or land drainage system shall, if requested by Council, apply for and obtain a any necessary resource consent from Environment Canterbury for the discharge…”, to assist giving effect to submissions from Environment Canterbury and the Oil Companies.

(r) **Amends** Section 11.1 to add “This plan shall be submitted to and approved by the Council and fully implemented prior to discharging into the Council system”, to require Council approval of Erosion and Sediment Control Plans for construction phase discharges into Council systems, as requested by staff.

(s) **Adds** a new Section 11.3 that states “the owner/occupier undertaking a construction activity on any site which would discharge into any Council system shall apply for and obtain a resource consent from Environment Canterbury for any construction phase stormwater discharge from that site into the Council system, if requested by the Council, where that construction is on: a) any site where an activity listed in the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List” is occurring; and/or b) any site on the Canterbury Listed Land Use Register; and/or c) any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011”, as a consequential change following the proposed amendment of the high risk sites definition in Schedule 1.

(t) **Amends** the structure of Section 12 of the bylaw to separate out activities which are restricted from those that are prohibited, as recommended by staff.
Amends Section 16.3 of the bylaw to state “the owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that watercourse, stop bank, overland flow path or flood plain in an operational state which does not cause or contribute to nuisance which ensures the free flow of water”, to address concerns in the submission from Environment Canterbury.

Amends Section 16 to add an explanatory note to state that “the alteration or construction of works on a watercourse, overland flow path, flood plain or stop bank may require a consent from Environment Canterbury in accordance with the Canterbury Land and Water Regional Plan. Activities within the beds of lakes and rivers may be subject to rules in regional plans in accordance with Section 13 of the Resource Management Act 1991”, to clarify requirements for these features when located on private property.

Amends Schedule 1 (A) of the bylaw to state “High Risk activities and sites include sites where an activity is occurring that is described in the current version of the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List”; or ii) Any site on the Canterbury Listed Land Use Register; or iii) Any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011”, and notes the consequential change to Section 11 “Construction Activities” as outlined in recommendation (s), to narrow the scope and range of high risk activities and sites requiring an Environment Canterbury consent for operational phase stormwater discharges.

Amends Schedule 1 (B) (i) of the bylaw to state “Aggregate and material storage/stockpiled yards which are subject to erosion and/or leaching of contaminants”, to narrow the scope of activities which could be identified as medium risk in this category definition.

Approves all other consequential formatting and structure changes to the bylaw as shown in the “track changes” bylaw attached to this report.

6. DELIBERATIONS
1. SUMMARY

1.1. The purpose of this report is to update the stormwater drainage bylaw review hearing panel on submissions received on the draft Waimakariri District Council Stormwater Drainage Bylaw 2018. Submissions closed on 15 December 2017 and 10 submissions were received. Further evidence was also provided by Environment Canterbury on Friday 16 February 2018.

1.2. This report recommends several changes to the draft bylaw as a result of submissions. These changes are all shown as proposed “track changes” within the attached draft bylaw. The proposed changes are to:

- Clarify that the requirement for resource consent will be mandatory for all new operating phase stormwater discharges defined as “high risk” into a Council system

- Clarify that the requirement for Pollution Prevention Plans will be mandatory for all new operating phase stormwater discharges defined as “medium risk” into a Council system

- Clarify that consents and Pollution Prevention Plans will only be required for existing high and medium risk operating phase stormwater discharges if specifically requested by Council, to address concerns identified during sub-catchment contaminant source investigations, consent compliance monitoring or from a service request

- Reduce the scope and range of sites included in the high risk site activity definition in Schedule 1 of the bylaw, and applies the definition only to operating phase discharges

- Amend requirements for construction phase discharges into Council systems so that any construction occurring on potentially contaminated land (subject to advice from Environment Canterbury) may require an Environment Canterbury consent

- Require evidence of compliance with a Pollution Prevention Plan for a medium risk site every 3 years at the time the plan is reviewed
- Amends an objective to clarify that the bylaw is intended to assist the Council to implement its stormwater network discharge consents and assist the Council meet future consent conditions.

- Amends Section 5 relating to Acceptance of Stormwater and Land Drainage Water to clarify that this section only applies to new or altered connections to a Council system.

- Include a new reference to the “Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury” (see http://esccanterbury.co.nz/).

- Amend Section 16 to specify a requirement to avoid nuisance from management of private systems or private management of watercourses, overland flow paths, flood plains or stop banks located on private property, and removes the reference to maintaining the “free flow of water”.

1.3. There are four submitters who intend to present their submission to the hearing panel in person. The hearing of the first submission begins at 9.00am and hearing of submissions continues to 10:00am. The hearing panel can begin its deliberations on submissions following a break at 10:00am, with deliberations from 10:30am onwards.

1.4. Several of the proposed changes in this report are requested by staff. Following ongoing review of possible methods to implement the bylaw during the consultation, staff propose the following further amendments: 1) amend Section 2.3 to more clearly set out the systems and situations which are covered by the bylaw; 2) amend Section 7 to more clearly set out responsibilities for private and Council connection and discharge points and their associated maintenance; 3) amend Section 11.1 to require Council approval of any Erosion and Sediment Control Plan required for construction phase discharges into Council systems; and 4) amend Section 12 to separate those activities which are restricted and which require some form of Council written approval from activities which are prohibited. These requested changes will provide more certainty during bylaw implementation.

1.5. The bylaw is local legislation that will assist the Council to more effectively manage its stormwater and drainage networks and comply with its stormwater network discharge consent conditions. It contains a number of provisions which also protect public health and safety, including measures to help avoid contamination of waterways. The draft bylaw clearly specifies the Council’s expectations of customers that seek to discharge runoff from their properties into the stormwater or land drainage systems. It also specifies measures to protect the health of employees, contractors, the general public and the environment.

Attachments:

i. Draft bylaw with proposed changes shown as track changes (TRIM 171107120824)
ii. Submission from Te Ngai Tuahuriri Runanga (TRIM 180122004794)
iii. Submission from McAlpines Ltd (TRIM 171220138370)
iv. Submission from Edge Landscaping (TRIM 171215136577)
v. Submission from Burton Consultants on behalf of Z Energy, BP Oil and Mobil (TRIM 171215136580)
vi. Submission from Environment Canterbury (TRIM 171215136573)
vii. Submission from Rangiora Ashley Community Board (TRIM 171214136048)
viii. Submission from Woodend Sefton Community Board (TRIM 171212134932)
ix. Submission from Oxford Ohoka Community Board (TRIM 171212134931)
x. Submission From Kaiapoi Tuahiwi Community Board (TRIM 171212134930)
xii. Submission from Mandeville Residents Association (TRIM 180122004757)
xiii. Further evidence from Environment Canterbury received 16 February 2018 (TRIM 180220017300)
2. **RECOMMENDATION**

**THAT** the Stormwater Drainage Bylaw Review Hearing Panel:

(a) **Receives** report No.180119004273.

(b) **Considers** all submissions on the draft bylaw.

(c) **Confirms** it will accept and consider the further evidence provided by Environment Canterbury on Friday 16 February 2018.

(d) **Notes** that the changes recommended in this report are all shown as “track changes” in the attached draft bylaw.

(e) **Amends** Section 2.3 to state that “This bylaw applies to the following: Council stormwater systems; Council managed land drainage systems or watercourses; Privately managed stormwater systems, land drainage systems, watercourses, flood plains, overland flow paths or stop banks”, as requested by staff to clarify the scope of the bylaw.

(f) **Amends** objective 3.1 (c) to update the bylaw objective to state: “Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment”, as requested in the submission from the Oil Companies.

(g) **Amends** the definition of “Council System” to mean “a land drainage or stormwater system which is under the control of the Council. For the purposes of the bylaw, drains within New Zealand Transport Agency, Kiwirail or Environment Canterbury owned land are deemed to be part of a Council system”, to clarify that systems managed by public agencies other than the Council are viewed as “private systems” in terms of the bylaw.

(h) **Amends** the definition of “Private System” to mean “any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system. For the purposes of the bylaw, drains that are managed by the New Zealand Transport Agency, Kiwirail or Environment Canterbury are deemed to be part of a private system”, to clarify that systems managed by public agencies other than the Council are viewed as “private systems” in terms of the bylaw.

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(j) **Adds** an explanatory note to Section 5.1 to state “An altered connection refers to an increase in the quantity of, or contaminant loading within, stormwater being discharged from the site”, to assist to address concerns raised by the Oil Companies.

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(n) **Amends** Section 9.2 of the bylaw to state "The owner/occupier undertaking any existing medium risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, *if requested by the Council*, prepare and implement a site specific Pollution Prevention Plan…", as a consequential change to align the proposed approach for existing medium risk sites with the proposals for existing high risk sites.

(o) **Amends** Section 9.4 of the bylaw to require evidence of ongoing compliance with any Pollution Prevention Plan to be provided "every 3 years at the time the Plan is reviewed, or at any other time upon request of Council" as requested in the submission from McAlpines Ltd.

(p) **Amends** clause 10.1 of the bylaw to clarify that "the owner/occupier undertaking any new high risk activity on any site as defined in Schedule 1 which would discharge *either directly or indirectly* into any Council or private stormwater or land drainage system shall apply for and obtain a *any necessary* resource consent from Environment Canterbury for the discharge", to clarify that this requirement will be mandatory for all new activities on sites defined as high risk in Schedule 1, for discharges into Council systems.

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(s) **Adds** a new Section 11.3 that states “the owner/occupier undertaking a construction activity on any site which would discharge into any Council system shall apply for and obtain a resource consent from Environment Canterbury for any construction phase stormwater discharge from that site into the Council system, if requested by the Council, where that construction is on: a) any site where an activity listed in the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List” is occurring; and/or b) any site on the Canterbury Listed Land Use Register; and/or c) any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011", as a consequential change following the proposed amendment of the high risk sites definition in Schedule 1.

(t) **Amends** the structure of Section 12 of the bylaw to separate out activities which are restricted from those that are prohibited, as recommended by staff.

(u) **Amends** Section 16.3 of the bylaw to state "the owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that
watercourse, stop bank, overland flow path or flood plain in an operational state which
does not cause or contribute to nuisance which ensures the free flow of water”, to address
crains in the submission from Environment Canterbury.

(v) **Amends** Section 16 to add an explanatory note to state that “the alteration or construction
of works on a watercourse, overland flow path, flood plain or stop bank may require a
consent from Environment Canterbury in accordance with the Canterbury Land and Water
Regional Plan. Activities within the beds of lakes and rivers may be subject to rules in
regional plans in accordance with Section 13 of the Resource Management Act 1991”, to
clarify requirements for these features when located on private property.

(w) **Amends** Schedule 1 (A) of the bylaw to state “High Risk activities and sites include sites
where an activity is occurring that is described in the current version of the Canterbury
Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List”; or
ii) Any site on the Canterbury Listed Land Use Register; or iii) Any new development site,
or re-development of an existing site, that is not permitted under the Resource
Management (National Environmental Standard for Assessing and Managing
Contaminants in Soil to Protect Human Health) Regulations 2011; and notes the
consequential change to Section 11 “Construction Activities” as outlined in
recommendation (s), to narrow the scope and range of high risk activities and sites
requiring an Environment Canterbury consent for operational phase stormwater
discharges.

(x) **Amends** Schedule 1 (B) (i) of the bylaw to state “Aggregate and material
storage/stockpiled yards which are subject to erosion and/or leaching of contaminants”, to
narrow the scope of activities which could be identified as medium risk in this category
definition.

(y) **Approves** all other consequential formatting and structure changes to the bylaw as shown
in the “track changes” bylaw attached to this report.

3. **ISSUES AND OPTIONS**

3.1. The Council is updating the 2011 Stormwater Bylaw and is now reviewing results of public
consultation on its revised Stormwater Drainage Bylaw 2018 using the Special
Consultative Procedure. The Local Government Act 2002, Section 160, provides for the
use of the Special Consultative Procedure outlined in Section 83 to review and amend the
bylaw. Once consultation is complete the hearing panel will recommend the bylaw to the
Council for approval. Once adopted by Council the 2018 version will replace the
Stormwater Bylaw 2011.

3.2. Prior to the establishment of the Stormwater Bylaw in 2011 there was no local legislation
in place to control the quality of stormwater discharges into the Council’s reticulation or
receiving environment. The bylaw has been developed for the primary purpose of
protecting public health and safety, and improving the quality of the environment.

3.3. The draft bylaw as publicly consulted is substantially revised from the existing 2011
version. Some key proposed changes shown between the 2011 and 2018 versions are:

- Extending the existing bylaw to cover rural land drainage systems as well as urban
  reticulated stormwater systems
- Clarifying the provisions for acceptance of stormwater and land drainage water into a
  Council system
- Extending the provisions for pollution prevention plans throughout the District to better
  manage discharge of contaminants into Council systems from medium risk activities /
  sites, at or from source
• Extending the requirement for high risk activities / sites throughout the District to obtain Environment Canterbury consent for discharges that enter a water body via a Council system

• Some provisions to extend the bylaw to private systems and activities on private property

• Provisions to prevent interference with Council systems

• Provisions to avoid damage from excessive use of herbicide, or from stock or vehicle access to watercourses managed by the Council

• Requirement for private owners/occupiers to maintain private systems, watercourses, overland flow paths and floodplains in good operating condition and to avoid nuisance

3.4 These proposed revisions will protect the public infrastructure investment by controlling access to reticulation and facilities and requiring approval for any works on Council systems. In addition, the bylaw protects the public from flood hazard through “avoiding nuisance” associated with activities around watercourses, overland flow paths or flood plains. It protects the environment by specifying provisions to avoid contaminants from discharging into or from the stormwater or land drainage systems.

3.5 The 2018 version of the bylaw has been drafted to seek to respond to common issues experienced during the ongoing operation and maintenance of the Council’s stormwater and land drainage systems. These include avoiding activities which interfere with Council systems or watercourses managed by the Council, such as vehicle or stock damage or excess spraying of open drains.

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

3.7 The proposals within the draft bylaw are intended to assist the Council to implement its stormwater network discharge consents which it is required to obtain under provisions of the Canterbury Land and Water Regional Plan (CLWRP). Consent applications for existing stormwater discharges from the District’s urban reticulated stormwater systems are currently being prepared and are required to be lodged with Environment Canterbury by 30 June 2018.

3.8 Policy 4.16A of the CLWRP requires the Council to account for and assume responsibility for the quality and quantity of all stormwater discharged from its reticulated stormwater systems by 2025. This includes management of discharges into the Council stormwater systems from high risk activities or sites. This bylaw gives effect to the policy, in part, by providing avenues for the Council to assume responsibility for medium risk activity / site discharges into its networks. The Council’s approach to accounting for and assuming responsibility for the high risk discharges is to specify its requirements (including some properties to be required to obtain the Environment Canterbury consent) to be met in order for Council to approve a discharge into its systems.

3.9 The 2018 version as consulted indicates that the Council prefers that Environment Canterbury retain the responsibility for consenting high risk discharges, whether into Council stormwater systems or directly into the receiving environment. There is some comment on this approach within the attached submissions. These comments are discussed and further options proposed for the panel to consider in the table below.
3.10 Summary and Recommendations on Submissions

3.11 The following table outlines the content of each submission received during the consultation. It also includes a staff recommendation for confirmation or amendment by the hearing panel. There is also a "track changes" version of the draft 2018 bylaw attached to this report for review by the panel.

3.12 The hearing panel is asked to review the original submissions and following table including summary of submissions and staff recommendations. The panel can also review the proposed changes to the bylaw in the track changes attached version and direct staff to make any further changes to give effect to submissions. The hearing panel can then confirm a version of the 2018 bylaw that it wishes to recommend to the Council for adoption.
## Summary of Submissions and Staff Recommendations

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<thead>
<tr>
<th>Submitter</th>
<th>Point of Submission</th>
<th>Staff Recommendation</th>
<th>Proposed Change to Bylaw</th>
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<tbody>
<tr>
<td>Community Board – Kaiapoi Tuahiwi</td>
<td>The Board supports the draft Stormwater Drainage Bylaw. The Board believes the bylaw proposals are clear and well thought through. The Board would also wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw.</td>
<td>Acknowledges the Community Board submissions. Staff are preparing a full page newspaper advertisement / flier with guidance for industry and the general public on how to prevent contaminants from private properties and activities from entering the stormwater systems which then discharge into local waterways.</td>
<td>No change is proposed.</td>
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<td>Community Board – Oxford Ohoka</td>
<td>The Board is supportive of the draft bylaw and believe the proposal is heading in the right direction to support ongoing improvement of our waterways. Furthermore the board thanks staff for the very informative presentation and briefing on 30 November 2017. The Board would wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties and Drainage Advisory Committees that may be affected by the proposed bylaw. The Board also emphasise the importance of early communication and engagement with stakeholders at the formative stages of any bylaw.</td>
<td>Staff are likely to publish the advertisement once the bylaw is adopted. This will assist with implementation and public awareness of impacts of private activities on waterways. Staff will also explore opportunities to publish this flier on the website and make it available at service centres and libraries. More specific proposals will arise in future years which will be required to implement the bylaw. Affected properties will be further consulted at that time. The draft bylaw was circulated to members of the Drainage Advisory Groups during the consultation period. The Council will continue to work with the</td>
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<td>Community Board- Rangiora Ashley</td>
<td>The Board supports the draft bylaw and thanks staff for the very informative presentation on 30 November 2017. The Board believes that the bylaw proposals are clear and well thought through. Vigilance and the ability to rectify problems quickly will be important if the intent of the bylaw is to be achieved. The need for appropriate and responsive enforcement action will be a key factor. The Board would also wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw. The Board also notes the engagement of staff with the Drainage Advisory Boards and that this is also extremely important so as to alleviate any concerns or queries going forward and also achieve compliance.</td>
<td>Groups on implementing aspects of the bylaw within each drainage rating area.</td>
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<tr>
<td>Community Board – Woodend Sefton</td>
<td>Thanks staff for the very informative presentation and briefing on 30 November. The Board would wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw.</td>
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<td>Edge Landscape Projects Ltd</td>
<td><strong>Support of Bylaw</strong></td>
<td>On the whole I think this bylaw will help achieve its aims of meeting the requirements of the Canterbury Land and Water Regional Plan (CLWRP) and National Policy Statement for Freshwater Management (NPSFM) 2014.</td>
<td>Thanks the submitter for supporting the intent of the bylaw.</td>
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<td>Internationally Accepted “Systems” Approach</td>
<td>I would like the Council to adopt an internationally accepted “systems” approach to Rural and Urban Drainage Management that is sustainable, flexible and adapted to our local situation.</td>
<td>No change is proposed.</td>
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<tr>
<td>Edge Landscape Projects Ltd</td>
<td><strong>Sub-catchment Management Plans</strong></td>
<td>In my opinion, sub-catchment management plans and Stormwater Plans are going to be the most valuable tools in providing some certainty for the community and agencies in achieving an integrated approach to landscape and water management.</td>
<td>Acknowledges the submission and notes that the WDC is preparing “Interim” Stormwater Management Plans to address quality and quantity issues for discharges from urban reticulated stormwater systems. The WDC will also prepare more comprehensive (future) Stormwater Management Plans by 2025 to develop more systematic approaches and programmes to improve stormwater discharge quality, with $20 million budgeted for future</td>
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<td>implementation from 2025 to 2035/40. Environment Canterbury are understood to be responsible for developing sub-catchment management plans for integrated management of the receiving environment, including urban and rural waterways and aquatic ecosystems.</td>
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<td>Edge Landscape Projects</td>
<td>Definitions</td>
<td>One major area of work required is to identify and map all waterways (modified and natural) and land drains. I am concerned that natural spring fed waterways continue to be managed for their drainage function at the expense of ecological, cultural, recreational and amenity values.</td>
<td>No change is proposed.</td>
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<td>Acknowledges the submission. The proposed comprehensive mapping project for all waterways is outside the scope of the Stormwater Drainage Bylaw 2018.</td>
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<tr>
<td>Edge Landscape Projects</td>
<td>Resourcing and Funding</td>
<td>The Council needs to allocate sufficient resources and funding for the development of sub-catchment and stormwater plans.</td>
<td>No change is proposed.</td>
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<td>The Council is currently consulting through the Long Term Plan 2018 to 2028 about its current role and funding commitments for managing waterways. It is consulting the community about whether additional funding should be provided for it to become more extensively involved in this work.</td>
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<td>Climate Change Impacts</td>
<td>Climate change impacts on the District will be significant and pressures to deliver on creative waterway management strategies will become increasingly important to not only protect property but also help lessen future asset burdens for the community.</td>
<td>No change is proposed.</td>
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<td>Acknowledges the submission. As noted above, the Council is consulting its involvement in waterway management through the Long Term Plan.</td>
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Environment Canterbury support use of these plans for medium risk sites and would also encourage their use for high risk sites.

There is an opportunity to link the requirements of PPP’s to the limits placed on future resource consents for discharges from Council networks to the environment.

Staff welcome support for the roll out of a pollution prevention plan (PPP) process for non-complying medium risk sites in the District.

WDC does not intend to require PPP’s for high risk sites, as they are not considered to be adequate. It would like these to continue to be separately consented by Environment Canterbury. The Council also clarifies that it will not request an existing “high risk” site owner or activity to obtain an Environment Canterbury consent unless a specific issue with the discharge is identified.

The Council will be implementing PPP’s in coming years for non-complying medium risk sites. It will seek to align the requirements within each PPP with the resource consent conditions for the stormwater network discharges, once the limits are known.

Staff propose to make the Pollution Prevention Plan process mandatory only for new medium risk sites and activities. It is proposed that Council, at its discretion, will decide whether to request the PPP for non-complying discharges from existing medium risk sites. This would be in response to an issue identified with the management of the site’s stormwater discharges through issues reported via service requests or through the Council’s contaminant source sub-catchment investigations that will be required as a part of implementing its stormwater network discharge consents.

No change is proposed.
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<tr>
<td>Environment Canterbury</td>
<td><strong>Timing of Review</strong></td>
<td>Acknowledges the submission but notes staff do not support a delay in the bylaw review timeframe. This is because the processing timeframe for the network consents is uncertain, with delays possible to and beyond 1 October 2018. The 2011 bylaw will be revoked on 1 October 2018 if the revised bylaw is not confirmed by that date. The Council would then be left with no protection from contaminant discharges into its systems until the revised bylaw was adopted. The bylaw requires all discharges into its systems to meet all operative consent conditions. Staff are simultaneously preparing the Stormwater Drainage Bylaw 2018 report for the hearing panel whilst completing the lodgement process for the Rangiora stormwater network discharge consent application, which will form a template for the stormwater network management agreements to be rolled out across the other towns. The bylaw is able to be easily reviewed in future years if changes are needed to align it with the network consent conditions.</td>
<td>No change is proposed.</td>
</tr>
<tr>
<td>Environment Canterbury</td>
<td><strong>High Risk Activities</strong></td>
<td>Staff note that, notwithstanding the recommendations in the Environment Canterbury submission, the consenting of high risk site discharges into Council systems is legally able to continue to be undertaken by Environment Canterbury. It is also noted that Environment Canterbury indicate in their submission that a resource consent for discharge into a reticulated stormwater system should be required from Environment Canterbury in exceptional circumstances. See following revisions shown as track changes in attached revised bylaw, as recommended by staff: <strong>Section 9.2:</strong> “The owner/occupier undertaking any existing medium risk activity on any site as defined in Schedule 1 and that connects to a Council...”</td>
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network consent and bylaw provisions could be provided on a "case by case" basis. The bylaw requirement is considered onerous as some high risk sites may have previous soil contamination analysis undertaken that demonstrates contaminants below background concentrations. The submission notes, with regard to some of the sites identified as "High Risk", the requirement for consent from ECan is likely to be excessive.

To provide a more flexible approach the Council could consider obtaining third party advice to approve or certify that potential high risk sites are applying appropriate stormwater treatment mitigations and management within the site. If certification was provided then the owner would not need to apply for resource consent from Environment Canterbury. A cost recovery mechanism could be considered within the bylaw to explore such approval and certification using LGA s150. This may be less expensive for an applicant than proceeding with an ECan consent.

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<td>network consent and bylaw provisions could be provided on a &quot;case by case&quot; basis. The bylaw requirement is considered onerous as some high risk sites may have previous soil contamination analysis undertaken that demonstrates contaminants below background concentrations. The submission notes, with regard to some of the sites identified as &quot;High Risk&quot;, the requirement for consent from ECan is likely to be excessive.</td>
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Staff note Environment Canterbury has the in-house expertise, legal mechanisms, resources and access to the most effective enforcement options to enable it to best manage and enforce the requirements for high risk sites and for potentially contaminated land.

Staff recommend that Council continues to refer high risk sites to Environment Canterbury for consenting. This is the current approach and is consistent with sites that discharge directly into the receiving environment.

However, staff propose a change to the definition of high risk sites in Schedule 1 to reduce the scope and range of sites that will require consent for operational discharges. This should go some way to addressing concerns in the Environment Canterbury submission.

This change would include removing the reference in Schedule 1 (A) to: a) sites on the Listed Land Use Register; and b) sites not permitted to be developed or redeveloped under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011…". These would instead be referenced in Section 11 and apply only to the identification of potentially contaminated land.

Staff also recommend the high risk site definition in Schedule 1 (A) is applied only to "Operating Phase" stormwater discharges (applied via Section 10) and not to "Construction Phase" discharges from potentially contaminated land (applied via Section 11).
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<td>Staff have already extensively reviewed and shortened the list of activities considered to be high risk from the Schedule 3 &quot;Hazardous Industries and Activities List&quot; of the Canterbury Land and Water Regional Plan, referenced in Schedule 1 (A). Staff have reclassified a number of “high risk” activities as “medium risk” to reduce the scope of activities that will be considered to be “high risk” as included in the draft bylaw. Subsequent changes to the Construction Activities Section 11 are proposed, as some construction phase stormwater discharges from potentially contaminated land may also require resource consent from Environment Canterbury, though no longer defined as “high risk” sites. Staff support an Environment Canterbury proposal to provide advice about construction activities on potentially contaminated sites where it considers the risks to the stormwater systems and receiving environment are less significant. This advice could allow the Council to potentially reclassify a construction phase discharge on potentially contaminated land under Section 11 as “low risk” in accordance with detailed advice received from Environment Canterbury. That would enable Council to accept the construction phase discharge into its network without an Environment Canterbury consent. Staff have recently been made aware that Christchurch City Council have developed a memorandum of understanding (MOU) with Environment Canterbury regarding providing similar advice and it is proposed that a MOU is also developed.</td>
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<td>Water Regional Plan Schedule 3 “Hazardous Industries and Activities List” is occurring; and/or b) Any site on the Canterbury Listed Land Use Register; and/or c) Any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. Schedule 1 (A): &quot;A) High Risk activities and sites include sites where an activity is occurring that is described in the current version of the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List”, unless any such activity or site is specifically identified as “medium risk” in Schedule 1 of this bylaw.&quot;</td>
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<td>between Waimakariri District Council and Environment Canterbury. A further longer term option available to Council, through its leadership role within the Canterbury Regional Stormwater Forum, is to investigate the establishment of a shared services arrangement to provide independent certification, advice, monitoring, compliance and enforcement services for high risk sites on behalf of all territorial local authorities in Canterbury. Enforcement would be directly under RMA S15 rather than under the stormwater bylaws.</td>
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<tr>
<td>Environment Canterbury</td>
<td>Network Utility Drains</td>
<td>Acknowledges the submission. Staff recommend the Stormwater Drainage Bylaw 2018 “Private System Maintenance” requirements of Section 16 should apply to Environment Canterbury flood protection and flood control works in a similar way to other privately managed systems. The bylaw requires private systems to be maintained in an operational state to avoid nuisance. Staff recommend that the Environment Canterbury flood protection and flood control works, including major drainage networks are redefined as “private systems” (previously defined as “Council systems”) for the purposes of this bylaw, so that the requirement to operate these systems to avoid nuisance will apply. This will assist the Council to consistently apply the bylaw in situations where an issue arises in managing the interface between Environment Canterbury and other private systems which have downstream impacts on Council systems, other private properties or which affect the receiving environment.</td>
<td>Amends the bylaw definitions for “Council system” and “Private system”, to clarify that “drains that are managed by the New Zealand Transport Agency, Kiwirail or Environment Canterbury are deemed to be part of a private system”.</td>
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Environment Canterbury would prefer that the Stormwater Drainage Bylaw 2018 does not apply to network utility drains which are covered by the ECan Flood Protection and Drainage Bylaw 2013, to avoid unnecessary duplication. An explanatory note to this effect is recommended to be added within the bylaw Section 2.3.
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|Environment Canterbury| **Private System Maintenance**<br>The submission notes that there may be future opportunities to enhance areas with overland flows or flood plains by providing future stormwater treatment or soakage facilities and these opportunities may be prevented by Section 16.3 of the bylaw. It recommends deletion of clause 16.3, as the avoidance of nuisance from these systems would be covered in clause 16.2.| Staff have reviewed the proposed bylaw and do not see any situation where duplication with Environment Canterbury's Flood Protection and Drainage Bylaw 2013 will occur, noting that only Section 16 of the bylaw would apply. Agrees with the submission and amends Section 16 to clarify that private maintenance of watercourses, overland flow paths, stop banks or flood plains must be operated to avoid nuisance rather than to “ensure the free flow of water”. Staff recommend deleting the reference to “free flow of water”.<br>The requested change will provide future opportunities for enhancement including enabling additional stormwater treatment, wetland development or retention areas which would have been prevented by the original requirements of clause 16.3.| Amends clause 16.3 to state:<br>“The owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that watercourse, stop bank, overland flow path or flood plain in an operational state which does not cause or contribute to nuisance”.<br>Adds an explanatory note to Section 16 to state that:<br>“the alteration or construction of works on a watercourse, overland flow path, flood plain or stop bank may require a consent from Environment Canterbury in accordance with the Canterbury Land and Water Regional Plan. Activities within the beds of lakes and rivers may be subject to rules in regional plans in accordance with Section 13 of the Resource Management Act 1991”.}
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| Environment Canterbury | **Erosion and Sediment Control Plan**                                               | Agrees with the submission and adds the recommended new toolbox reference to the bylaw. | Amends the bylaw Section 6.1 (g), Section 9.3.3, Section 11.2 and definitions to reference the updated toolbox. For instance, Section 11.2 be amended to state:  
   “The Erosion and Sediment Control Plan required under clause 11.1 must be prepared and implemented in accordance with the current version of the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury”. |
<p>| Environment Canterbury | <strong>Title</strong>                                                                            | Acknowledges the submission but does not support any change to the bylaw title. The title Stormwater Drainage Bylaw 2018 title intends to encompass a wide range of activities including management of watercourses and avoidance of effects on the receiving environment. This full range of bylaw activities are not captured within either of the definitions for “stormwater” or “land drainage”. | No change is proposed. |
| Environment Canterbury | <strong>Buried Services</strong>                                                                  | Agrees with the submission but notes this request may be better addressed outside the scope of the bylaw as it applies to more than just stormwater or Council owned assets. This requirement could be included in any authority or resource consent issued under Environment | No change is proposed. |</p>
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<td>Mandeville Residents Association</td>
<td>services. If and where these services or systems are located nearby Environment Canterbury assets or are discharging into the Environment Canterbury network, we would ask that their location is identified by marker posts.</td>
<td>Canterbury’s Flood Protection and Drainage Bylaw 2013 for works near Environment Canterbury assets.</td>
<td>No change is proposed.</td>
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<td></td>
<td><strong>New Development Requirements</strong></td>
<td>The amended new Section 6 of the bylaw now sets out the various stormwater drainage design standards and other requirements for drainage systems for new development areas. This is a new section of the bylaw, updated from the 2011 version to provide a full reference for developers on best practice design standards and requirements for drainage systems in new developments. The Engineering Code of Practice states that post-development peak flows for all intensity events shall be less than pre-development flows. Flows are required to be retained within basins in new development areas until the discharges to surface water quantities (if any) match or are less than the pre-development flows. Effects of surface water flows on groundwater recharge rates are also required to be assessed through consent processes for new stormwater infrastructure. The Council has included a new operating allowance of $150,000 per year within the flood response budget, in the Long Term Plan 2018 to 2028. This rate would be charged to all the District’s properties, averaging $6 per property per year and will be used to deal with areas that are not currently in a drainage rated area that contribute to downstream issues in a flood event.</td>
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<td>Mandeville Residents Association</td>
<td>2011 Bylaw: Include Objectives</td>
<td>Acknowledges the submission. Staff do not support the requested change to this section. The intent and meaning of the proposed Objectives in the 2018 bylaw are considered to be the same as those requested to replace them from the 2011 bylaw. The 2018 version has updated references to standards, plans and terminology. See comparison: Objectives: 2018 3.1 The purpose of the bylaw is to provide a mechanism to control the discharge of contaminants into public drains. a) Control the discharge of contaminants into any Council stormwater system or land drainage system; c) Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment;</td>
<td>No change is proposed.</td>
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<tr>
<td>Mandeville Residents Association</td>
<td>2011 Bylaw: Include Construction</td>
<td>Acknowledges the submission. Staff do not support the requested change to this section. The intent and meaning of the “construction activities” section in the 2018 bylaw is considered to be the same as that requested to replace it from the 2011 bylaw. The 2018 version has updated references to standards, plans and terminology. See comparisons: Construction Activities: 2018</td>
<td>No change is proposed.</td>
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<td>5.1 Any person who carries out any earthworks as defined in the District Plan related to either construction activity or development, which may lead to stormwater run-off into public drains, and which is contaminated with soil particles or causes water to scour the soil, shall ensure that erosion and sediment control activities are implemented in accordance with good practice as described in Environment Canterbury’s Erosion and Sediment Control Guideline 2007.</td>
<td>11.1 An Erosion and Sediment Control Plan must be prepared and implemented by the owner/occupier of any premises where construction activities are occurring where there is a discharge, either directly or indirectly, into any Council system.</td>
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<td>11.2 The Erosion and Sediment Control Plan required under clause 11.1 must be prepared and implemented in accordance with the current version of the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury.</td>
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<td>Mandeville Residents Association</td>
<td>2011 Bylaw: Include Minimum Quality Standard:</td>
<td>Acknowledges the submission. Staff do not support the requested change to this section. The definition of contaminant in the proposed 2018 bylaw and its application as proposed in Section 8 are intended to prevent discharge of any form of contaminant whatsoever into any Council system. This is described below.</td>
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<td>Include Minimum Stormwater Quality: 2011</td>
<td>Section 4: Definitions “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:</td>
<td>No change is proposed.</td>
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<td>6.1 The owner/occupier of any land or any person causing a discharge to the Council’s stormwater system, including any discharge from a private drain or private common drain that in turn discharges to a public drain, shall ensure that it does not;</td>
<td>a. when discharged into water, changes, or is likely to change the physical, chemical, or biological condition of the water into which it is discharged, or</td>
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<td>a. contain any chemicals in quantities sufficient to be toxic to aquatic plants and animals, paint, oil, grease, pesticides, fertiliser, tannins, detergent, grass clippings, rubbish, litter, or heavy metals, or</td>
<td>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.</td>
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<td>b. cause the production of conspicuous oil or grease films, scums or foams, or floatable material, or</td>
<td>c. cause a conspicuous change of colour or visual clarity, at that point which is 30 times</td>
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<td>the receiving drain channel’s width downstream from the point of discharge into the public drain, or d. cause an emission of objectionable odour, or e. cause adverse effects on aquatic life, or f. contain suspended solid concentrations in excess of 100mg/litre at that point which is 30 times the receiving drain channel’s width downstream from the point of discharge into the public drain, or g. contain any hazardous substances, waste water or trade wastes. except where the discharge: h. is a discharge of dye or tracer material for investigative purposes, or i. is a discharge of water from the testing or emptying of pipelines, tanks or bunds where potable or stream water has been used, and no welding residues, disinfection chemicals or other chemical contaminants contained within the pipeline will be discharged to the receiving water body, or j. is a discharge of overflow bore water to surface water bodies, if the rate of discharge is no more than five litres per second and the discharge has not been contaminated prior to discharge, or k. is a discharge from a swimming pool (excluding swimming pool filter backwash water) which is free of chemicals, algae, leaves, dirt or other debris. (Any discharge with these contaminants must be discharged to the sewerage system.) Swimming pool water is considered free of chemical contaminants when a pool has been left open.</td>
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<td>Staff Recommendation</td>
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<td>Section 8:</td>
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<td>8.1 No person or premises may discharge directly or indirectly a contaminant into a Council system, including by way of private system to a Council system, if the discharge is likely to cause nuisance or adversely affect the operation of the system or receiving environment, including having an adverse effect on aquatic life, unless the discharge is approved by the Council or is expressly authorised by an operative resource consent.</td>
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<td>Explanatory note: Contaminants as defined in Section 4 of this bylaw include (but are not limited to) sediment, concrete, cement slurry, sewage, effluent, solvents, soap, detergents, dissolved metal, hazardous material, fungicide, insecticide, litter and green waste.</td>
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<td>8.2 The Council may require premises that do not comply with clause 8.1 to implement the following controls:</td>
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<td>a. The modification of the premises to reduce or avoid the discharge of the contaminant; b. The installation and use of treatment and mitigation measures or devices; c. The proactive maintenance of the private system, including the provision of and compliance with a site specific management plan approved by Council.</td>
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<td>8.3 Any owner, occupier or person who is present on a premises subject to a control made under clause 8.2 must comply with that control.</td>
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| Mandeville Residents Association | 2011 Bylaw: Include Schedule 1 – Moderate risk sites: 2011  
Replace all of the Medium Risk activities in the 2018 version with those in B (a) (b) and (c) points (i) to (xiv) from the 2011 version. | Acknowledges the submission. Staff do not support this requested change as the 2018 version has been developed to align its definition of high risk activities with the CLWRP HAIL list.  
The 2018 Schedule 1 now identifies potential medium risk sites as those that do not require on-site pre-treatment systems prior to discharge such as laboratories, engine reconditioning workshops, motor | No change is proposed. |
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<td>Mandeville Residents Association</td>
<td>Amend bylaw application</td>
<td>Acknowledges the submission. It seems the submission asks for the bylaw to apply to “Council” as well as private activities affecting watercourses, flood plains, overland flow paths or the receiving environment. The Council has its own various operating and management / regulatory responsibilities and requirements with respect to its management of watercourses, flood plains, overland flows and receiving environment. Many of these are in operating procedures or its Code of Practice and are not specified within the bylaw. The Council developed the bylaw to assist it to manage private activities which affect these features. It is not clear what the requested change would achieve.</td>
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Medium risk sites would usually be activities undertaken inside buildings where any discharges associated with the activity are unlikely to enter the stormwater system. The 2018 version is considered to better reflect actual risks posed by each type of activity in accordance with common site practices for that activity. The stated requirements for pollution prevention plans / ECans consents is now better targeted to the risks posed by each type of activity.

No change is proposed.
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<td>McAlpines Ltd</td>
<td><strong>1) Introduction</strong> – Include a preamble explaining the bylaw is required to assist the Council obtain and implement its stormwater network discharge consents.</td>
<td>Agrees with the submission but notes that the scope of the bylaw covers more than solely stormwater network discharges. The bylaw is not required but will assist the Council to implement its Stormwater Network Discharge Consents and will provide a method for the Council to comply with its consent conditions.</td>
<td>The change to objective 3.1c as set out below is considered adequate: “Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment;”</td>
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<tr>
<td>McAlpines Ltd</td>
<td><strong>2) Contaminants</strong> - See Points (4) (a) (vi) and point (8.1) Amend the definition of “contaminant” so that it reflects limits likely to be in the stormwater network consents, by way of attached schedule. The schedule does not necessarily have to have any limits [upon date of bylaw adoption].</td>
<td>Acknowledges this submission. Staff do not support the suggested change to the definition of “contaminant” as currently proposed within the bylaw. An explanatory note is included in the bylaw so that its intent and application can be understood by the public. The definition as proposed is necessary to ensure that any form of discharge whatsoever from private property that is found to contaminate the stormwater or drainage water can be addressed through the bylaw, not just those contaminants on a pre-determined list. The Council is responsible under the network consents for every contaminated discharge that enters the stormwater system from any private property. Using a schedule instead of a broad definition is not supported as it would limit Council to only preventing discharge of substances into the networks that are specifically</td>
<td>No change is proposed.</td>
</tr>
<tr>
<td>McAlpines Ltd</td>
<td>3) System Capacity – the clause 5.2 implies that if the Council has not planned for an adequate drainage capacity then the potential connectors cannot join and discharge into the network. Amend 5.2 to reflect that sometimes the Council’s network has insufficient capacity and that the Council will provide potential connectors with a timetable for the service to be available.</td>
<td>Acknowledges the submission. Staff do not support the suggested change as the onus is on developers and new applicants seeking to connect to the stormwater networks to manage and attenuate their flows and provide any necessary upgrades so that there is no adverse effect on existing connections. The Council does not expect existing ratepayers to programme and fund an oversizing of their existing networks so as to accommodate future growth. The Council will undertake any necessary capacity upgrades in conjunction with developer/s and any timetable will depend on financial contributions received from developers and the speed/rate of new development.</td>
<td>No change is proposed.</td>
</tr>
<tr>
<td>McAlpines Ltd</td>
<td>4) Global Consents Reference – clause 6 should reference the global consents</td>
<td>Agrees and notes the global consents are already referenced in clause 6.1 (h) which states that any proposed new stormwater or land drainage system and any proposed alteration to any existing system must be designed, constructed and operated in accordance with</td>
<td>No change is proposed.</td>
</tr>
<tr>
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<tr>
<td>McAlpines Ltd</td>
<td>4) Pollution Prevention Plans – the requirement to provide evidence of compliance with a Pollution Prevention Plan is too vague. Landowners require certainty over what is required and some will not do anything unless they are required to provide concrete evidence. Recommends amending clause 9.4 to require evidence to be submitted every, say five years.</td>
<td>Agrees and recommends that evidence be provided of Pollution Prevention Plan implementation during each 3 yearly PPP review, as part of review process.</td>
<td>Amends clause 9.4 to require that evidence of compliance “shall be provided to the Council every 3 years at the time the Plan is reviewed, or at any other time upon request of Council”.</td>
</tr>
<tr>
<td>McAlpines Ltd</td>
<td>5) Vehicle Crossings – It is assumed that approval to construct a vehicle crossing over a watercourse will be dealt with as part of a Vehicle Crossing application, and not require a separate application.</td>
<td>Agrees and confirms that approval to cross a watercourse will require a Vehicle Crossing Permit (e.g. resource consent) if located within the road reserve. Separate approval will be required for crossings not located within the road reserve. It is also noted that resource consent may still be required from Environment Canterbury for the works. The bylaw creates controls for the Council to be able to address illegal drain crossing structures. Usual action is to direct an applicant to obtain all necessary permits for any crossing of a waterway and to require removal of any non-complying structure if required under the bylaw.</td>
<td>No change is proposed.</td>
</tr>
<tr>
<td>Burton Consultants on behalf of the “Oil Companies” comprising Z Energy, BP Oil NZ</td>
<td>High Risk Sites - The submission seeks to ensure that where ECan is providing consent to high risk sites that there is no duplication in</td>
<td>Staff acknowledge concerns raised in the submission but do not support the associated “relief sought” from the applicant.</td>
<td>Amend clause 10.2 to state: 10.2 The owner / occupier undertaking an existing high risk activity on any site as defined in</td>
</tr>
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</table>

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Submitter: Ltd and Mobil Oil NZ Ltd

Point of Submission:

relation to the Council controlling the quality of the inputs through the bylaw.

Clause 10.3 effectively allows Waimakariri District Council to impose any range/type of conditions in regards to water quality and quantity via clauses 6.3 and 6.4.

The Oil Company submission considers these requirements to be repugnant to the law and unreasonable, as water quality aspects of a discharge are regulated by ECan through the consent process, as intended through the Stormwater Drainage Bylaw clauses 10.1 and 10.2 consenting requirements for high risk sites.

The WDC bylaw as set out would also render the regional resource consent process redundant.

Amendments to Section 10 of the bylaw are therefore required in order to clarify that discharges from high risk sites / activities shall only comply with the bylaw in so far as it relates to the quantity of the discharge. The submitter seeks relief 3.1 (a) (i) (2.5) of:

“Any consented discharge shall not be required to comply with the requirements of the bylaw in regards to the quality of the discharge” and 3.1 (a) (ii) of:

Staff Recommendation:

Instead, staff recommend an amendment to Section 10.2 of the bylaw to clarify that a requirement for an Environment Canterbury consent will not be mandatory for existing high risk sites, but will only be requested by the Council if a particular issue is identified with the discharge during sub-catchment contaminant source modelling, consent compliance monitoring or via a service request.

The submitter considers clauses 6.3 and 6.4 are unreasonable to apply to “high risk” discharges if these are also subject to separate resource consent from ECan. This is because the WDC will be an “affected party” and legally it cannot use the bylaw to require its own conditions using its “affected party” status within the RMA consent process.

Staff propose to address this concern through an amendment to clause 6.3 which would narrow the circumstances in which it would apply to site redevelopments or existing discharges. This clause would only be applied if necessary to assist the Council meet its consent conditions.

In addition, this clause would only apply if activities and discharges within a property are not subject to specific alterations or upgrades already imposed through a separate Environment Canterbury consent. The clause would allow the Council to consider the wider implications for its network associated with a range of activities and contaminants generated across an entire site. It is possible that Environment Canterbury high risk site consents would only control activities and

Proposed Change to Bylaw:

Schedule 1 which causes a discharge, either directly or indirectly, into any Council system shall, if requested by Council: a) apply for and obtain a resource consent from Environment Canterbury for the discharge...

Amend Clause 6.3 to state:

6.3 “For sites being re-developed, Council may require retrofit stormwater mitigation and/or implementation of site specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas, in order for Council to comply with consent conditions which control the quality or quantity of discharges from any Council system into the receiving environment”.

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<tr>
<td>Oil Companies</td>
<td>Interface between draft bylaw and Canterbury Land and Water Regional Plan</td>
<td>discharges from a certain part of a site but not for an entire site or range of activities. Likewise, clause 6.4 is not intended to be imposed on an existing site unless, in a manner similar to clause 6.3, the Council needed to require such a change to meet a consent condition. The relief sought by the Oil Companies is not considered appropriate, as it would remove the need for the high risk site discharges to comply with Section 8 rules to prevent discharge of contaminants. Under Section 8 the discharge of a contaminant from a high risk site into the Council system could be authorised by an operative privately held consent. If the high risk discharge was subsequently found to contain a different contaminant not approved for discharge through that consent, and if the relief sought was granted, then the bylaw provisions for water quality in Section 8 would not apply and the Council would be liable for the contaminant. It is prudent that Section 8 continues to apply to all discharges, including contaminant discharges from high risk sites. This section provides the Council with management options in the event the discharges from the high risk site do not meet the privately held consent conditions or are of other substances not anticipated in that consent.</td>
<td>Acknowledges the submission and notes that the approach the WDC is proposing as outlined in the bylaw is to require high risk site owners to continue to obtain See above.</td>
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“Any consented discharge under clauses 10.1 and 10.2 shall not be required to comply with the requirements of the bylaw in regards to the quality of the discharge, including the need to submit a pollution prevention plan”. In addition the submitter asks that any concerns WDC may have as an affected party via the RMA process should be limited to capacity and/or effects on the integrity of the network only.
Policy 4.16A of the CLWRP states that "operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to, and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity for all stormwater discharged from that reticulated system".

The relief sought (3.1) (a) (iii) is:

"Where Waimakariri District Council is required to provide approval as an affected party to any regional resource consent to discharge into the stormwater network concerns will be limited to the effects on the capacity and integrity of the network and not the quality of the discharge".

And 3.1 (a) (iv):

"The bylaw will be reviewed in 2023. Consistency with the Environment Canterbury Land and Water Plan will be achieved to ensure that there is a consenting pathway for high risk sites within the Waimakariri District".

Staff Recommendation

ECan consents for these discharges into its networks. ECan has the appropriate technical expertise, resources and most effective enforcement infringement powers under RMA Section 15 to implement the controls for quality of discharges from high risk sites. Staff do not consider the relief sought (e.g. exclude Council’s ability to consider the quality of the discharge through the RMA consent process, or review of the bylaw by 2023) to be appropriate. The current consenting pathway for high risk sites can be modified so that it can usefully continue to be applied to effectively manage discharges from high risk sites.

Proposed Change to Bylaw

ECan consents for these discharges into its networks. ECan has the appropriate technical expertise, resources and most effective enforcement infringement powers under RMA Section 15 to implement the controls for quality of discharges from high risk sites. Staff do not consider the relief sought (e.g. exclude Council’s ability to consider the quality of the discharge through the RMA consent process, or review of the bylaw by 2023) to be appropriate. The current consenting pathway for high risk sites can be modified so that it can usefully continue to be applied to effectively manage discharges from high risk sites.

Oil Companies

Objectives – the Oil Companies generally support the objectives other than 3.1 which states "Enable the Council to meet the relevant Objectives, Policies and Standards for Agree with the submission and amends the bylaw to explain that the objectives, policies and standards referred to are those within the Canterbury Land and Water Regional Plan and as specified in any stormwater

Proposed Change to Bylaw

Amends Objective 3.1 (c) to state:

"Enable the Council to meet relevant objectives, policies and standards specified within the Canterbury Land and Water Regional Plan and any consent"
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<tr>
<td>Oil Companies</td>
<td>Private System Definition –</td>
<td>Acknowledges the submission but notes that the WDC is in many instances requested by private property owners to help find solutions to private drainage issues, including assisting to resolve disputes between private property owners in circumstances when one upstream discharge causes an adverse effect on another downstream property. Clause 16 of the bylaw has been drafted to seek to avoid these adverse effects from private discharges which cause nuisance and it supports the Council’s practical operational role in resolving these issues. Environment Canterbury is ultimately responsible for the discharge from private systems to the receiving environment and also the management of waterways, however this bylaw gives provisions to Council to take action where a private system or waterway is not maintained in good operating condition or causes or contributes to a nuisance.</td>
<td>No change is proposed.</td>
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<td>“Private System” as defined means “any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system”. It is recommended that this definition be amended to only cover private systems which discharge into Council systems, as private systems discharging to all other receiving environments are/should be regulated by ECan if they are not permitted activities under CLWPR.</td>
<td>network discharge consent conditions with which the Council must comply.</td>
<td>condition with which the Council is required to comply, which controls the quality or quantity of discharges from any Council system into the receiving environment.”</td>
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| Oil Companies | **Acceptance of Stormwater** - Section 5 provides the criteria for new connections to the Council systems, including requirements to upgrade systems, provide alternative systems within the premises or provisions for Council to decline new applications. It is recommended this statement be amended to clarify that the bylaw does not apply to existing lawful connections and discharges, and only applies to new connections or redevelopments when an existing discharge has an altered capacity and/or altered contaminant loading. | Acknowledges the submission and notes the bylaw as drafted is intended to apply only to “additional new connections”, or “altered connections” where there is a change in discharge quantity or in a contaminant loading. It is proposed to amend this section to clarity that these criteria only apply to new or altered connections. The criteria will apply where the premises either has no existing connection, or has an existing connection for which it is seeking to alter the discharge volume or its contaminant load. | Amends the bylaw Section 5.1 to state:  
“Every person seeking a connection to a Council system shall be entitled to have the stormwater or land drainage water from the premises accepted by the Council subject to:  
b. The owner of the premises has prior written approval from the Council for the new or altered connection(s);  
c. There being sufficient capacity within the Council system to accommodate the additional new or altered connection(s);  
d. The additional new or altered connection(s) must be at least cost neutral to the existing scheme members…”  
A further explanatory note is also added to state:  
An altered connection refers to an increase in the quantity of, or contaminant loading within, stormwater being discharged from the site. |
<p>| Te Ngai Tuahuriri Runanga | <strong>Manage Sediment Within Commercial and Industrial Premises</strong> - Extract from Rangiora | Agrees and considers that these requirements could be imposed on any commercial or industrial premises under the terms of the proposed bylaw. | No change is proposed. |</p>
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<td>Stormwater Network Consent Cultural Impact Assessment: recommendation (2):</td>
<td>The revised bylaw will enable the Council to require these requested actions through the following sections: a) 8.1 to 8.3 which provide rules to prevent discharge of contaminants and which may require associated on site treatment mitigations; b) Section 9 which requires approved pollution prevention plans for medium risk activity sites; and c) Section 16 which sets out requirements for maintenance of private stormwater systems to avoid “nuisance” which includes avoiding damage to aquatic ecosystems.</td>
<td>Waimakariri District Council revise its Council bylaws to include a requirement for all commercial and industrial premises serviced by the Rangiora Stormwater Network, are required to have sealed surfaces, and containment bunds to minimise the amount of mobilised soils and dust finding its way into the stormwater network. The bylaw is not prescriptive, however the prime objective is to ensure water quality meets the required standard at the point of connection to the Council drainage system.</td>
</tr>
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</table>
3.14 Changes Recommended by Staff

3.15 Several of the proposed changes in this report are requested by staff. Following ongoing review of possible methods to implement the bylaw during the consultation, staff propose the following further amendments: 1) amend Section 2.3 to more clearly set out the systems and situations which are covered by the bylaw; 2) amend Section 7 to more clearly set out responsibilities for private and Council connection and discharge points and their associated maintenance; 3) amend Section 11.1 to require Council approval of any Erosion and Sediment Control Plan required for construction phase discharges into Council systems; and 4) amend Section 12 to separate those activities which are restricted and which require some form of Council written approval from activities which are prohibited. These requested changes will provide more certainty during bylaw implementation.

3.16 Implementation and Enforcement

3.17 It is anticipated that enforcement to give effect to the stormwater network discharge consent conditions will be undertaken through applying the Stormwater Drainage Bylaw. The bylaw and consents will therefore operate together to assist the Council to do its part to achieve the objectives and policies of the National Policy Statement for Freshwater Management (2014) (NPSFM). They are intended to improve water quality outcomes in the District, over time, by improving the quality of the urban stormwater discharges.

3.18 The Council is currently only able to legally enforce this bylaw through court action. At present it can seek to improve water quality in the District or protect flood management infrastructure by proceeding with court prosecutions in the case of major bylaw offences. A full discussion of other enforcement options for minor offences is provided in the report which notified the bylaw for consultation (TRIM 170907097266).

3.19 In summary, that earlier report notes, following adoption of the bylaw, that staff will seek a legal avenue to issue infringement fines of up to $1,000 per offence under the revised bylaw provisions, as an alternative to court prosecution. This could be achieved through development of new regulations made by Order in Council by the Governor-General which specify particular infringement offences and fines which can be levied under the bylaw. The Council will seek to initiate lobbying for this change from the Canterbury Mayoral Forum and Canterbury Regional Stormwater Forum.

3.20 A further option may be available to issue infringement fines of up to $400 per offence under provisions of the Litter Act 1979. Advice from Corcoran French lawyers indicates the definition of “litter” within the Act includes contaminated substances in liquid form, such as spilled oil. Staff could investigate more widely the possible use of the Litter Act in terms of future Stormwater Drainage Bylaw 2018 enforcement for discharges of various types of contaminants into the Council systems, including discharge of liquid contaminants and suspended sediment, although the fine is unlikely to cover the costs of any remedial works.

3.21 The Council can also continue to refer pollution issues to Environment Canterbury to enforce directly via its own infringements system, if the discharge contravenes Section 15 of the Resource Management Act 1991.

3.22 Hearing Panel Options

3.23 The hearing panel have the option of amending the bylaw and recommending any amendments to the Council for adoption, in the form currently recommended by staff. It
can also propose other amendments to the bylaw as a result of submissions, and recommend these to the Council for adoption. The panel could choose to recommend to Council that it adopt the bylaw in the form it was consulted, without making any changes to it. However, as noted in the submission from the Oil Companies, that approach may not be considered reasonable.

3.24 The *Local Government Act 2002*, Section 158, requires the first review of a bylaw made under the Act to be undertaken no later than five years after the bylaw was made, if the bylaw was made after 1 July 2003. The review date for the Stormwater Bylaw 2011 (in force from 1 October 2011) is therefore 1 October 2016. Any bylaw that is not reviewed within the specified timeframe is revoked two years after the last date on which it should have been reviewed. The Stormwater Bylaw 2011 will therefore be revoked on 1 October 2018, if not reviewed prior to this date.

3.25 As discussed in Table 3.13, the Council could delay the final adoption of the bylaw until closer to 1 October 2018. However there is no guarantee that the processing of the stormwater discharge network consents will be at a stage where conditions and limits will be agreed which could be reflected in the bylaw. Therefore staff recommend that the bylaw review process is completed by the hearing panel on 27 February, and the bylaw recommended to Council for adoption in April 2018, or shortly thereafter. The bylaw can be reviewed at any future time when needed to reflect the conditions of the stormwater network discharge consents.

3.26 The Management Team has reviewed this report and supports the recommendations.

4 COMMUNITY VIEWS

4.1 The bylaw was notified for public consultation by the Council on 24 October 2017. Views of the community have been sought through public consultation in accordance with the Local Government Act 2002, using the Special Consultative Procedure. The public were notified of this proposal through public notices in the Northern Outlook and the North Canterbury News, and information on the Council’s website. A full page advertisement was also included in the North Canterbury News and Northern Outlook during the consultation period. Copies of the proposed revised bylaw and statement of proposal were also available at service centres and libraries.

4.2 During the consultation period the Council wrote to the adjoining Council’s, its drainage maintenance contractor (SICON), Environment Canterbury and Community and Public Health. It also presented the draft bylaw proposals to the Waimakariri Zone Water Management Committee and to a joint Community Board members meeting. Staff also circulated an email with the bylaw proposals to members of the Drainage Advisory Groups. A consultation meeting was held with Te Ngai Tuahuriri Runanga which included discussion about the bylaw proposals on 19 October 2017 (see minutes of meeting in TRIM 171018113150).

4.3 The 10 submitters to this draft bylaw were acknowledged in writing and each was provided the opportunity to speak to the hearing panel in person.

4.4 The planned schedule of hearings on 27 February 2018 is outlined in the following table:
4.5 If the Council chooses to adopt the draft bylaw following its consideration of recommendations from the hearing panel, public notice of the adoption of the bylaw will be provided as required by Section 157 of the Local Government Act 2002.

5 FINANCIAL IMPLICATIONS AND RISKS

5.1 The review of the Stormwater Bylaw 2011 is being carried out using existing staff resources. Any further advertising and legal costs can be met from existing budgets.

5.2 There will be operating cost increases to the Council over time as a result of implementing the Stormwater Drainage Bylaw 2018. These will be required in order to:

- Roll out a process to assess, approve and review pollution prevention plans throughout the District
- Provide approvals for the activities which can now be managed under new provisions of Section 12 of the proposed bylaw
- Increased monitoring and assessment of activities now covered by the bylaw provisions
- The bylaw is a key monitoring and enforcement tool for the implementation of pending Stormwater Network Discharge Consents for each major town in the District. These are required to be lodged with Environment Canterbury by 30 June 2018 and will also incur additional costs for implementation.

5.3 The Council may introduce user charges in the future to cover the costs of providing these assessments and approvals under Section 18 of the proposed bylaw, as practicable. These fees and charges would be introduced through the Annual Plan consultation process at a later date.

5.4 The increased operating costs incurred as noted in Section 5.2 of this report for implementing the bylaw (and stormwater network consents) are for the purpose of better managing the quality of stormwater and land drainage discharges into the receiving environment.

5.5 It is anticipated that full operating costs could be in the order of an additional $100,000 per year, including salary costs. These costs will not come into full effect until 2025 and are
subject to the outcome on the role territorial authorities will play in terms of consenting discharges from high risk sites and construction phase discharges. These additional costs are not included in the Long Term Plan.

5.6 The draft bylaw has been subject to review by Corcoran French Lawyers. The results of that review have been incorporated into the attached draft.

6 CONTEXT

6.1 Policy

This is not a matter of significance in terms of the Council’s Significance Policy.

The bylaw will assist the Council over time to give effect to, at least in part, the recently amended policy direction of the Canterbury Land and Water Regional Plan introduced through Plan Change 4.

For instance, Policy 4.16A states “Operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity of all stormwater discharged from that reticulated stormwater system.”

The bylaw, through its provisions for management of contaminants and introduction of pollution prevention plans for medium risk activities / sites, could be considered to give effect to this policy. However, the bylaw refers the regulation of high risk activities / sites to Environment Canterbury to continue its consenting function for these activities. This may not be considered to meet the policy intent in that regard, however, it is noted that Environment Canterbury are not opposed to consenting exceptional discharges into reticulated stormwater systems.

The bylaw will also assist the Council to meet provisions of Policy 4.16 (c) and (e) of the CLWRP, as set out below.

For instance, policy 4.16 states:

“Any reticulated stormwater system for any urban area is managed in accordance with a stormwater management plan that addresses the following matters:

(c) How any discharge of stormwater, treated or untreated, into water or into land where it may enter water meets or will meet, the water quality outcomes and standards and limits for that waterbody set out in Table 1, Schedules 5 and 8 and Sections 6 to 15 (whichever applies); and

(d) The management of the discharge of stormwater from sites involving the use, storage or disposal of hazardous substances; and

(e) Where the discharge is from an existing local authority network, demonstration of a commitment to progressively improve the quality of the discharge to meet condition (c) as soon as practicable but no later than 2025.

The Council previously opposed assuming the management of the discharge of stormwater from sites involving the use, storage or disposal of hazardous substances through its appeal to the Environment Canterbury decision on Plan Change 4. Therefore
the proposed bylaw may not be considered to be fully consistent with Policy 4.16(d) of the CLWRP, as the consenting of discharges from sites using these substances is intended to continue to be referred to Environment Canterbury.

Staff are of the view that Environment Canterbury should continue to perform its current consenting function, issuing discharge permits for stormwater on sites using hazardous substances into the stormwater networks and receiving environment. The content of its bylaw would not provide for the Council to assume or enforce that function.

This is a matter currently being addressed through the Canterbury Regional Stormwater Forum, in terms of the role territorial authorities will play in consenting and enforcing construction and high risk site discharges. Reference has been made to a shared services model between councils although this has not got any traction at this stage with Environment Canterbury.

6.2 Legislation

The Waimakariri District Council proposes to make this bylaw under provisions of Section 145 and 146 of the Local Government Act 2002. These provisions state that:

Section 145

**General bylaw-making power for territorial authorities**

A territorial authority may make bylaws for its District for 1 or more of the following purposes:

(a) protecting the public from nuisance:

(b) protecting, promoting and maintaining public health and safety:

(c) minimising the potential for offensive behaviour in public places.

Section 146

**Specific bylaw-making powers of territorial authorities**

Without limiting Section 145, a territorial authority may make bylaws for its District for the purposes-

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

(iii) wastewater, drainage, and sanitation:

(iv) land drainage:

In addition, Section 64 of the Health Act 1956 empowers the Council to make bylaws in relation to:

“(a) improving, promoting, or protecting public health, and preventing and abating nuisances:

(t) prescribing the sanitary precautions to be adopted in respect of any business or trade.”.

In notifying the draft bylaw staff undertook an assessment under Section 155 of the Local Government Act 2002 (see TRIM 170907097266). In carrying out the review of its 2011 bylaw, the Local Government Act 2002, Section 155 requires the Council to determine whether the bylaw is still the most appropriate way of addressing the perceived problem, whether it is the most appropriate form of bylaw and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.
The assessment and subsequent submissions have not indicated any concern with regards to the form of the bylaw and whether the bylaw is still the most appropriate way of addressing the perceived problem. However, the submission from the Oil Companies has queried whether the bylaw is considered reasonable. These concerns are considered able to be addressed in the staff recommendations in Section 3.

**Bill of Rights Act 1990**

The Council is required, under Section 155 of the *Local Government Act 2002*, to determine whether the bylaw gives rise to any implication under the *New Zealand Bill of Rights Act 1990* and that it is not inconsistent with that Act. The Bill of Rights Act establishes certain fundamental human rights as well as rights in relation to offences and other matters.

The *New Zealand Bill of Rights Act 1990* states in Section 5, justified limitations, ‘*Subject to Section 4, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.*’

It is believed that the bylaw is justified as it contributes to public health and safety by addressing the risks associated with harmful or contaminated discharges into Council stormwater or land drainage systems, which may enter the receiving environment.

It also protects against inadequate management of stormwater or drainage runoff volumes and peak flows resulting from inappropriate private activities. This includes protecting against interference with public systems or flood management infrastructure.

In addition to this, the bylaw is being reviewed using a democratic process which gives all interested people an opportunity to participate.

This includes publicly notifying the proposal, receiving and hearing submissions and using elected Councillors to make the final decision.

**6.3 Community Outcomes**

The proposed Stormwater Drainage Bylaw 2018 will contribute to each of the following community outcomes:

*There is a safe environment for all*

- Harm to people from natural and manmade hazards is minimised

*Core utility services are provided in a timely, sustainable and affordable manner.*

- Harm to the environment from sewage and stormwater discharges is minimised.

Owen Davies
Drainage Asset Manager

Janet Fraser
Utilities Planner
STORMWATER DRAINAGE BYLAW 2018

Draft Bylaw for Hearing Panel Review Public Notification

27 February October 2018
1 TITLE, AUTHORITY AND COMMENCEMENT

1.1 This bylaw shall be known as the Waimakariri District Council Stormwater Drainage Bylaw 2018.

1.2 This bylaw shall come into force on the 1st day of [insert Month] 2018.

1.3 This Bylaw supersedes and revokes the Stormwater Bylaw 2011.

1.4 The Council resolved to review the Stormwater Bylaw 2011 on 24 October 2017. This Bylaw was confirmed following a special consultative procedure by resolution at a meeting on [insert date].

2 INTRODUCTION

2.1 This bylaw is made by the Waimakariri District Council in exercise of the powers and authority vested in the Council by Section 146 of the Local Government Act 2002.

2.2 This bylaw applies and operates throughout the Waimakariri District.

2.3 This bylaw applies to the following:

- Council or private stormwater systems;
- Privately managed stormwater systems, land drainage systems, watercourses, flood plains, overland flow paths or stop banks;

2.4 Private activities affecting watercourses, flood plains, overland flow paths or the

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

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

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

4 INTERPRETATION

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

ix. “Customer” means the person discharging stormwater or land drainage water into the Council system.

x. “District Plan” means the Waimakariri District Plan.

xi. “District” means the Waimakariri District.


xiii. “Erosion and Sediment Control Plan” means a plan that has been prepared in accordance with the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury Guidelines.

xiv. “Flood plain” means an area which is predicted to flood in a storm event.

xv. “Ground soakage system” means a system that provides for stormwater to soak into the ground.

xvi. “High Risk Activities” are those activities defined as High Risk in Schedule 1 of this Bylaw.

xvii. “Land drainage system” means any combination of surface or subsurface pipes, channels, drains or canal systems that have been constructed for the primary purpose of collecting or draining water from agricultural or rural land and ancillary structures; or controlling or permanently lowering the water table; and which conveys and discharges that water to the receiving environment.

xviii. “Land drainage water” means water arising from the drainage of water from the soil profile, or excess surface water from agricultural or rural land. It excludes stormwater, which is separately defined.

xix. “Medium Risk Activities” are those activities defined as Medium Risk in Schedule 1 of this bylaw.

xx. “Natural servitude” means a state where low-lying land is obliged to receive surface water which drains naturally from land situated at a higher gradient (surface water includes all naturally occurring water which results from rainfall or water flowing onto the site, including percolating water).

xxi. “Nuisance” has the same meaning as Section 29 of the Health Act 1956, and includes a person, thing, or circumstance causing stress or annoyance or unreasonable interference. In the context of this bylaw the term nuisance includes, but is not limited to:

a. Danger to life;

b. Danger to public health;

c. Flooding of any building floor or sub-floor, or public roadway;
d. Damage to property;
e. An effect on the efficient operation of a stormwater or land drainage system;
f. Damage to any facet of a stormwater or land drainage system;
g. Erosion or subsidence of land;
h. Long or short term adverse effects on the environment; or
i. Adverse loss of riparian vegetation; or
j. Wastewater overflow to land or water; or
k. Anything that causes a breach of any stormwater discharge consent condition binding Council.
xxii. “Offence” includes any act or omission in relation to this bylaw or any part thereof for which any person can be prosecuted.

xxiii. “Owner/occupier” means any persons acting in general management or control of the land, or any plant or machinery on that land.

xxiv. “Overland flow path” means any secondary flow path that is:
   a. illustrated in a catchment management plan or on any Council drainage plan or record; or
   b. the overland route taken by any concentration of, or significant sheet flow of stormwater or land drainage water on its way to a flood plain, stormwater system, land drainage system or watercourse.

xxv. “Person” includes an individual person (corporation sole) and also a body of persons, whether corporate, incorporate or non-corporate.

xxvi. “Point of connection” means the point on the Council system that marks the boundary of responsibility between the customer and the Council, at which the customer(s) private system connects to and discharges stormwater or land drainage water into the Council system.

xxvii. “Pollution Prevention Plan” means a Council-approved plan which identifies actual or potential risks relating to the discharge of contaminants from a specific site or operation, and the management strategies implemented or proposed to mitigate these risks.

xxviii. “Premises” means either:
   a. A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued, or
   b. A building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available, or
   c. Land held in public ownership (e.g. reserve) for a particular purpose.
   d. Individual units in a building which are separately occupied and/or leased.

xxix. “Private system” means any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system. For the purposes of the bylaw, drains that are managed by the within New Zealand Transport Agency, Kiwirail or Environment Canterbury owned land are deemed to be part of a private Council system.

xxx. “Receiving environment” means any surface water body or land into which stormwater or land drainage water is conveyed.

xxxi. “Stop bank” means an embankment to prevent flooding.

xxxii. “Stormwater” means runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or rainfall runoff from the external surface of any structure as a result of precipitation, and excludes land drainage water, which is separately defined.

xxxiii. “Stormwater system” means the system provided by the Council or private property owner/occupier for the management of stormwater runoff, which includes any combination of open channels, drains, underground pipes and basins, ponds, wetlands, kerb, channel and swales up to and including the point of discharge, but excluding the receiving environment.

xxxiv. “Stormwater Management Plan” is a plan to improve the management of water quality and water quantity in a defined area.

xxxvi. “Watercourse” means every open river, stream, creek, floodway, culvert, channel and open drain through which stormwater or land drainage water commonly flows, whether continuously or not, and which may be either managed by the Council publicly or privately managed.

xxxvii. “WDC” means the Waimakariri District Council.

b. Terms and expressions defined in the Act shall, when used in this bylaw, have the same meanings as those in the Act, unless they are alternatively defined in this bylaw.

c. If any requirement in relation to any person or activity specified in this bylaw differs from a requirement in any other legislation, regulation, consent condition, standard or Regional or District Plan provision then the more stringent requirement shall apply.
5 ACCEPTANCE OF STORMWATER AND LAND DRAINAGE WATER

5.1 Every person seeking a connection to a Council system premises shall be entitled to have the stormwater or land drainage water from the premises accepted by the Council subject to:

a. The premises being located within a drainage rated area (designated in accordance with the Local Government Act 2002) which is serviced by a Council stormwater or land drainage system;

b. The owner of the premises has prior written approval from the Council for the 
   additional new or altered connection(s);

c. There being sufficient capacity within the Council system to accommodate the 
   additional new or altered connection(s);

d. The additional new or altered connection(s) must be at least cost neutral to the 
   existing scheme members and annual rates generated from the additional 
   connection(s) must be sufficient to cover the life cycle costs of the new assets and 
   the variable costs of the service;

e. Fulfillment of the requirements of this bylaw, including obtaining any relevant 
   consent, implementing any pollution prevention plan that the customer is required 
   to obtain, and meeting all requirements of the Resource Management Act 1991, 
   Building Act 2004 or any other acts or regulations;

f. Payment of the appropriate fees and charges applicable to the connection(s).

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

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

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

5.2 If an application to connect to a Council system does not meet the requirements of clauses 5.1 (c), (d) or (e) then the Council may:

a. Require an upgrade to the system at the cost to the customer(s); or

b. Require that an alternative stormwater or land drainage system is provided within 
   the premises in accordance with section 6; or

c. Decline the application and advise the customer(s) of the reason(s) why the 
   application was declined.
6 **DESIGN AND VESTING**

6.1 Any proposed new stormwater or land drainage system and any proposed alteration to any existing system must be designed, constructed and operated in accordance with:

   a. Council’s Engineering Code of Practice;
   b. Any relevant Catchment Management Plan prepared by Environment Canterbury or Waimakariri District Council;
   c. Any relevant Stormwater Management Plan prepared and approved by the Waimakariri District Council;
   d. The Waimakariri District Plan;
   e. The Canterbury Land and Water Regional Plan;
   f. The Regional Coastal Environment Plan for the Canterbury Region;
   g. The Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury Guidelines;
   h. Any resource, building or other consents relevant to the proposed works;
   i. Any written conditions imposed by Council when approving the works;
   j. Waimakariri District Council standard construction specifications.

6.2 As-built plans showing details of all new or altered systems must be provided to Council within the timeframe specified in Council’s written approval or Engineering Code of Practice.

6.3 For sites being re-developed, Council may require retrofit stormwater mitigation and/or implementation of site specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas, in order for Council to comply with consent conditions which control the quality or quantity of discharges from any Council system into the receiving environment.

6.4 The Council may specify areas in the District, or may impose controls on any premises, whereby stormwater disposal must be undertaken by ground soakage, unless site conditions prevent it.

7 **POINT OF CONNECTION**

7.1 The point of connection to the Council’s system is shown in Figure 1. There may be only one point of connection for each premises unless prior written agreement is provided by the Council.

7.2 The Council **owns** and is responsible for the maintenance and all repairs to the of any Council system, including any pipe and fittings up to the point of discharge, except:

   a. The customer is responsible for clearing of blockages or repairing damage from trees on the customer’s own property, up to the point of discharge.

7.3 The customer **owns and shall be responsible for** the maintenance and all repairs to the private stormwater or private land drainage system within the customer’s property and on the customer’s side of the point of discharge, except where the private system is within public land, the following applies:

   a. The Council is responsible for any damage to the system caused by a Council contractor or a Council asset (such as a street tree).
b. the customer is responsible for clearing of blockages or repairing damage

7.4 There may be only one point of connection for each premises unless prior written agreement is provided by the Council.
PART 2: MANAGEMENT OF CONTAMINANTS

8 DISCHARGE OF CONTAMINANTS

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

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

8.2 The Council may require premises that do not comply with clause 8.1 to implement the following controls:

a. The modification of the premises to reduce or avoid the discharge of the contaminant;
b. The installation and use of treatment and mitigation measures or devices;
c. The proactive maintenance of the private system, including the provision of and compliance with a site specific management plan approved by Council.

8.3 Any owner, occupier or person who is present on a premises subject to a control made under clause 8.2 must comply with that control.

9 MEDIUM RISK ACTIVITIES / SITES

9.1 The owner/occupier undertaking any new medium risk activity on any site as defined in Schedule 1 that connects to a Council system shall prepare and implement a site specific Pollution Prevention Plan. This plan shall be submitted to and approved by the Council and fully implemented prior to connecting into the Council system.

9.2 The owner/occupier undertaking any existing medium risk activity on any site as defined in Schedule 1 and that connects to a Council system shall, if requested by the Council, prepare and implement a site specific Pollution Prevention Plan. This plan shall be submitted for Council approval no later than 6 months after being requested by the Council, or such later date as agreed with Council. The plan shall be fully implemented within 6 months of being approved by the Council.

9.3 The Pollution Prevention Plan if required under 9.1 or 9.2 above shall include:

9.3.1 A site assessment identifying all actual and potential sources of contaminant discharge, including surface coatings;

9.3.2 Suitably-scaled plans showing the site layout, boundaries, all stormwater, land drainage and wastewater drainage including the point of connection or discharge to the Council stormwater, land drainage or wastewater systems, and relevant buildings and outdoor spaces (including identification of their use);

9.3.3 Identification and installation requirements of the best practicable options proposed to ensure that potential contamination of all discharges are
9.3.4 Site specific spill prevention and spill response procedures;

9.3.5 A description of the maintenance procedures proposed, actions to be taken and/or infrastructure to be developed.

9.4 Evidence of ongoing compliance with any Pollution Prevention Plan shall be provided to the Council every 3 years at the time the Plan is reviewed, or at any other time upon request of Council.

9.5 Any Pollution Prevention Plan prepared pursuant to this section shall be reviewed by the owner/occupier or operator of the activity to which the plan relates, at three yearly intervals after implementation. The review shall identify any changes to the matters covered in clause 9.3, and with a timeframe of action. The reviewed pollution prevention plan shall be forwarded to the Council for approval within its three yearly review timeframe. The Council may include further terms and conditions within the revised Pollution Prevention Plan to ensure the activity is being undertaken in accordance with clauses 9.3 and 8.1. Once approved, the plan shall become binding.

9.6 Notwithstanding clause 9.5, the Council may require that any Pollution Prevention Plan shall be revised where there have been significant changes to an activity or failure to meet any requirement of clause 8.1.

10 HIGH RISK ACTIVITIES / SITES

10.1 The owner/occupier undertaking any new high risk activity on any site as defined in Schedule 1 shall apply for and obtain any necessary resource consent from Environment Canterbury which would for a discharge either directly or indirectly into any Council or private stormwater or land drainage system shall apply for and obtain a resource consent from Environment Canterbury for the discharge.

10.2 Schedule 1 which causes a discharge, either directly or indirectly, into any Council system shall, if requested by Council:

a) apply for and obtain any necessary resource consent from Environment Canterbury for a discharge into any Council or private stormwater or land drainage system

b) any such consent shall be provided to Council no later than 6 months after requested by the Council, or at such a later date as agreed with Council.

10.3 Any owner/occupier whom is required to obtain a resource consent from Environment Canterbury consented discharge under clauses 10.1 or and 10.2 shall also comply with the requirements of this bylaw except for the need to submit a Pollution Prevention Plan.

10.4...
11 CONSTRUCTION ACTIVITIES

11.1 An Erosion and Sediment Control Plan must be prepared and implemented by the owner/occupier of any premises where construction activities are occurring where there is a discharge, either directly or indirectly, into any Council system. This plan shall be submitted to and approved by the Council and fully implemented prior to discharging into the Council system.

11.2 The Erosion and Sediment Control Plan required under clause 11.1 must be prepared and implemented in accordance with the current version of the Environment Canterbury Erosion and Sediment Control Toolbox for Canterbury Guidelines.

11.3 The owner/occupier undertaking a construction activity on any site which would discharge into any Council system shall apply for and obtain a resource consent from Environment Canterbury for any construction phase stormwater discharge from that site into the Council system, if requested by the Council, where that construction is on:

   a) any site where an activity listed in the Canterbury Land and Water Regional Plan Schedule 3 "Hazardous Industries and Activities List" is occurring; and/or
   b) Any site on the Canterbury Listed Land Use Register; and/or
   c) Any new development site, or re-development of an existing site, that is not permitted under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

PART 3: PROTECTION OF SYSTEMS AND WATERCOURSES

12 RESTRICTED ACTIVITIES

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

   12.1.1 Any works on a Council system or a watercourse managed by the Council;

   12.1.2 Any modification to a bank structure, including widening, deepening, damming, diverting or planting or removing any vegetation from any part of a Council system or from the banks of any watercourse managed by the Council, including use of herbicide in such a way as to alter the flow of water or destabilise the bank structure; or

   12.1.3 The erection of a structure, or placement of any material or planting of any vegetation (e.g. tree or hedge) where these impede access by machinery or apparatus used to clean, maintain or improve any part of a proposed or existing Council system; or

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

12.2 The following activities are prohibited:

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

   12.2.2 The erection of any new vehicle or stock crossing over a watercourse managed by the Council;
12.1.7
12.2.2 Allowing any stock or vehicles to do anything that damages or is likely to damage any Council system or watercourse managed by the Council;

12.1.8
12.2.3 Any modification to a bank structure, including widening, deepening, damming, flooding or planting or removing any vegetation from any part of a Council system or from the banks of any watercourse managed by the Council, including use of herbicide in such a way as to alter the flow of water or destabilise the bank structure;

12.1.9
12.2.4 The erection of a structure, or placement of any material or planting of any vegetation (e.g. tree or hedge) where these impede access by machinery or apparatus used to clean, maintain or improve any part of a proposed or existing Council system.

13 WORKS IN PROXIMITY TO SYSTEMS

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

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

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

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

PART 4: ACCESS, MAINTENANCE AND MONITORING

14 SYSTEM ACCESS

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

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

15 WATER QUALITY MONITORING

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

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

15.2

PART 5: PRIVATE SYSTEMS

16 PRIVATE SYSTEM MAINTENANCE

16.1 All private systems must be designed, constructed, managed and maintained by the owner/occupier, at the owner/occupier’s expense or by some other arrangement acceptable to the Council.

16.2 The owner/occupier of a private system must ensure that it is maintained in good operating condition and does not cause or contribute to nuisance.

16.3 The owner/occupier of a premises on which there is a watercourse, stop bank, overland flow path or flood plain must maintain that watercourse, stop bank, overland flow path or flood plain in an operational state which does not cause or contribute to nuisance and ensures the free flow of water.

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

PART 6: OFFENCES, PENALTIES AND ENFORCEMENT

17 OFFENCES

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

18 FEES AND CHARGES

18.1 The Council may in accordance with the Local Government Act 1974 and Local Government Act 2002 set charges or fees to recover the cost of any of the following:

18.1.3 a. approvals and monitoring of compliance with the plans;
c.b. Processing the assessment of any other approval, consent, or any other monitoring, investigation, sampling or analysis charge that is required under any part of this bylaw;
d.c. Processing the assessment, approval or monitoring of any Erosion and Sediment Control Plan required under this bylaw.

19 REMEDIES

19.1 In the event of a breach of statutory or other legal requirements including this bylaw, the Council may serve notice on the owner/occupier advising the nature of the breach and the steps to be taken within a specified period to remedy it. If after the specified period, the owner/occupier has not remedied the breach, the Council may charge a re-inspection fee.

19.2 At any time after the specified period in 19.1 has elapsed, the Council may carry out any remedial work required in order to make good the breach, and recover from the owner/occupier all reasonable costs incurred in connection or associated with the remedial work together with any resulting damages.

19.3 If however the breach is such that public health or safety considerations or nuisance, or risk of consequential damage to council assets is such that delay would create or be likely to create unacceptable results, the Council may take immediate action to rectify the defect, and recover all reasonable costs and damages from the owner/occupier.
SCHEDULE 1 – MEDIUM AND HIGH RISK ACTIVITIES AND SITES

A) High Risk activities and sites include sites where an activity is occurring that is any of the following:

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

i. Aggregate and material storage/stockpiled yards which are subject to erosion and/or leaching of contaminants,

ii. Commercial analytical laboratory sites,

iii. Construction and maintenance depots (that exclude areas used for refueling or bulk storage of hazardous substances),

iv. Demolition yards that exclude hazardous wastes,

v. Dry cleaning premises,

vi. Engineering workshops with metal fabrication,

vii. Engine reconditioning workshops,

viii. Food and beverage manufacturers,

ix. Motor vehicle workshops,

x. Any other activity or premises that has failed to meet the requirements of Section 8, unless that activity or site is otherwise defined as a "high risk" in Schedule 1(a).
RECOMMENDATIONS.

Te Ngāi Tūāhuriri Rūnanga acknowledges the proposed mitigations to identified potential adverse effects listed in the Rangiora Stormwater Network consent application. Te Ngāi Tūāhuriri Rūnanga have identified the following issues with regards to the potential for adverse effects on Ngāi Tūāhuriri values:

a.) Water quality,
b.) Effects to native fish and aquatic species and their habitats,
c.) Mahinga kai values.

1.) Waimakariri District Council in conjunction with Environment Canterbury develop and implement a long term plan to address the elevated E.coli levels found in water flowing from a rural runoff catchment into the Rangiora Stormwater Network.

2.) Waimakariri District Council revise it’s Council Bylaws to include a requirement for all commercial and industrial premises serviced by the Rangiora Stormwater Network, are required to have sealed surfaces, and containment bunds to minimise the amount of mobilised soils and dust finding it’s way into the stormwater network.
15 December 2017

Waimakariri District Council
Private Bag 1005
Rangiora 7440

Stormwater Drainage By Law 2018

Please find enclosed the submission from McAlpines Ltd regarding the proposed Stormwater Drainage By Law 2018.

Should you require further clarification of our comments, and suggestions, please contact me at our Administration Building in Southbrook.

Yours faithfully

McAlpines Ltd

Martin Pinkham
Safety, Risk and Property Manager
<table>
<thead>
<tr>
<th>Reference</th>
<th>Comments</th>
<th>Recommended Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>It is not clear that the imperative for the bylaw relates to WDC being required to obtain global catchment consents. Explaining this would help explain the context of the bylaw.</td>
<td>It would be helpful if the Bylaw itself had a preamble, or an expanded introduction, that provided some background on the rationale for the changes to the bylaw.</td>
</tr>
<tr>
<td>4 a vi</td>
<td>The definition of Contaminant is far too broad, and could be potentially misinterpreted. Under the proposed definition every person in the catchment could breach this consent every day.</td>
<td>Attach a schedule of contaminants that are likely to affect the global consents. The schedule doesn’t necessarily have to have limits at this stage.</td>
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<td>It would be of assistance if the definition of contaminant was expressed in a way that related to the limits that are likely to be in the global discharge consents. This could be done by way of an attached schedule.</td>
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<tr>
<td>5.2</td>
<td>This whole clause implies that if the Council has not planned for an adequate drainage system then potential connectors are not permitted to join. The Council's Code of Practice for Development requires utility networks to be designed for the full potential loading. However, it is acknowledged that from time to time the Council’s network has insufficient capacity at the current point of time, and a customer may need to wait. Alternatively, the Council should amend its drainage rating areas.</td>
<td>Amend 5.2 to reflect that sometimes the Council’s network has insufficient capacity and that the Council will provide potential connectors with a timetable for the service to be available.</td>
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<td>6</td>
<td>This clause should also reference the Council’s global consents.</td>
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<tr>
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<td>9.4</td>
<td>The requirement to provide evidence of compliance with a Pollution Prevention Plan is too vague. Landowners require certainty over what is required and some will not do anything unless they are required to provide evidence.</td>
<td>Amend clause 9.4 to require evidence to be submitted every, say, 5 years.</td>
</tr>
<tr>
<td>12.1.3</td>
<td>It is assumed that approval to construct a vehicle crossing over a watercourse will be dealt with as part of a Vehicle Crossing application, and not require a separate application.</td>
<td>Note that the approval to cross a watercourse could be part of a Vehicle Crossing permit application.</td>
</tr>
</tbody>
</table>
December 15, 2017

Stormwater Drainage Bylaw 2018
The Waimakariri District Council
Private Bag 1005
Rangiora 7440

Attention: Janet Fraser, Utilities Planner

Waimakariri District Council
Submission to Proposed Stormwater Drainage By-Law 2018 by Grant Edge

Background
I am a professional Landscape Architect with over 35 years’ experience in Landscape planning and design.
I am a community member and deputy chair of the Waimakariri District Council’s Water Zone Committee.
I represented the zone committee on the Canm River Enhancement Fund sub-committee and the Kaoaipai River Rehabilitation project. I am a member of the Waimakariri Central Rural Drainage Advisory Group.

This is a personal submission.

Approach to Managing Waterways
Why I am making this submission
As Council is already aware, I have for some time been very concerned about its policies related to stormwater management and the tension between its drainage philosophy and operational practices, flood mitigation proposals and the Canterbury Water Management Strategy (Zone Committee’s work).

Submission in Support of By-Law
I have read the Statement of Proposal and the By-Law documents. Although I have a few reservations and queries, on the whole, I think that this By-Law will help achieve its aims of meeting the requirements of the Canterbury Land and Water Regional Plan (CLWRP) and the National Policy Statement for Freshwater Management (NPSFM) 2014.

I am fully supportive of the Council pursuing its responsibilities to achieve improved water quality standards across the District.

Sub-Catchment Management plans and Stormwater plans
In my opinion such plans (details pending of course) are going to be the most valuable tools in providing some certainty for the community and agencies in achieving an integrated approach to landscape and water management.

In my submissions to Council on the Flood Mitigation Proposals and the District Development Strategy I have been very supportive of this approach.

I would like Council to adopt internationally accepted ‘systems’ approach to Rural and Urban drainage management that is sustainable, flexible and adapted to our local situation.
Definitions
I think one major area of work that is required concerns the identification/mapping of all waterways (modified and natural) and land drains. A Waterway Typology Identification system would help provide some certainty about future management.

I am concerned that natural spring-fed waterways continue to be managed for their drainage function at the expense of ecological, cultural, recreational and amenity values.

Resourcing and Funding
I can only stress the need for Council to allocate sufficient staff resources and funding for the development of these plans as fast as possible. The Zone Committee’s Sub-Regional plan, due in late 2018 will no doubt also encourage an integrated approach to waterway management. It will have an environmental focus and will address biodiversity, ecological, cultural, recreational and amenity issues as well as land management issues.

Climate Change Impacts
Climate change Impacts on the District will be significant and pressures to deliver on creative waterway management strategies will become increasingly important to not only protect property but also help lessen future asset burdens for the community. Catchment Management planning will; help inform decision making for the future

Request to be Heard
I request to be heard and present my submission to the Council’s panel.

Yours sincerely

Grant Edge
BA, DipCA FNZILA Registered
NOTICE OF SUBMISSION
TO THE WAIMAKARIRI DISTRICT COUNCIL DRAFT STORMWATER DRAINAGE BYLAW 2018
PURSUANT TO SECTION 145 AND 146 OF THE LOCAL GOVERNMENT ACT 2002

To: Stormwater Drainage Bylaw Submissions
    The Waimakariri District Council
    Private Bag 1005
    RANGIORA 7440

By Email: records@wmk.govt.nz

Name: Z Energy Ltd
      BP Oil NZ Ltd
      PO Box 2091
      PO Box 892
      WELLINGTON

Mobil Oil NZ Ltd
      PO Box 2497
      WELLINGTON

(hereafter collectively referred to as “The Oil Companies”)

1. INTRODUCTION

1.1 The Oil Companies receive, store and distribute refined petroleum products.

1.2 The Oil Companies have commercial, shore and marine based and aviation and bulk storage facilities and are also owners of retail outlets and suppliers of petroleum products to individually owned retail outlets. In the Waimakariri District this includes retail outlets and petroleum and diesel storage facilities at customer sites.

1.3 The submission is focused on those issues the Companies perceive could lead to misunderstandings of what constitutes the best practical option and lead to inappropriate administration of the Draft Stormwater Drainage Bylaw 2018 (the Bylaw).

1.4 This submission is focussed on issues the Oil companies perceive may inappropriately restrict or limit their existing and future operations. The key issues with the Bylaw is that Bylaw approval for ‘High Risk sites’ is not provided for and Environment Canterbury (ECAN) have signalled that they will also not be sanctioning inputs into the Councils infrastructure post 1 January 2025. This matter will need to be resolved prior to that date, however in the interim this submission seeks to ensure that where there are existing lawful discharges or where ECAN are providing consent to high risk sites, that there is no duplication in relation to the Council controlling the quality of the inputs through the Bylaw.
2. **THE OIL COMPANIES SUBMISSION:**

2.1 The Oil Companies support the intent of a bylaw to manage inputs into Councils infrastructure. We understand that the Councils aim with the new Bylaw is to set clear guidelines for members of the public about the requirements for discharging stormwater and land drainage water into the Council systems and the receiving environment. Key changes include:

- Extending provisions for pollution prevention plans throughout the district to better manage discharge of contaminants into Council systems from medium risk activities/sites.
- Extending some provisions of the bylaw to private systems and activities on private properties
- New provisions to protect Council systems.

2.2 There are a number of issues in and around the promulgation of the Bylaw, including the extent to which a discharge into Council infrastructure can and/or is adequately addressed by the Regional Council’s discharge to land provisions.

2.3 The Companies are opposed to those parts (identified in this submission) of the presently drafted Bylaw where it is:

- Repugnant to the general law of the land;
- Void for certainty and negative in its terms; and
- Unreasonable.

2.4 The specific concerns of the Oil Companies can be categorised as follows:

- **High Risk Activities/Sites**
- Interface between the Draft Bylaw and the Environment Canterbury Land and Water Plan (LWP)
- Objectives
- Definitions
- Section 5 Acceptance of Stormwater

2.5 Each is discussed below.

A. **High Risk Activities Sites**

2.6 High Risk Activities and Sites are defined within Schedule 1 and includes any of the following:

- **i)** Any activity listed in the Canterbury Land and Water Regional Plan Schedule 3 “Hazardous Industries and Activities List”; or
- **ii)** Any site on the Canterbury Listed Land Use Register; or
- **iii)** Any new development site, or re-development of an existing site that is not permitted under the Resource Management National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect human Health) Regulations 2011.

2.7 The Oil Companies assets (i.e. including service stations) within the Waimakariri District are therefore classified as ‘High Risk Activities/ Sites’.
2.8 The Oil Companies understanding of the intent of section 10 High Risk Activities/Sites is that for any:

10.1: Owner/occupiers undertaking any new high risk activity on any site as defined in Schedule 1 shall apply for and obtain any necessary resource consent from Environment Canterbury for a discharge to any Council or private stormwater or land drainage system.

10.2: Any owner/occupiers of any existing high risk activity on any site as defined in Schedule 1 shall apply for and obtain any necessary resource consent from Environment Canterbury for a discharge to any Council or private stormwater or land drainage system, no later than 6 months after being requested by the Council, or such a later date as agreed with the Council.

10.3: Any consented discharge under clauses 10.1 and 10.2 shall also comply with the requirements of this bylaw except for the need to submit a Pollution Prevention Plan.

2.7 The key issue with Section 10 is Clause 10.3 which requires any consented discharge to also comply with the requirements of the bylaw except for the need to submit a Pollution Prevention Plan. This clause effectively allows Waimakariri District Council (WDC) to impose any range/type of conditions in regards to water quality and quantity. In particular Clause 6.3 and 6.4 require the following:

6.3 For sites being re-developed, Council may require retrofit stormwater mitigation and/or implementation of a site specific management plans or practices to treat and/or retain stormwater runoff from all or some part of existing impervious areas.

6.4: The Council may specify areas in the District, or may impose controls on any premise, whereby stormwater disposal must be by ground soakage, unless site conditions prevent it.

2.8 If a resource consent is granted from ECAN that involves a discharge into the stormwater network it will be expected that WDC will be considered by ECAN to be an affected party (where it is into a WDC network) and WDC will therefore be required to furnish an affected party approval. Such affected party approval under the RMA should and cannot be issued on the same terms and basis as a sanction under the bylaw and in particular in terms of Clause 6.3 and 6.4. Indeed to do so would be repugnant to the law as it is rendering the regional resource consent process redundant. Any concerns WDC may have as an affected party would and should only be limited to capacity and/or effect on the integrity of the network – not relate to any discharge quality as the regional consent will be addressing that matter.

2.9 In addition to the above clause 6.3 is considered unreasonable and uncertain as it enables the Council complete discretion in regards to the application of this standard, whether it relates to an actual or potential effect or not. Retrofitting is often a more difficult and expensive exercise than for a site where there is a comprehensive redevelopment. In other districts within the Canterbury Region the Oil companies have been subjected to the requirement to treat all ‘non-forecourt areas’ with
stormfilter360 devices at their service station sites despite providing evidence that proves these devices do little to remove the contaminants of concern.

2.10 There are often many and varied management practices that can be applied to situations that will reduce or avoid the risk of inappropriate levels of contaminants entering the stormwater system. As an industry group the Oil Companies are open to working with Councils to develop a clear and standard approach, grounded in good science for all new service station sites/truck stops and their redevelopment in the ECAN area and will do so through the discharge consent process with ECAN as consent for discharges is not able to be provided though the bylaw as drafted.

2.11 Given that the Oil Companies are required to obtain their own discharge consent for any new or re-development within the Waimakariri District, clause 6.3 is repugnant to the general law of the land and unreasonable.

2.12 Amendments to Section 10 of the Bylaw are therefore required in order to clarify that discharges from high risk sites/activities shall only comply with the Bylaw in so far as it relates to the quantity of the discharge. In addition any concerns WDC may have as an affected party should be limited to capacity and/or effects on the integrity of the network only.

B. Interface Between the Draft Bylaw and the Environment Canterbury’s Land and Water Plan (LAWP)

2.13 The interface between the Draft Bylaw and the LAWP is not clear. We note that Policy 4.16A of the LAWP states:

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

2.14 The approach taken by the Draft Bylaw is to require all high risk sites to be consented by ECAN. This will need to be reviewed and amended post 1 January 2025 to ensure that there is a consenting pathway for high risk sites within the Waimakariri District.

C. Objectives

2.15 The Oil Companies generally support the objectives except Clause 3.1(c).

2.16 Objective Clause 3.1(c) states:

(a) Enable the Council to meet the relevant Objective, Policies and standards for discharges from any Council stormwater system into the receiving environment;

2.17 It is unclear which objectives, policies and standards this objective is referring to. There are no policies in the Bylaw. Further clarification is needed. It is understood that WDC is obtaining consents for its network discharges on a global basis, section by section. The primary driver for WDC should therefore be to seek to 'control the
discharge of contaminants into the public system’ in so far as those controls will ensure they meet the Councils global consent conditions. This should be linked and stated within the objective.

D. Definitions

2.19 Private System
Private system is defined as:

“Private system” means any land drainage system or stormwater system that drains water from a privately owned premises to a receiving environment or up to the point of connection with a Council system.

2.20 Given that Private systems would either a) have their own discharge consent from ECAN or b) comply with the permitted activity provisions of the ECAN Land and Water Plan, the definition of private systems should only refer to those systems that connect into a Council system. The purpose of the bylaw is to regulate discharges into the Councils network, not all receiving environments (that is the function of ECAN). Removing the reference to receiving environment excludes private systems that have their own consent or are not required to regulated by the bylaw.

E. Section 5 Acceptance of Stormwater

2.21 Section 5 outlines that every premise shall be entitled to have its stormwater or land drainage water accepted by the Council subject to meeting provisions (a) – (f). Under section 5.2 if an application to connect to the Council system does not meet the requirements of clauses 5.1 (c), (d) or (e) then the Council may:

a. Require an upgrade to the system at the cost of the customer(s); or
b. Require that an alternative stormwater or land drainage system is provided within the premises in accordance with section 6; or
c. Decline the application and advise the customer(s) of the reason(s) why the application was declined.

2.22 This section needs to include a statement to clarify that the Bylaw does not apply to existing lawful connections and discharges. It should only apply to new connections or discharges and/or where existing discharge is altered in in terms of capacity and/or contaminant loading. It is unreasonable to require retrospective bylaw approval where existing bylaw approval or resource consents have been obtained.

Conclusion

2.34 In its present form the Companies consider that elements of the Bylaw as it relates to stormwater as identified are repugnant, uncertain and unreasonable. Amendment to the Bylaw is necessary, as outlined, if the City Council is to have a Bylaw that reasonably and effectively manages stormwater in accordance with other regulatory instruments (e.g. regional resource consents). The Oil Companies remain open and available to participate in developing with Council further guidance in relation to input controls to the stormwater network that will result in reasonable, fair and equitable application targets and/or controls a level of contaminants into the network.
3. RELIEF SOUGHT

3.1 The Oil Companies seek the following decision:

A. Give effect to the submission by making amendments to the Bylaw along the following lines:

(i) Include a statement within section 2: Introduction of the Bylaw to clarify that consented discharges are not required to comply with the requirements of the Bylaw.

2.5 Any consented discharge shall not be required to comply with the requirements of the Bylaw in regards to the quality of the discharge.

(ii) Expand section 10.3 of the Bylaw to clarify that consented discharges under Clauses 10.1 and 10.2 shall only comply with the requirements of this bylaw in so far as it relates to the quantity of the discharge. The quality will be consented by ECAN.

10.3 Any consented discharge under clauses 10.1 and 10.2 shall also not be required to comply with the requirements of the Bylaw in regards to the quality of the discharge, including except the need to submit a Pollution Prevention Plan.

(iii) Include a statement to clarify how the draft Bylaw will relate to the relevant permitted activity or resource consent standards of the LAWP. Any concerns Waimakariri District Council may have as an affected party would and should only be limited to capacity and/or effect on the integrity of the network. This could be achieved by including an explanatory note under section 10 as follows:

*Where Waimakariri District Council is required to provide approval as an affected party to any regional resource consent to discharge into the stormwater network concerns will be limited to the effects on the capacity and integrity of the network and not the quality of the discharge.*

(iv) Include the following statement within Section 2: Introduction that clarifies Waimakariri District Council will review the Bylaw by 2023 to ensure the Bylaw does not conflict with Policy 4.16A of the ECAN Land and Water Plan and that there is a consenting pathway for high risk sites within the Waimakariri District:

2.5 The Bylaw will be reviewed in 2023. Consistency with the Environment Canterbury Land and Water Plan will be achieved to ensure that there is a consenting pathway for high risk sites within the Waimakariri District.
(v) Ensure that the relationship between the Bylaw and the Councils global consent conditions is recognised within objective 3.1(c) as follows (additions underlined):

Section 3 Objectives

3.1(c) *Enable the Council to meet the relevant Objectives, Policies and standards for discharges from any council stormwater system into the receiving environment insofar as they meet the Council’s global consent conditions.*

(vi) Amend the definition of private system to exclude reference to systems that drain to a receiving environment. The Council should only regulate systems that connect to the Council system.

“*Private system*” means any land drainage system or stormwater system that drains water from a privately owned premises to a *receiving environment* or up to the point of connection with a Council system.

(vii) Include a statement clarifying that existing lawfully established discharges will not be required to obtain further approvals under the bylaw. This could be achieved by including a statement in Part 5 Acceptance of Stormwater along the following lines:

*This bylaw does not apply to existing lawful connections and discharges. It will only apply to new connections or discharges and/or where existing discharge is altered in terms of capacity and/or contaminant loading.*

C. Any other such relief as to give effect to the submissions.

4. **THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION**

Dated at TAKAPUNA this 15th day of December 2017

Signature on behalf of
The Oil Companies

.................................................................
Michelle Kemp
Senior Planner

Address for service: BURTON CONSULTANTS
PO Box 33-817
Takapuna, 0740
Auckland

Attention: David Le Marquand

Phone: (09) 917 4314
Fax: (09) 917 4311
Email: dlemarquand@burtonconsultants.co.nz
Ref: 17/079
Environment Canterbury Submission

Environment Canterbury Submission on the draft Stormwater Drainage Bylaw 2018.

Environment Canterbury recognises and supports the efforts of the Waimakariri District Council to review and propose changes to the Stormwater Bylaw 2011. We commend Waimakariri District Council for the process it is undertaking to review the Bylaw and acknowledge the tight timeframe that Council is working to with respect to the 1 October 2018 revocation date for the operative Stormwater Bylaw.

The main points of Environment Canterbury’s submission are summarised as follows:

- The use of Pollution Prevention Plans for ‘medium risk’ activities / sites is supported, and Environment Canterbury encourages the use of these plans for ‘high risk’ activities / sites;

- Environment Canterbury acknowledges the timeframe that the Waimakariri District Council is working towards for completion of review of the Bylaw (October 2018);

- The proposed framework in the Bylaw (which requires owners of “high risk” sites to obtain a resource consent from Environment Canterbury) is not consistent with the LWRP framework;

- Environment Canterbury accepts that it may be appropriate in exceptional circumstances to exclude some very high-risk sites and activities; however this should only occur in exceptional circumstances, to be discussed on a case-by-case basis;

- Clarification of whether the Bylaw applies to public drains (other than those operated by the Waimakariri District Council);

- There is an opportunity for the Bylaw to better allow for environmental enhancement on private drains where no nuisance will be caused.

The contents of Environment Canterbury’s submission are laid out according to topic below.

Support for the review

Environment Canterbury is very supportive of the review process, particularly given the opportunity to integrate and align with Omnibus Plan Change 4 to the Land and Water Regional Plan (LWRP) which was made operative on 11 March 2017.
Pollution Prevention Plans

Environment Canterbury supports the use of Pollution Prevention Plans as a means for managing and minimising the discharge of contaminants into the District Council network without requiring a resource consent from Environment Canterbury. There could also be an opportunity to link the requirements of Pollution Prevention Plans to the limits placed on any future resource consent for discharges from the District Council’s reticulated network into the environment.

Environment Canterbury would like to encourage the use a process like this for all at risk sites, including sites that have been identified as ‘High Risk’ in Schedule 1.

Timing of the review

While acknowledging that the Waimakariri District Council is working to a deadline set by the Local Government Act 2002 this also means that the new Stormwater Bylaw is likely to predate the assessment of resource consent(s) for stormwater discharges from the reticulated network(s) within Waimakariri District. If possible there may be some benefit in delaying the review until these resource consents have been processed or by enabling a flexibility mechanism that would future proof the new Bylaw for consistency with these consents.

A requirement to comply with any future contaminant limits contained in these resource consents would provide greater consistency between the Bylaw and the consenting regime. It would also enable further integration with Pollution Prevention Plans which could ultimately make it easier for the Waimakariri District Council to manage and monitor the inputs into the reticulated system. If reference was made to future consent limits then this would assist in the approval of appropriate discharges into the network. E.g., discharges that have a Pollution Prevention Plan that will ensure that the limits are met.

Regional best practice guidelines are also currently in development by the Regional Stormwater Forum which will be a valuable resource for the Council once available.

High Risk Activities

Environment Canterbury supports the use of an identification mechanism for at risk sites but would like to clarify that it is only in exceptional circumstances that a discharge should require a resource consent from Environment Canterbury.

At face value Schedule 1 to the Bylaw applies a blanket exclusion from the network for any of the sites listed as ‘High Risk’ (unless also included in the ‘Medium Risk’ category). This would include, for example; residential sites that are on the Canterbury Listed Land Use Register even when they have been analysed for appropriate contaminants and determined to be at or below background concentrations, or below guideline values for residential sites. A requirement for resource consent from Environment Canterbury in these circumstances is likely to be excessive.
The above example of a residential site on the Listed Land Use Register is also an example of where the distinction between ‘medium’ and ‘high’ risk sites might not be the most appropriate means of determining risk. An activity or site listed as ‘medium’ or ‘high’ may be associated with more or less risk than the other, depending on the individual circumstances and level of treatment and/or mitigation at the site.

A risk identification mechanism that enables a site by site determination would be more consistent with the LWRP by only requiring resource consent in exceptional circumstances. If any of the sites or activities listed in Schedule 1 triggered some form of approval or certification process then they could each be assessed on their merits. This is a process that could utilise third party expertise to certify or provide advice on appropriate stormwater treatment without the requirement for an applicant to apply for a resource consent from Environment Canterbury.

While there is a discretionary activity pathway in the LWRP for discharges into a reticulated network, there is still strong policy guidance in Policy 4.16A that network operators should be managing all the inputs into their network. Narrowing the scope of resource consent requirements to only those that are truly exceptional would be more consistent with this policy.

Environment Canterbury would be open and willing to continue a conversation about how third party resources and expertise could be utilised in such a process for managing the types of discharges associated with Schedule 1. There could be an opportunity to explore the use of a cost recovery mechanism in the Bylaw for any such approval or certification process using s150 of the LGA. This may place less burden and expense on applicants than going through a resource consent application process.

**Network Utility Drains**

It appears implicit that the bylaw does not apply to public drainage networks other than those operated by Waimakariri District Council, as they are not listed in section 2.3 of the introduction. This Environment Canterbury’s preference because our land drainage network is protected by the Flood Protection and Drainage Bylaw 2013. If the Stormwater Bylaw was applicable to Environment Canterbury’s network then it would be likely to cause unnecessary duplication.

Some clarification by means of an explanatory note to clarify that the Bylaw does not apply to other public networks such as Environment Canterbury (possibly others such as NZTA and Kiwirail) would be beneficial. Environment Canterbury networks in the Waimakariri District include:

- Sefton Ashley drains
- Parts of the Ashley, Waimakariri, Eyre, Cam, Cust and Kaiapoi Rivers, Sefton Town Stream, Silverstream, Courtenay Stream, and Hunters/Colliers Creek.
Private system maintenance

Part 5, s16.3 requires that owner/occupiers maintain a free flow of water in the relevant systems. This assumes that drainage is always desirable and could act to prevent environmental enhancement or stormwater treatment systems where water retention is beneficial and no nuisance is caused. The maintenance of a stopbank to ensure the free flow of water is also somewhat counterintuitive given that the purpose of stopbank is to alter the path of water (and limit free flow). 16.2 covers the avoidance of nuisance, so 16.3 may not be necessary. Rather than complicate the bylaw with situations and exceptions where some retention is acceptable or desirable, removal of section 16.3 is suggested.

Erosion and Sediment Control Plan

Environment Canterbury erosion and sediment control guidelines have been updated and are now referred to as the “Erosion & Sediment Control Toolbox for Canterbury”. The definition in the Bylaw for an Erosion and Sediment Control Plan could also reference the URL that links to the Toolbox: [http://esccanterbury.co.nz/](http://esccanterbury.co.nz/)

Bylaw Title

Including an ‘and’ in the title might prevent potential confusion given that stormwater and land drainage are separately defined. E.g., “Stormwater and Drainage Bylaw 2018”.

Identification of buried services

Section 13.2 requires that any person (which would Environment Canterbury by definition) undertaking works or activities near a Council system is responsible for locating any buried services. If and where these services or systems are located nearby Environment Canterbury assets or are discharging into the Environment Canterbury network, we would ask that their location is identified by marker posts.
Contact details

Thank you for the opportunity to comment on the draft Stormwater Drainage Bylaw 2018. We are very supportive of the Council testing alternative options through public consultation and we look forward to working with the Council throughout the bylaw development and implementation process.

Environment Canterbury would also like to take up the opportunity to be heard in person at the Hearing scheduled for February 2018.

Andrew Parrish

Section Manager Planning

(Authorised under delegated authority from the Canterbury Regional Council)

Date: 15/12/2017

Address for service of submitter:
Environment Canterbury
PO Box 345
Christchurch 8140

Telephone: 027 801 7849
Fax/email: sam.leonard@ecan.govt.nz

Contact person: Sam Leonard, Senior Planner
To: The Waimakariri District Council
Submission: Draft Stormwater Drainage Bylaw

From: The Rangiora-Ashley Community Board
Contact: Edwina Cordwell - Governance Advisor
Email: Edwina.cordwell@wmk.govt.nz
Phone: 03 311 8900

The Rangiora-Ashley Community Board (the Board) supports the Draft Stormwater Drainage Bylaw and thanks staff for the very informative presentation and briefing on 30 November 2017.

The Board believes that the Bylaw proposals are clear and well thought through. Vigilance and the ability to rectify problems quickly will be important if the intent of the Bylaw is to be achieved. The need for appropriate and responsive enforcement action will be a key factor.

The Board would also wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw.

The Board also notes the engagement of staff with the Drainage Advisory Boards and that this is also extremely important so as to alleviate any concerns or queries going forward and also achieve compliance.

Thankyou,

Jim Gerard QSO
Chair: Rangiora-Ashley Community Board
The Woodend-Sefton Community Board (the Board) supports the Draft Stormwater Drainage Bylaw and thanks staff for the very informative presentation and briefing on 30 November 2017.

The Board would wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw.

Thankyou,

Shona Powell
Chair: Woodend-Sefton Community Board
The Oxford-Ohoka Community Board (the Board) is supportive of the Draft Stormwater Drainage Bylaw and believe the proposal is heading in the right direction to support ongoing improvement of our waterways. Furthermore the Board thanks staff for the very informative presentation and briefing on 30 November 2017.

The Board would wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties and Drainage Advisory Committees that may be affected by the proposed bylaw.

The Board also emphasize the importance of early communication and engagement with stakeholders at the formative stages of any Bylaw.

Thank you,

Doug Nicholl
Oxford-Ohoka Community Board Chairperson
To: The Waimakariri District Council
Submission: Draft Stormwater Drainage Bylaw

From: The Kaiapoi-Tuahiwi Community Board
Contact: Edwina Cordwell - Governance Advisor
         Email: Edwina.cordwell@wmk.govt.nz
         Phone: 03 311 8900

The Kaiapoi-Tuahiwi Community Board (the Board) supports the Draft Stormwater Drainage Bylaw.

The Board believes that the Bylaw proposals are clear and well thought through.

The Board would also wish to reiterate the importance of ongoing communication and the provision of public information particularly for those properties that may be affected by the proposed bylaw.

Thankyou,

Jackie Watson
Chair: Kaiapoi-Tuahiwi Community Board
Mandeville Residents Association

RE: Waimakariri District Council Stormwater Drainage Bylaw 2018

The Mandeville Residents Association recommends the following to be incorporated within the Waimakariri District Council Stormwater Drainage Bylaw 2018:

1. Planning and development of any new subdivision must include a comprehensive drainage plan. This should include plans for:
   I. All old drains and roads that act like dams as well as the drainage from roofs, buildings, driveways and hard-seal areas.
   II. Swale drains and soak holes for high water table areas.
   III. Soakage ponds so the water they receive when re-charging the ground water does not cause excessive flooding to lower land properties.
   IV. A drainage rate over the whole district which would help to fund a number of flooding issues.

2. The following sections from Waimakariri District Council Stormwater Drainage Bylaw 2011 be included in the 2018 plan:

   4. Section 3 Objectives (Items 3.1 and 3.2) ✔
   II. Section 5 Construction Activities (Item 5.1) ✔
   III. Section 6 Minimum Stormwater Quality Standard (include all parts in 6.1 a-n)

3. An amendment was made to the 2017-2018 plan – item 2.3 - bullet point 3 – changed to read 'Council or private'.

Karen Jackson
Secretary

We wish to speak to the hearing on WDC Stormwater Drainage Bylaw 2018. Please: KJackson
STORMWATER DRAINAGE BYLAW 2018

Draft Bylaw for Public Notification

WAIMAKARIRI DISTRICT COUNCIL

24 October 2017

RECEIVED
15 DEC 2017
BY:

Stormwater Drainage Bylaw 2018
Draft for Consultation
WAIMAKARIRI DISTRICT COUNCIL
STORMWATER DRAINAGE BYLAW 2018

1 TITLE, AUTHORITY AND COMMENCEMENT

1.1 This bylaw shall be known as the Waimakariri District Council Stormwater Drainage Bylaw 2018.

1.2 This bylaw shall come into force on the 1st day of [insert Month] 2018.

1.3 This Bylaw supersedes and revokes the Stormwater Bylaw 2011.

1.4 The Council resolved to review the Stormwater Bylaw 2011 on 24 October 2017. This Bylaw was confirmed following a special consultative procedure by resolution at a meeting on [insert date].

2 INTRODUCTION

2.1 This bylaw is made by the Waimakariri District Council in exercise of the powers and authority vested in the Council by Section 146 of the Local Government Act 2002.

2.2 This bylaw applies and operates throughout the Waimakariri District.

2.3 This bylaw applies to the following:

- Council or private stormwater systems
- Council or private land drainage systems
- Activities affecting watercourses, flood plains, overland flow paths or the receiving environment.

2.4 This bylaw does not derogate from the Building Act 2004, the Hazardous Substances and New Organisms Act 1996, the Health Act 1966 and the Resource Management Act 1991 and any of those Acts’ subsequent amendments or applicable Regulations.

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

The Stormwater Drainage Bylaw supports these provisions by requiring effective operation and maintenance of Council and private stormwater and land drainage systems and separate operation of the stormwater and wastewater systems.
STORMWATER BYLAW 2011

This Stormwater Bylaw 2011 was adopted at a Council meeting held on 6 September 2011

Chief Executive

Administration Manager

WAIMAKARIRI DISTRICT COUNCIL

RECEIVED
15 DEC 2017
BY:

September 2011

All Ages
WAIKARIRI DISTRICT COUNCIL
STORMWATER BYLAW 2011

1 TITLE, AUTHORITY AND COMMENCEMENT

1.1 This bylaw shall be known as the Waimakiriri District Stormwater Bylaw 2011.

1.2 This bylaw shall come into force on the 1st day of October 2011.

2 INTRODUCTION

2.1 This bylaw is made by the Waimakiriri District Council in exercise of the powers and authority vested in the Council by Section 146 of the Local Government Act 2002.

2.2 Except for Sections 7, 8, and 9 which apply only to the Southbrook outlying development area, this Bylaw applies and operates throughout the Waimakiriri District.

3 OBJECTIVES

✓ 3.1 The objective of this Bylaw is to provide a mechanism to control the discharge of contaminants into public drains.

✓ 3.2 The bylaw is needed to ensure that the Council can maintain the aquatic health of its drains, and meet the appropriate standards relating to its discharges from communal stormwater systems.

4 INTERPRETATION

1) In this bylaw:

✓ i. “Best practicable option” (BPO) means the best method for preventing or minimising the adverse effects of any stormwater discharge on the environment, as determined by the Manager Utilities and Roading, having regard to:

   a. the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
   b. the financial implications of an option compared with other options; and
   c. the effects on the environment; and
   d. the current state of technical knowledge as in the Auckland Regional Council’s guidelines TP10 or Environment Canterbury’s Erosion and Sediment Control Guideline 2007, and the likelihood that the option can be successfully applied.

✓ ii. “Construction activities” means any activities involving the disturbance of the surface of any land but excludes farming and forestry activities.

✓ iii. “Contaminant” includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy or heat:
a. when discharged into water, changes, or is likely to change the physical, chemical, or biological condition of the water, into which it is discharged, or
b. when discharged on to or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air on to or into which it is discharged.

v. "Development" in relation to any land means altering the stormwater runoff characteristics of that land including by stormwater drainage works, building work, subdivision or change of use.
vi. "District Plan" means the Waimakariri District Plan.
viii. "Industrial or trade process" are businesses or activities included in Schedule 1 or listed in Schedule WQL9 of the PNRRP.
ix. "Manager Utilities and Roading" means the person employed as the Manager Utilities and Roading by the Council or any person authorised to exercise the powers and duties of the said person.
x. "NRRP" shall mean the Natural Resources Regional Plan prepared by Environment Canterbury
xi. "Owner/occupier" means any persons acting in general management or control of the land, or any plant or machinery on that land.
xii. "Person" includes a Corporation Sole and also a body of persons, whether corporate or unincorporate.
xiii. "Public drain" means any passage, channel, or pipe on, over, or under the ground by which stormwater is conveyed and which is under the control of the Council. For the purposes of this bylaw, drains within New Zealand Transport Agency owned land are deemed to be Public drains.
xiv. "Stormwater" means runoff that has been channelled, diverted, intensified or accelerated by human modification of the land surface or rainfall runoff from the external surface of any structure as a result of precipitation.
xv. "Southbrook ODP area" means the Southbrook Business 2 Zone as currently defined in the Waimakariri District planning map 154.
xvii. "WDC" means the Waimakariri District Council.

2) Terms and expressions defined in the Act shall, when used in this by-law, have the same meanings as those in the Act, unless they are alternatively defined in this bylaw.

5  CONSTRUCTION ACTIVITIES

5.1 Any person who carries out any earthworks as defined in the District Plan related to either construction activity or development, which may lead to stormwater run-off into public drains, and which is contaminated with soil particles or causes water to scour the soil, shall ensure that erosion and sedimentation control activities are implemented in accordance with good practice as described in Environment Canterbury’s Erosion and Sediment Control Guideline 2007.
MINIMUM STORMWATER QUALITY STANDARD

6.1 The owner/occupier of any land or any person causing a discharge to the Council’s stormwater system, including any discharge from a private drain or private common drain that in turn discharges to a public drain, shall ensure that it does not:

a. contain any chemicals in quantities sufficient to be toxic to plants and animals, paint, oil, grease, pesticides, fertiliser, tannins, detergent, grass clippings, rubbish, litter, or heavy metals, or
b. cause the production of conspicuous oil or grease films, scums or foams, or floatable material, or
c. cause a conspicuous change of colour or visual clarity, at that point which is 30 times the receiving drain channel’s width downstream from the point of discharge into the public drain, or
d. cause an emission of objectionable odour, or
e. cause adverse effects on aquatic life, or
f. contain suspended solid concentrations in excess of 100mg/litre at that point which is 30 times the receiving drain channel’s width downstream from the point of discharge into the public drain, or
g. contain any hazardous substances, waste water or trade wastes,

except where the discharge:

h. is a discharge of dye or tracer material for investigative purposes, or
i. is a discharge of water from the testing or emptying of pipelines, tanks or bunds where potable or stream water has been used, and no welding residues, disinfection chemicals or other chemical contaminants contained within the pipeline will be discharged to the receiving water body, or
j. is a discharge of overflow bore water to surface water bodies, if the rate of discharge is no more than five litres per second and the discharge has not been contaminated prior to discharge, or
k. is a discharge from a swimming pool (excluding swimming pool filter-backwash water) which is free of chemicals, algae, leaves, dirt or other debris. (Any discharge with these contaminants must be discharged to the sewerage system.) Swimming pool water is considered free of chemical contaminants when a pool has been left open to sunlight for 14 days, the level of chlorine does not register on any home testing kit, and no smell of chlorine remains, or
l. is a specific discharge which is authorised to be permitted under specific resource consent, or
m. is from an activity for which the best practicable option is already in place, or
n. is from a moderate risk industrial or trade process (as defined in Schedule 1) and complies with an approved pollution prevention plan, or is from a high risk activity (as defined in Schedule 1) and complies with a Resource Consent which has been obtained from Environment Canterbury.
SCHEDULE 1 – HIGH AND MODERATE RISK INDUSTRIAL OR TRADE PROCESSES

A  High risk industrial and trade processes (high risk activities) shall be those activities listed in NRRP schedule WQL9.

B  Moderate risk industrial and trade processes includes, but is not limited to:
   a. Any other activity or premises nominated by the Manager Utilities and Roading that has failed to meet the minimum stormwater quality standards as specified in Clause 6.1.
   b. Any other business identified by the Manager Utilities and Roading as of particular concern relating to the quality of its stormwater discharges, with regard to achieving minimum stormwater quality standards as specified in Clause 6.1.
   c. The following industrial and trade processes:
      i. aggregate and material storage/stockpiled yards which are subject to erosion and/or leaching of contaminants,
      ii. boat building and repair facilities,
      iii. construction and maintenance depots,
      iv. demolition activities,
      v. food and beverage manufacturers,
      vi. liquid waste removal contractors,
      vii. operations where water used to wash buildings uses detergents and chemicals and liquid waste removal contractors,
      viii. retail service stations, truck stops, oil terminals and depots and lubricating oil blending and grease manufacturing plants,
      ix. recycling and waste centres,
      x. spray painting, panel beaters and sign writers workshops,
      xi. transport depots,
      xii. vehicle and mechanical engineering workshops,
      xiii. vehicle recyclers,
      xiv. wood and paper product and furniture manufacturers.
BEFORE THE WAIMAKARIRI DISTRICT COUNCIL

IN THE MATTER of the proposed Stormwater Drainage Bylaw 2018

BETWEEN WAIMAKARIRI DISTRICT COUNCIL

AND CANTERBURY REGIONAL COUNCIL

Submitter

LEGAL SUBMISSIONS ON BEHALF OF CANTERBURY REGIONAL COUNCIL
16 February 2018

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MAY IT PLEASE THE HEARING COMMISSIONERS

1 These legal submissions are given on behalf of the Canterbury Regional Council (Environment Canterbury) to:

(a) Support the amendments sought by Environment Canterbury to the draft Stormwater Drainage Bylaw 2018 (draft Bylaw); and

(b) Assist the Waimakariri District Council (WDC) in relation to its Bylaw, insofar as it relates to Environment Canterbury’s planning documents.

2 These submissions address:

(a) The statutory and planning context for stormwater management in Canterbury;

(b) An overview of the changes to the draft Bylaw sought by Environment Canterbury;

(c) The lawfulness of the additional approval mechanisms and proposed ability to revoke an approval granted under the draft Bylaw suggested by Environment Canterbury; and

(d) Enforcement under the draft Bylaw and how this might interact with Environment Canterbury’s enforcement powers under the Canterbury Land and Water Regional Plan (LWRP).

3 In addition to these legal submissions, evidence is being presented on behalf of Environment Canterbury by:

(a) Rowan Freeman (Principal Contaminated Sites Advisor): Mr Freeman’s evidence provides technical contaminated land evidence. He recommends changes to the ‘medium risk’ and ‘high risk’ classifications under the draft Bylaw and some changes to the provisions relating to Pollution Prevention Plans; and

(b) Sam Leonard (Senior Planner): Mr Leonard’s evidence outlines the planning and policy context for stormwater management in Canterbury. His evidence sets out the specific changes to the draft Bylaw sought by Environment Canterbury.
Stormwater management is a major issue for territorial authorities and regional councils alike.

In accordance with their functions, territorial authority stormwater management is principally concerned with the physical infrastructure. As you will be well aware, WDC is responsible for the public stormwater system (such as gutters and drains in public roads, and the piped system below ground), and for ensuring stormwater discharges at the reticulated system outlet meet Environment Canterbury requirements.

Under the Resource Management Act 1991 (RMA), Environment Canterbury is responsible for controlling discharges of contaminants (including stormwater) to land, water, and the coastal marine area.

Environment Canterbury does this through the Regional Policy Statement, and its regional planning documents. Overall, these regulatory documents seek to maintain water quality and improve it where it is degraded. Most discharges of stormwater are permitted (subject to meeting certain conditions), but some require a resource consent. The specific planning framework put in place under the LWRP is set out below.

In order to manage stormwater infrastructure, territorial authorities are given a power to make bylaws in relation to stormwater under section 146 of the Local Government Act 2002 (LGA). In relation to WDC’s powers to make bylaws, section 155 of the LGA provides that a local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.

Before making the Bylaw, WDC must also be satisfied that the Bylaw is the most appropriate form of the bylaw (amongst other matters).

The respective functions of territorial authorities and regional councils in relation to stormwater must also be considered in light of the broader obligations of local authorities under the LGA.

In particular, these obligations include meeting the current and future needs of communities for good quality local infrastructure, local public
services, and performance of regulatory functions in a way that is most cost-effective for households and businesses (section 10 of the LGA). Good quality in the context of section 10 means infrastructure, services and performance of regulatory functions that are efficient, effective and appropriate to present and anticipated future circumstances.

12 The explicit role of a local authority is to give effect to the purpose of local government as stated in section 10 of the LGA.

13 In addition, the principles relating to local government set out in section 14 of the LGA relevantly provide that a local authority should:¹

(a) give effect to its identified priorities and desired outcomes in an efficient and effective manner;

(b) actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes; and

(c) ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets.

14 These purposes and principles of local government are relevant in the context of some of the changes sought by Environment Canterbury and are also relevant to the appropriateness of the provisions of the draft Bylaw.

Planning context

15 As Mr Leonard’s evidence explains, the LWRP, which is Environment Canterbury’s key regulatory tool for managing the effects associated with stormwater discharges, seeks to control stormwater by regulating the end of pipe discharge, with the operators of reticulated stormwater systems being expected to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system (Policy 4.16A). From 1 January 2025 network operators must account for and are responsible for the quality and quantity of all stormwater discharged from that reticulated stormwater system.

¹ LGA 2002, s14(1)(a)(ii), (e), (g).
The policy framework is implemented by a rule framework which also focuses on the end of pipe discharge from reticulated systems.

Rule 5.93A is critical. It provides that the discharge of stormwater or construction phase stormwater into a reticulated stormwater system is a permitted activity provided that "written permission has been obtained from the owner of the reticulated stormwater system that allows entry of the stormwater into the reticulated stormwater system."

The discharge of stormwater into the reticulated system, without the permission of WDC, requires resource consent from Environment Canterbury as a discretionary activity under Rule 5.97 of the LWRP.

The draft Bylaw is the primary mechanism by which WDC can control what stormwater is discharged into its reticulated stormwater system (and provide permission for the entry of the stormwater). This is relevant as if WDC permits the discharge, no resource consent is required from Environment Canterbury. If WDC does not permit the discharge to its system, a resource consent is required from Environment Canterbury.

Environment Canterbury appreciates that there has been some reluctance on WDC’s part to regulate all stormwater discharges into the reticulated system. This appears to have been driven by concerns about processing approvals, issues associated with compliance monitoring, funding and potential inefficiencies. Notably, as owner of the reticulated system, WDC is already regulating aspects of the discharge i.e. ensuring that there is sufficient capacity in the system.

Environment Canterbury considers that the changes it is seeking will better achieve and integrate with the policy position in the LWRP, whilst acknowledging and addressing WDC’s concerns about controlling the quality of discharges into the reticulated system.

The changes sought by Environment Canterbury provide a platform for WDC to lead the way in relation to stormwater management in Canterbury, whilst in most situations resulting in a more efficient process for landowners and developers, avoiding the need for a dual consenting/approval process in all but the most complicated scenarios.

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2 See evidence of Kalley Simpson on Plan Change 4 of the LWRP, page 4.
The approach proposed is also flexible and does not create an arbitrary distinction simply based on the classification of a site on the Listed Land Use Register, when in reality the risks are much more nuanced than that.

Environment Canterbury’s submission on the draft Bylaw, and its evidence and legal submissions presented to WDC should be considered in light of this statutory and policy context.

**Changes to the draft Bylaw sought by Environment Canterbury**

The draft Bylaw provides that every premises shall be entitled to have its stormwater or land drainage water accepted by WDC subject to conditions (clause 5). The conditions include (among other things) that the owner of the premise has prior written approval from WDC for the new connection; there is sufficient capacity within the Council system to accommodate the additional connections; and, fulfilment of the requirements of the draft Bylaw, including obtaining any relevant consent, implementing any Pollution Prevention Plan that the customer is required to obtain, and meeting all requirements of the RMA, Building Act 2004, or any other acts or regulations. The effect of clause 5 of the draft Bylaw is that every person wanting to connect to WDC’s reticulated system requires its written approval, whether or not a separate resource consent from Environment Canterbury is also required.

Overlaying this approval process (which is primarily concerned with the quantity of stormwater, rather than its quality), for medium risk sites, the draft Bylaw provides for discharges to be accepted into the reticulated system, provided that Pollution Prevention Plans are used. The draft Bylaw requires owners of ‘high risk’ sites to obtain a resource consent

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

4 Schedule 1 of the draft Bylaw defines “high risk” activities and sites as including (i) any activity listed in the LWRP Schedule 3 HAIL; or any site on the LLUR; or any new development site, or re-development of an existing site that is not permitted u under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 – unless any such activity or site is specifically identified as a “medium risk”.

from Environment Canterbury for a discharge into any WDC or private stormwater or land drainage system. Any consented discharges from a high risk site must also comply with the requirements of the draft Bylaw, aside from the requirement to submit a Pollution Prevention Plan.

27 Environment Canterbury considers that only in exceptional circumstances should Environment Canterbury consent the discharge of stormwater into the reticulated system and that stormwater from a wider range of sites should be accepted into the WDC system, rather than having a default position that the discharge of stormwater from any site on the Listed Land Use Register or Schedule 3 of the LWRP requires resource consent from Environment Canterbury. This is consistent with the policy framework under the LWRP and will help achieve efficiencies between WDC's and Environment Canterbury's processes and regulatory functions.

28 The changes to the draft Bylaw sought by Environment Canterbury to achieve this outcome are summarised as follows (a detailed summary of these changes is set out in Appendix A to Mr Leonard's evidence):

(a) Removing the 'Medium' and 'High Risk' categories proposed in the draft Bylaw, and replacing these with a single 'at-risk' category which includes any activity or site listed on the Hazardous Activities and Industries List (excluding those discharges comprising of operational phase stormwater from residential activities);

(b) It is proposed that all 'at-risk' sites would be required to prepare a Pollution Prevention Plan. Some technical changes to the Pollution Prevention Plan clauses are also proposed.

(c) The draft Bylaw should include clauses providing for WDC to grant its approval under the draft Bylaw for 'at-risk' sites to discharge into the system under a specific process. This will enable an assessment on a case by case basis as to whether WDC will accept a discharge (or whether a resource consent from Environment Canterbury will be required), rather than having a somewhat arbitrary position that all sites on the Listed Land Use Register or on a HAIL site in Schedule 3 of the LWRP require a separate stormwater consent from Environment Canterbury. The approval clauses would need to include clauses addressing the
matters to which conditions may be attached and explicitly providing that approvals can be revoked in some situations where the terms of the draft Bylaw or the conditions of any approval granted under the draft Bylaw are not being met. As is explained below in the context of enforcement, this is important if Environment Canterbury is to retain a regulatory backstop.

29 The changes Environment Canterbury is proposing be made to the draft Bylaw would not result in all discharges to the reticulated system being approved by WDC, but rather would enable a more flexible approach, recognising that the distinction between high risk and medium risk sites is somewhat arbitrary. Further, over time, as WDC develops its expertise, it may wish to approve a wider range of ‘at risk’ discharges than it currently approves be discharged into the system.

The rationale for a single risk category and the need for clearer approval clauses

30 The scientific and planning rationale for a single ‘at risk’ category is explained in the evidence of Mr Leonard and Mr Freeman.

31 From a legal perspective, the approach proposed by Environment Canterbury will more flexible, compared to simply providing that all ‘high risk’ sites require a resource consent from Environment Canterbury as is currently the case under the draft Bylaw.

32 In this respect, the approach is more in line with LGA purposes for local government and provides a further opportunity for Environment Canterbury and WDC to work together.

33 Importantly, it has the potential to provide a more efficient process for the end ‘customer’ seeking approval to connect to the reticulated system from ‘higher’ risk sites. This is because it will not automatically require these sites to obtain a resource consent from Environment Canterbury (as well as the approvals required under the draft Bylaw to connect to the system (particularly under clauses 5 and 8 of the draft Bylaw)).

34 As set out above, Environment Canterbury is seeking changes to the draft Bylaw to provide further robustness to the approval process under the draft Bylaw, and to enable WDC to revoke its approval for a discharge of stormwater into the reticulated system where the terms of the draft Bylaw or an approval granted under it are not being met.
A clearer approval process for ‘at risk’ sites is also important because the LWRP only makes the discharge of stormwater into a reticulated system a permitted activity where the network utility operator has provided written permission to discharge into the system. Under the draft Bylaw as currently drafted, it is unclear whether an approval given under clause 5.1 of the Bylaw will in fact constitute a written permission to discharge into the system, thereby making the discharge a permitted activity under the LWRP?

Given the importance of WDC’s approval under the draft Bylaw and how this links to the LWRP rules, the following section of these submissions addresses the legality of WDC granting approvals under the draft Bylaw, including the discretion it will confer on WDC whether to accept the discharge, and the implications for WDC in terms of cost recovery.

Four elements are essential to the validity of a bylaw. A bylaw:⁵

(a) should be intra vires the powers of the local authority;
(b) should not be repugnant to the laws of New Zealand;
(c) should be certain; and
(d) should be reasonable.

In particular, section 13 of the draft Bylaws Act 1910 (which applies to bylaws made by local authorities)⁶ states:

### 13 Bylaw not invalid because of discretionary power left to local authority, etc

(1) No bylaw shall be invalid because it requires anything to be done within a time or in a manner to be directed or approved in any particular case by the local authority making the bylaw, or by any officer or servant of the local authority, or by any other person, or because the bylaw leaves any matter or thing to be determined, applied, dispensed with, ordered, or prohibited from time to time in any particular case by the local authority making the bylaw, or by any officer or servant of the local authority, or by any other person.

(2) This section shall not apply to any case in which the discretion so left by the bylaw to the local authority, or to any officer, servant, or other person, is so great as to be unreasonable.

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⁵ Under section 17 of the Bylaws Act 1920, if a bylaw is severable, separate parts may be upheld though other parts are declared invalid. Further, the provisions of the Bylaws Act 1910 prevail over Part 8 of the LGA, which contains the empowering sections for local authorities to make bylaws, and also prevail over Part 9, which deals with offences and enforcement.

⁶ Section 144 of the LGA provides that the Bylaws Act 1910 prevails over Part 8 and Part 9 of the LGA.
Under section 13(2) of the Bylaws Act 1910, a discretion in a bylaw can be held to be unlawful if it is found to be so great as to be unreasonable.\(^7\)

The High Court has held that the purpose of section 13 of the Bylaws Act 1910 is to invalidate bylaws that impart to the Council discretions that are so unfettered that those affected cannot reasonably measure Council actions against any criteria or benchmark.\(^6\) The High Court held that while "particular cases" can be left to be determined, general guidelines should be provided in a bylaw. In that case, the discretion created by the bylaw was largely unfettered and a number of key aspects were left to the discretionary process of the relevant local authorities. The Court considered that the width of the discretion in itself did not create unreasonableness in accordance with section 13(2) of the Bylaws Act 1910. However, as the broad discretion included a discretion to tax waste without parameters, this created unreasonableness.\(^9\)

In addition, section 151 of the LGA specifically contemplates that bylaws may prescribe an obligation to be performed in a manner or within a time required by a person referred to in the bylaw. Similarly, section 151(1) of the LGA recognises that a valid bylaw may contain a discretion as to performance or performance standards, to be determined by the local authority or an officer.

Given that there is some risk associated with including a very wide discretion whether to accept a discharge under the draft Bylaw, it will be important that the draft Bylaw contains some guidance on the matters WDC will consider when deciding whether to grant an approval.

Mr Freeman’s evidence sets out the types of matters that will be relevant to a case by case assessment (and the risk associated with the discharge).

From a legal perspective, including an explicit approval clause within the draft Bylaw which outlines the matters that WDC will consider when

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\(^7\) That principle of interpretation still applies by virtue of section 144 of the LGA, which provides that the Bylaws Act 1910 prevails over Part 8 and Part 9 of the LGA.

\(^6\) *Carter Holt Harvey v North Shore City Council* [2006] 2 NZLR 787 (HC) at [63]-[64]. Although parts of the High Court’s decision was overturned on appeal in *Carter Holt Harvey v North Shore City Council* [2007] NZCA 420, they are irrelevant for the purposes of these submissions.

\(^9\) *Carter Holt Harvey v North Shore City Council* [2006] 2 NZLR 787 (HC) at [63]-[73].
deciding whether to grant an approval will result in a more legally robust Bylaw.

45 Ideally the draft Bylaw would also consolidate the various approvals referred to in the draft Bylaw (for example under clause 5 and clause 9) into one approval clause addressing discharges from 'at risk' sites (both in terms of the quantity of the discharge (i.e. there being sufficient capacity in the system) and any issues associated with 'quality', including the need for a Pollution Prevention Plan.

46 Alongside the matters that are to be considered when deciding whether to grant an approval, the draft Bylaw should include an explicit clause regarding the matters which WDC can place conditions on any approval. This is likely to include matters such as the location of the discharge, the type and nature of the discharge approved, construction, design, and maintenance requirements for the work or activity, compliance with specified water quality limits, implementation of and compliance with a Pollution Prevention Plan, including any specified mitigation measures; and monitoring requirements.

47 As is explained further below in the context of enforcement, it is important for WDC to ensure that any approval to discharge into the reticulated system granted under the draft Bylaw clearly sets out the terms or conditions of the approval. This would mean that if a person is discharging stormwater into the system outside of the limits provided by the approval, that the approval will not apply to or authorise that discharge.

48 We note that the LGA provides the ability for WDC to recover a charge for issuing an approval granted under a bylaw (under section 150 of the LGA) and that the draft Bylaw already provides for this.

49 In this sense WDC's ability to charge for processing and granting an approval under the Bylaw is no different to Environment Canterbury's powers to charge for processing a resource consent under section 36 of the RMA.

Revocation clauses

50 One other matter that Environment Canterbury considers should be explicitly addressed by the Bylaw is the ability to revoke an approval granted under the Bylaw.
Legality of revocation clauses

51 Bylaws may include clauses that enable an approval granted under a Bylaw to be revoked.

52 However, the grounds for revoking its approval should be specified in the draft Bylaw, to ensure that the draft Bylaw is certain, reasonable, and to avoid issues of natural justice.

53 The grounds and process only needs to be set out in general terms, so as to ensure that the discretion to revoke the approval provided by the draft Bylaw is not unreasonable.

54 The grounds that need to be established for the revocation of the approval will depend, in part, on the content of the draft Bylaw itself. For example, general grounds may include:

(a) failure to comply with any condition of an approval;
(b) if the continuance of the discharge puts at risk the ability of WDC to comply with any conditions of resource consent and/or requires additional treatment measures or costs to seek to avoid a breach of any such resource consent;
(c) in the event that the discharge results in a breach of a resource consent held by the WDC; or
(d) if at any point in time the discharge contains contaminants in excess of specified levels or limits.

55 In respect of the process, and timing, for revoking its approval, this is related to reasonableness, which must be considered in light of the particular context. For example, it may be appropriate to first provide written notice to a person that their approval is to be reviewed and potentially subject to amended terms and conditions, or to be revoked. In some situations, particularly where the discharge causes a breach of WDC's resource consent, it may be appropriate to immediately revoke the approval, particularly where these grounds are specified in the draft Bylaw.

56 Revoking an approval without a proper process may also give rise to issues of natural justice. In some circumstances this could form the
basis of a successful challenge to the validity of the WDC's decision to revoke its approval (by way of judicial review in the High Court).\textsuperscript{10}

**Enforcement**

57 Environment Canterbury appreciates that there may be some reluctance on the part of WDC to take more responsibility for the approval of discharges into its reticulated systems, particularly from 'riskier' sites, due to its enforcement options under the LGA for a breach of the draft Bylaw being more limited, compared to Environment Canterbury's enforcement powers under the RMA.

58 Although these submissions cannot pre-empt any future decisions of Environment Canterbury as to enforcement, they are intended to explain the wider enforcement framework, given the overlap between the regulatory mechanisms and powers related to the draft Bylaw (under the LGA) and the LWRP (under the RMA).

59 In particular, this section of the legal submissions addresses:

(a) enforcement of the draft Bylaw under the LGA; and

(b) how that fits with the LWRP provisions and Environment Canterbury's enforcement powers under the RMA and the importance of revocation clauses and conditions on any approval.

60 Enforcement under a Bylaw is different to enforcement under the RMA.

61 Assuming that a person breaches the requirements of the draft Bylaw, under the LGA the penalty for a person convicted of an offence for breaching a bylaw is a fine not exceeding $20,000.\textsuperscript{11}

62 The LGA also contains a regime for issuing infringement notices.\textsuperscript{12} An infringement offence must be specified in regulations, and currently, no such regulations have been made. At this point in time, the infringement notice regime would not be available for breaches of the draft Bylaw, but may be available in the future (should regulations be made). Under the LGA, the maximum infringement fee payable under an infringement


\textsuperscript{11} LGA, s 239.

\textsuperscript{12} LGA, s245.
notice is $1,000. We understand that WDC intends to seek that an order in council be made for this purpose.

63 The LGA does contain other potential mechanisms. For example:

(a) The Council may apply to the District Court for an injunction to stop the breach under section 162 of the LGA.

(b) Section 176 provides that any person convicted of an offence against a bylaw is liable to pay the costs of remedying any damage caused in the course of the breach (with the costs to be assessed by a District Court Judge).

64 In addition to the powers of WDC in the LGA, a number of other statutes contain provisions in relation to breaches of bylaws. Relevantly, WDC is considering fines under the Litter Act as a possibility. However, generally speaking the fines under these alternative mechanisms are minimal ($100 to $500).

65 By contrast, the RMA contains a wider range of tools (such as abatement notices, infringement notices or a prosecution) and much higher penalties. In this respect there may be some benefit if Environment Canterbury was able to take enforcement action under the RMA for unauthorised discharges to the reticulated system (or the ultimate end of pipe discharge).

66 As discussed above, the discharge of stormwater into the reticulated system with the written permission of WDC is a permitted activity under the LWRP. Any failure to comply with the terms of WDC’s permission (in this case an approval under the draft Bylaw), or where WDC has revoked its permission, would mean that the person no longer held written permission from the owner of the reticulated stormwater system that allows entry of the stormwater into the reticulated stormwater system. The discharge of stormwater into the reticulated system, without the permission of WDC, would require resource consent from Environment Canterbury as a discretionary activity under Rule 5.97 of the LWRP.

67 Accordingly, if a person continues to discharge stormwater to the reticulated system without obtaining the necessary resource consent,

13 The maximum penalties under the RMA (including a maximum fine of $300,000 or up to 2 years imprisonment for a natural person) are larger than the penalties available under the LGA.
Environment Canterbury could potentially take enforcement action for a breach of section 15(1)(b) of the RMA, as the discharge would not be expressly allowed by a rule in a regional plan (as well as a proposed plan), or a resource consent. There is case law authority that supports enforcement action being taken at the point of discharge into the reticulated system as a discharge of contaminant onto or into land in circumstances that may result in the contaminant entering water. Alternatively, depending on the circumstances, enforcement action may be able to be taken for the end of pipe discharge.

Importantly, where the person discharging to the system did not have a resource consent and was relying on an approval granted by WDC, Environment Canterbury would only be able to take enforcement action under the RMA for an unlawful discharge once WDC has revoked its permission, or if the discharge occurred in circumstances outside the scope of WDC's permission. Otherwise, the discharge would be permitted by Rule 5.93A of the LWRP.

For this reason, it will be very important that the terms of the written approval granted by WDC are clear and set the terms or conditions upon which a discharge into the system may occur. It is for this reason that Environment Canterbury also suggests that explicit approval and revocation clauses be included within the draft Bylaw.

Conclusion

Managing WDC and Environment Canterbury's respective obligations in relation to the management of stormwater, stormwater infrastructure, and its effects on the environment in the most efficient manner possible requires collaboration and co-ordination between the two agencies.

The changes proposed to the draft Bylaw will help simplify the process and ensure that only in exceptional circumstances will discharges from at risk sites require resource consent from Environment Canterbury.

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14 We note that in respect of industrial or trade premises there may also be the option of taking enforcement action due to a breach of section 15(1)(d) of the RMA.

15 Assuming it is not permitted by WDC under the draft Bylaw

16 See e.g. Manawatu Wanganui Regional Council v Thurston (DC Palmerston North CRI-2007-054-2550, 20/02/2009 at [85]); Southland Regional Council v Southern Delight Ice-cream Company (District Court, Invercargill, 15/09/95 CRN5025503972, Judge Sheppard); Gisborne District Council v McKendry (2005) 11 ELRNZ 458 at 463.
(therefore avoiding the need for dual approvals under the draft Bylaw and from Environment Canterbury in most situations).

72 The proposed amendments to include an 'at risk' site classification and to include explicit approval and revocation clauses will also help support a more flexible approach to stormwater and will remove the somewhat arbitrary distinction set out in the current draft Bylaw.

73 Environment Canterbury looks forward to working with WDC and is happy to provide any further assistance or clarification in relation to the approach it seeks.

DATED 16 February 2018

………………………………………
L F de Latour / K J Wyss
Counsel for Canterbury Regional Council
BEFORE THE WAIMAKARIRI DISTRICT COUNCIL

IN THE MATTER of the draft Waimakariri District Council Stormwater Drainage Bylaw 2018

BETWEEN WAIMAKARIRI DISTRICT COUNCIL

AND CANTERBURY REGIONAL COUNCIL

Submitter

STATEMENT OF EVIDENCE OF ROWAN VINCELL CAUDELL FREEMAN ON BEHALF OF THE CANTERBURY REGIONAL COUNCIL
16 February 2018

__________________________

WYNN WILLIAMS
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Introduction

My full name is Rowan Vincell Caudell Freeman.

Qualifications and Experience

I am a Principal Contaminated Sites Advisor at the Canterbury Regional Council (Regional Council).

I hold a Bachelor of Science degree in Geology (Tennessee Technological University, Tennessee, USA), a Post Graduate Diploma in Environmental Science (University of Canterbury, New Zealand), and I hold a Certified Environmental Practitioner (Site Contamination) certificate.

I have been a member of the Regional Council’s Contaminated Sites Team since September 2009. Throughout my term at the Regional Council, I have provided technical advice on matters relating to the identification, investigation, remediation, management, and policy improvements for contaminated sites in Canterbury. I regularly offer technical advice to Regional Council consent planners for resource consents related to construction and operational phase stormwater discharges from contaminated sites in Canterbury. Prior to 2009, I worked as an environmental consultant in the United States of America, leading soil and groundwater environmental investigations on municipal, commercial and private sites.

I have been the Principal Contaminated Sites Advisor at the Regional Council since 2016. Prior to that I worked as a Regional Council Contaminated Sites Officer II (2009 – 2011) and Senior Contaminated Sites Officer (2011-2016).

Although this is a Council level hearing, and not a hearing under the Resource Management Act 1991, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that code. Other than where I state I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

I have been asked to give evidence in relation to the Regional Council’s submission on the draft Waimakariri District Council Stormwater Drainage Bylaw 2018 (draft Bylaw).

My evidence will focus on the following matters:
(a) Hazardous activities and industries categories (as set out under Schedule 1 of the draft Bylaw).

(b) Pollution Prevention Plans (as under Part 1, Section 5.1 (e) of the draft Bylaw).

(c) Regional Council technical support to the Waimakariri District Council.

I have reviewed the following documents in preparing my evidence:

(a) the draft Bylaw;

(b) the Regional Council's submission on the draft Bylaw; and

(c) Mr Leonard's evidence.

Hazardous activities and industries categories

Part 2 of the draft Bylaw addresses discharge of contaminants to the Waimakariri District Council stormwater system from "medium" and "high risk" activities as defined under Schedule 1 of the draft Bylaw.

My evidence addresses:

(a) the draft Bylaw's use of risk categories; and

(b) references in the draft Bylaw to Schedule 3 of the Canterbury Land and Water Regional Plan (LWRP) (as per Schedule 1 of the draft Bylaw).

Risk Categories

With respect to stormwater discharges, Schedule 1(A) of the draft Bylaw currently provides that any Hazardous Industries and Activities List (HAIL) activity (as per Schedule 3 of the Canterbury LWRP); or any site included on the Regional Council’s Listed Land Use Register (LLUR) should be categorised as “high risk”. The draft Bylaw proposes that all “high risk” sites should seek resource consent from the Regional Council. Under Schedule 1(B), the draft Bylaw identifies ten activities as posing “medium risk” and proposes that such activities can be consented by the Waimakariri District Council, contingent upon approval of a Pollution Prevention Plan (PPP).

In my professional experience, risk categories cannot not be assigned to HAIL sites, with acceptable certainty, without case by case evaluations by a suitably qualified and experienced practitioner (SQEP). Failure to engage a SQEP may
result in critical oversights and result in unacceptable risk to ecological receptors. The Regional Council’s Contaminated Sites Team has SQEP expertise; however, independent SQEPs are also available throughout Canterbury. As further explained below the Regional Council is prepared to workshop a formal approach to managing hazardous activity and industry sites with the Waimakariri District Council.

To determine the risk that a site poses to stormwater receptors, the following matters should be considered (as relevant):

a) The types, sources and distribution of contaminants associated with a hazardous activity on a site;

b) The presence or absence of scientific evidence of environmental conditions on a site where hazardous activities have occurred or are occurring;

c) The proximity of proposed stormwater discharges in relation to areas prone to hold contamination and or hazardous substance containments;

d) The proximity, sensitivity and types of stormwater receptors;

e) Ease of contaminant migration to stormwater receptors;

f) The nature of proposed construction works;

g) The type of activities from which stormwater discharges may be generated;

h) The robustness of the site-specific construction management plan (CMP); and

i) The appropriateness of construction and operational stormwater treatment

This process develops what the Ministry for the Environment describes as a ‘conceptual site model’ (CSM). In specific instances, a site shown to match a high-risk category can be transitioned to a lower category of risk where site-specific controls (e.g. CMP) are prepared by a SQEP and implemented. A CMP takes the CSM into consideration and puts protocols in place which ensure contaminants of concern do not pose an unacceptable risk to vulnerable receptors.

On the other hand, a HAIL site which at face value is considered to pose a low to medium risk, may end up posing a high risk if controls informed by a CSM are not implemented. In my opinion, there are activities listed under Schedule 1(B) in the draft Bylaw which may pose more of a risk to stormwater discharges than activities under Schedule 1(A), after consideration of the matters that I have identified above.
Therefore, I consider that use of "medium risk" and "high risk" activities as set out in the draft Bylaw is not appropriate. Instead, I consider that the draft Bylaw should use a single risk category of "at-risk", which refers to the Hazardous Industries and Activities List. Stormwater discharges from at risk sites would then be assessed on a case-by-case basis, which I discuss below.

Further, I consider that operational phase residential stormwater discharges, even from HAIL sites, pose a low risk and should be excluded from the definition of "at-risk". Since 2013, members of my team and I have provided technical advice to the Christchurch City Council (regarding their Interim Global Stormwater Consent) on many residential rebuild sites on HAIL land. It has been my experience that stormwater generated from residential sites pose a low risk for operational phase discharges since the majority of stormwater entering Christchurch City’s network originates from roof and hardstand areas via sealed conveyance. I recommend that the proposed Bylaw allows the Waimakariri District Council to permit operational phase residential stormwater discharges, even where these occur on HAIL sites. To do so would not pose an unacceptable risk to the environment and would result in a significantly decreased workload for the Waimakariri District Council.

**HAIL sites requiring case by case review**

I recommend that the proposed Bylaw enables a process for stormwater discharges from commercial industrial (development and operational phase) and residential development phase HAIL sites be evaluated on a case by case basis. A case by case review would:

a) identify which sites can appropriately manage stormwater discharges through a Waimakariri District Council authorisation (and PPP) process and which sites would require a resource consent from the Regional Council;

b) facilitate more informed decision making by the Waimakariri District Council;

c) allow contaminated land specialist involvement in the approval and implementation of CMPs and site-specific PPPs, which address unique circumstances on sites; and

d) demonstrate that the Waimakariri District Council has exercised due diligence in processing stormwater discharge authorisations.
Justification for a case by case approach – Commercial / Industrial

Commercial / industrial sites are by their nature complex because they may host one or more hazardous activities simultaneously. In some cases, commercial / industrial land may have transitioned through a series of hazardous activities over decades resulting in the release of environmentally persistent contaminants of concern. As such, commercial / industrial sites require elevated scrutiny for construction and operational phase stormwater discharges.

Justification for a case by case approach – Residential (construction phase)

My experience with residential construction phase stormwater discharges in Christchurch City has shown that a wide range of HAIL activities may be associated with residential properties. Usually, the highest risk related to disturbing potentially contaminated soil during construction phase development is for contaminants to become entrained in stormwater and discharged into surface water bodies (directly or via drains). In circumstances where earthworks on HAIL sites resulted in soil disturbance less than 25 cubic metres (m$^3$), I recommended that Christchurch City authorise the construction phase discharge. On limited occasions, soil disturbances amounting to less than 25 m$^3$ required resource consent from the Regional Council because mine or my colleagues’ evaluation of scientific information about environmental conditions showed the site posed too high a risk to be authorised by the district council.

Definition of "at-risk" site

It is my understanding that the Ministry for the Environment is currently reviewing the HAIL, which is incorporated by reference into the NES for Assessing and Managing Contaminants in Soil to Protect Human Health. If this review does result in change/s to the categories or activities on the HAIL it could mean that Schedule 3 of the LWRP is not consistent with the HAIL.

Where the draft Bylaw refers to risk associated with the categories listed in LWRP Schedule 3 it would also place the draft Bylaw out of step with the HAIL. I consider that the definition of "risk" in the draft Bylaw should refer directly to the HAIL, and the reference to Schedule 3 of the LWRP be deleted. This would avoid the draft Bylaw being inconsistent with the HAIL.

Construction Phase Management and Operational Pollution Prevention Plans

Section 9 of the draft Bylaw sets out the considerations and requirements for PPPs. The Waimakariri District Council Draft Bylaw proposes the use of “PPPs” to:
(a) identify known or potential risks posed by stormwater discharges from medium risk sites, and

(b) provide mitigation measures to manage those risks.

My understanding is that PPPs are directed only towards operational phase stormwater discharges and I agree with the terms laid out under Section 9 of the draft Bylaw. However, I propose that the Waimakariri District Council commit ensuring that PPPs are specified as living documents which are updated from time to time (to reflect changes on a site that were not relevant at the time the PPP was first prepared). Council should also verify that responsible parties; lines of reporting (on-site, and, to the district and regional councils) are stated clearly in PPPs. If a site subject to a PPP is transferred to a new owner, that PPP will have to be transferred as well, assuming the hazardous activity at the site does not cease or change. I support the use of clauses 9.5 and 9.6 in the draft Bylaw which require 3 yearly reviews and that anyPPP be revised where there have been any significant changes to an activity.

Regional Council technical support to the Waimakariri District Council

The Regional Council's contaminated sites specialists are prepared to workshop a formal approach to managing hazardous activity and industry sites with the Waimakariri District Council. This approach could be confirmed outside of the draft Bylaw, for example establishing a process for assigning risk categories and determining whether resource consent should be managed through the Regional Council or the Waimakariri District Council on a case by case basis. I believe that the format the Regional Council used to support the Christchurch City Council was successful and could be applied to Waimakariri District Council stormwater management. A critical component of Regional Council support would be enabling the Waimakariri District Council to recognise when a site requiring a stormwater discharge should be forwarded to the Regional Council or an independent specialist for a decision about which authority is better suited to manage or authorise the discharge.

Conclusion

Assignment of risk categories to sites discharging stormwater is achievable but requires evaluation of multiple factors on a case by case basis (excluding operational phase residential discharges). On this basis, I consider that replacing the medium and high-risk categories in the draft Bylaw with a regime that uses a single “at risk” category, which is defined by the HAIL list (excluding operational
phase residential discharges), and assessed on a case-by-case basis, is more appropriate.

28 I also consider that some amendments should be made to the contents and requirements for PPPs, including using a SQEP to assist with the preparation of a PPP.

29 I believe specialist technical support could assist the Waimakariri District Council in demonstrating that it has exercised due diligence in authorising stormwater discharges OR requesting that stormwater discharges are administered through the Regional Council. The Regional Council’s Contaminated Sites Team has experience gained through the provision of advice to the Christchurch City Council on a case by case basis in relation to their Interim Global Stormwater Consent. We are willing to extend specialist support to the Waimakariri District Council.

Rowan Vincell Caudell Freeman

16 February 2018
BEFORE THE WAIMAKARIRI DISTRICT COUNCIL

IN THE MATTER of the draft Waimakariri District Council Stormwater Drainage Bylaw 2018

BETWEEN WAIMAKARIRI DISTRICT COUNCIL

AND CANTERBURY REGIONAL COUNCIL

Submitter

STATEMENT OF EVIDENCE OF SAMUEL PETER LEONARD ON BEHALF OF THE CANTERBURY REGIONAL COUNCIL

16 February 2018

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Introduction

1 My full name is Samuel Peter Leonard.

2 I hold a Bachelor of Laws and Bachelor of Science with a major in Environmental Studies and minor in Biology from Victoria University of Wellington.

3 I am a Senior Planner at the Canterbury Regional Council (Regional Council) a position I have held since August 2016. My previous role with the Regional Council was in the Implementation Team which I held from March 2015 until beginning my current role. In that role I was responsible for providing planning interpretation and implementation advice to colleagues, stakeholders, and the general public.

4 My relevant work experience includes providing regional policy advice and planning assistance to the Canterbury territorial authorities. I work closely with the planning teams at Waimakariri District Council and Selwyn District Council to assist with district plan reviews and the obligations to give effect to the Canterbury Regional Policy Statement (CRPS). I have been responsible for co-ordinating the Regional Council’s response to the draft Stormwater Drainage Bylaw 2018 and preparing the Regional Council’s submission.

5 Although this is a Council level hearing, and not a hearing under the Resource Management Act 1991, I confirm that I have read and am familiar with the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2014. I agree to comply with that code. Other than where I state I am relying on the evidence of another person, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Key Conclusions

6 The automatic requirement in the draft Waimakariri District Council Stormwater Drainage Bylaw 2018 (draft Bylaw) for ‘High Risk’ sites to obtain resource consent from the Regional Council to discharge into Waimakariri District Council’s stormwater system is inconsistent with the direction indicated in the Canterbury Land and Water Regional Plan (LWRP) regarding the management of stormwater discharges.
There is an opportunity for the draft Bylaw to implement a management framework that draws upon the Regional Council’s expertise for managing the quality of stormwater entering its reticulated stormwater systems that will effectively and efficiently integrate with the LWRP framework.

Some recommended amendments to the draft Bylaw that would help achieve an efficient integration with the LWRP include:

(a) Reference to a single category of risk;
(b) A clear process for approving and revoking permission to discharge stormwater into reticulated stormwater systems; and
(c) Additional requirements to be included in Pollution Prevention Plans.

The key changes sought by the Regional Council are set out in Appendix A to my evidence.

Scope of Evidence

I am giving evidence in relation to the Regional Council’s submission on the draft Waimakariri District Council Stormwater Drainage Bylaw 2018 (draft Bylaw).

My evidence will focus on the following matters:

(a) Regional Council policy framework
(b) Integration of the draft Bylaw with the LWRP
(c) Recommended amendments to the draft Bylaw

I have reviewed the following documents in preparing my evidence:

(a) The draft Bylaw; and
(b) The Regional Council’s submission on the draft Bylaw;
(c) The Canterbury Regional Policy Statement (CPRS);
(d) The Canterbury Land and Water Regional Plan (LWRP);
(e) Mr Freeman’s evidence.
Regional Council Policy Framework

13 The environmental issue at stake in relation to the management of stormwater discharges is the maintenance and improvement of water quality in surface and groundwater bodies. The management challenge is developing an integrated policy framework between regional and territorial legislative instruments, namely the LWRP developed under the RMA, and bylaws developed under the LGA.

14 Directives for managing the effects of stormwater discharges come from a national level, the Resource Management Act 1991 (RMA) and the National Policy Statement for Freshwater Management 2014 (NPSFM), as well as a regional level from the CRPS.

15 The CRPS is particularly relevant in this context as it set out objectives, policies and methods to resolve the significant resource management issues facing the Canterbury region. The maintenance and improvement of freshwater quality is one of these significant issues. This includes integrated management between different agencies to ensure that a holistic approach to freshwater management is achieved.

16 To resolve this issue the CRPS requires the establishment of minimum water quality standards and the management of activities that may cause adverse effects on water quality. Stormwater discharges are one such activity that require management to achieve water quality goals.\(^1\) The Regional Council and territorial authorities are directed to work together, as well as to have regard for and give effect to the goals of holistic freshwater management.\(^2\)

17 The main regulatory instruments that manage stormwater discharges in Canterbury are the LWRP, district plans and territorial authority bylaws, and resource consents (both discharge permits and land use consents). The LWRP manages the effects of stormwater discharges on the environment, district plans manage the effects of land use activities, and stormwater bylaws enable the management, protection and control of council owned and operated reticulated stormwater systems.

\(^1\) The most relevant CRPS objectives and policies are 7.2.1, 7.2.3, 7.3.1, 7.3.6, & 7.3.7.

\(^2\) CRPS Objective 7.1.4 & Policy 7.3.9.
The essence of the LWRP objectives can be summarised as directing the integrated management of land, water, and the protection of cultural values. The LWRP takes a mountains-to-the-sea approach, acknowledging the connectivity between surface water, groundwater, freshwater, land, and the coastal environment. The LWRP implements an activity based approach to ensure that the water quality and quantity in fresh waterbodies is managed to protect ecosystems, indigenous biodiversity, and human health, as well as economic and social wellbeing.

Freshwater bodies are to be maintained in a healthy state. The quantity and quality of water in freshwater bodies directly relates to the health of the environment and its capacity to support ecosystems and biodiversity. All activities, including stormwater discharges, are to operate at good environmental practice or better, to optimise efficient resource use and protect the region's freshwater resources from quality and quantity degradation.3

Resource consents are one of the tools under the LWRP that are used to manage activities that might otherwise cause unacceptable effects on the environment. The resource consent process focuses on achieving the environmental outcomes required by the objectives and policies in the Plan. There are many matters that will be considered when assessing a proposal to discharge stormwater (whether from a reticulated stormwater system, or directly to land or a waterbody). The consent authority will consider the terms and conditions upon which a resource consent might be granted and how effective these might be in achieving the environmental outcomes established in the LWRP objectives and policies.4

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3 LWRP Objectives 3.8, 3.16, 3.18, & 3.24 are particularly important for the management of stormwater discharges.

4 LWRP Policy 4.13 states that the effects of discharges will be minimised by a combination of measures including avoidance, recovery, recycling, minimisation, and treatment. Where a contaminant may enter groundwater, Policy 4.14 has conditions to manage that risk.
The LWRP has strong policy guidance about what activities may be granted a resource consent and what assessments must be undertaken to satisfy the requirements of the Plan. Resource consents for stormwater discharges will not be granted if they will cause the water quality limits in the Plan to be breached. When considering stormwater discharge consent applications the Regional Council must have regard to the potential adverse effects on the life-supporting capacity of freshwater, freshwater ecosystems, and the health of people and communities. The Regional Council must also consider the extent to which it is feasible and dependable to avoid any more than minor effects on freshwater or associated ecosystems, or human health.5

Reticulated Stormwater System Discharges under the LWRP

In relation to urban stormwater discharges it is LWRP policy that the cumulative effects of a discharge are to be managed by directing all stormwater discharges to land, or into reticulated systems where they are available.6 Operators of reticulated stormwater systems (generally territorial authorities) are required to apply for resource consents for discharges from their systems by 30 June 2018.

There is a requirement for reticulated stormwater system operators to prepare and submit stormwater management plans with their consent applications. Stormwater management plans are required to set out (amongst other things) how they will manage discharges into and from their stormwater systems to meet water quality outcomes, standards and limits in the LWRP by 2025.7 Any discharges of hazardous substances

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5 LWRP Policies 4.7 & 4.8A impose these requirements on any discharge consent application. Policy 4.8A is a requirement that comes directly from the National Policy Statement for Freshwater Management 2014. Water quality limits are set in the catchment specific sections of the plan (sections 6-15) as well as in Schedules 5 and 8.

6 LWRP Policy 4.15.

7 The matters to be addressed by a stormwater management plan under LWRP Policy 4.16 are: all discharges of stormwater into the stormwater system, treatment prior to discharge into a river or lake, how the water quality limits in Schedules 5 & 8 or Sections 6-15, storage or disposal of hazardous substances, progressive improvement of water quality as soon as practical but no later than 2025.
associated with contaminated land must also be managed to ensure that adverse effects beyond the site boundary are avoided.\(^8\)

**Policy 4.16A**

24 Policy 4.16A in the LWRP states that:

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

25 The intent of this policy is to direct territorial authorities to manage and control all inputs into reticulated systems. This will avoid any inconsistencies that might arise between the conditions on different resource consents that permit discharges into and out of the reticulated system. For example, the conditions controlling a discharge into the reticulated system might be different from the conditions controlling a discharge out of the system. The policy seeks to avoid duplication, encourages integrated management, and should make the application process to discharge to a reticulated system simpler. An applicant would not require approval from both the Regional Council and the relevant territorial authority or be sent back and forth between councils. The Regional Council’s focus is on the ultimate receiving environment.

**LWRP Rule Framework**

26 Policy 4.16A of the LWRP is implemented by a range of rules. Rule 5.93A provides that the discharge of stormwater or construction-phase stormwater into a reticulated system is a permitted activity if written permission has been obtained from the owner of the reticulated stormwater system. If the written permission of the owner of the reticulated system is not obtained, then the discharge of stormwater into a reticulated system requires resource consent as a discretionary activity (in Waimakariri).\(^9\)

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\(^8\) LWRP Policy 4.26. The adverse effects to be avoided are those on people’s health or safety, human or stock water supplies, and on surface water.

\(^9\) LWRP Rules 5.93A & 5.97.
The discharge of stormwater or construction phase stormwater from a reticulated stormwater system requires resource consent as a restricted discretionary activity (provided certain conditions are met, including that the discharge will not cause a limit in Schedule 8 of the LWRP to be exceeded) or as a non-complying activity.\textsuperscript{10}

Under the LWRP rule framework, the Regional Council controls the discharge from reticulated systems into the receiving environment while territorial authorities are enabled by LWRP permitted activity rule 5.93A to set the parameters around what will and will not be received by the reticulated system. This includes the volume and rate of a discharge in addition to its contents. Stormwater bylaws can be used to set the requirements for obtaining written permission to discharge into a reticulated system. For example, permission might only be granted if the contents and quantity of the discharge will not result in a breach of the district council’s reticulated stormwater system discharge consent.

The Regional Council has invested significant time to encourage the operators of reticulated stormwater systems to be responsible for managing all stormwater entering reticulated stormwater systems.

\textbf{The draft Bylaw}

The draft Bylaw seeks to improve the management and operation of Waimakariri District Council (WDC) stormwater and land drainage systems. It focuses on health, safety, and protecting the environment by regulating the management of the quality and quantity of stormwater discharges entering WDC stormwater systems.

The objectives in the draft Bylaw align with the LWRP framework but the automatic requirement to apply to the Regional Council for resource consent in certain circumstances does not. Objectives 3.1 a. and 3.1 b. of the draft Bylaw indicate that the purpose of the draft Bylaw will integrate with the LWRP. The draft Bylaw will enable WDC to control the discharge of contaminants into any WDC stormwater system and meet the relevant management standards for the discharge from those systems into the receiving environment. These objectives indicate that the draft Bylaw can be used as the tool to ensure compliance with

\textsuperscript{10} LWRP Rules 5.93 and 5.94.
Regional Council requirements, such as any reticulated stormwater discharge consent.

However, the automatic requirement in Part 2 section 10 of the draft Bylaw for ‘high risk activities or sites’ to apply for and obtain any necessary resource consent from the Regional Council to discharge into any WDC stormwater system is not effectively aligned with the LWRP, in particular with Policy 4.16A. This automatic requirement adds an extra layer of administration that might unnecessarily complicate the holistic and integrated freshwater management that is sought by the LWRP.

The automatic requirement would mean that the Regional Council would be controlling all the inputs into WDC stormwater systems classified as ‘High Risk’ (subject to whether a resource consent would be granted). This would create a duplication in approval (one from the Regional Council and one from WDC), as well complicating the resource consent landscape, particularly for the ultimate end of pipe discharge, when a Pollution Prevention Plan could provide the same management mechanism in appropriate circumstances.

Consenting a discharge at both the point it enters the reticulated stormwater system and the point it exits the system creates two points of management along the same reticulated discharge system. A breach of consent conditions may occur at the point of entry to the pipe as well as the exit from the pipe, which could make either or both consent holders liable for the breach. Minimising the creation of these circumstances, except in exceptional circumstances, would provide more efficient protection of freshwater quality in relation to reticulated stormwater management.

Integration of the draft Bylaw with LWRP Policy

In light of the above framework, I consider that some amendments could be made to the draft Bylaw to provide for more efficient and effective management of stormwater discharges in Waimakariri, and better integration with the regional framework (including the LWRP). I discuss these amendments in further detail below.

The reference to the year 2025 in LWRP Policy 4.16A sets out a clear direction of travel and a clear timeframe for achieving a new management regime. The policy framework in the LWRP represents a shift in the integrated management of stormwater discharges with the
Regional Council controlling end of pipe discharges in to the environment and territorial authorities controlling inputs into reticulated systems.

The Regional Council’s submission is seeking some amendments to the Bylaw to reflect an approach that more effectively integrates with LWRP policy. Some suggested amendments are set out in Appendix A to my evidence. I agree with the amendments sought. A simpler approval process for discharges into WDC reticulated stormwater systems would make it easier for individual property owners to understand and meet their stormwater obligations, while avoiding the creation of a complicated resource consent landscape.

A more integrated approach would provide WDC with an opportunity to explore the resourcing and expertise requirements that would be required to implement a more independent approach to the management of reticulated stormwater. A site by site approval process, based around the use of Pollution Prevention Plans and utilisation of Regional Council resources and expertise, could assist WDC with the assessment of discharges into WDC reticulated stormwater systems. This process could effectively integrate with the LWRP as opposed to an automatic requirement for a resource consent for high risk sites. As Mr Freeman’s evidence explains, the current distinction between medium risk and high risk sites does not always reflect the risks associated with stormwater discharges (i.e. some high risk sites will have lesser risks than medium risk sites).

It is my opinion (and based on the evidence of Mr Freeman) that the following amendments to the draft Bylaw would create a more integrated, robust, and simple to implement stormwater bylaw:

- Substitution of the ‘medium’ and high’ risk categories with one ‘at risk’ category that is based on the Hazardous Industries and Activities List, but which excludes operational phase stormwater discharges from residential activities;
- Development of an approval process for discharges into reticulated stormwater systems that would enable case by case assessments of ‘at risk’ discharges to determine whether the rate, volume, and contents of a discharge should be accepted
or not, while also providing a mechanism to revoke such approvals;

- Additional requirements to be contained in Pollution Prevention Plans.

40 Reference to a single category of risk and the use of case by case assessments would remove any arbitrary classifications of stormwater discharges that may or may not be appropriately discharged into a reticulated stormwater system. In combination with some additional requirements for Pollution Prevention Plans this would enable a wider range of stormwater discharges to be appropriately assessed and managed directly by WDC. It is my understanding that the Regional Council is prepared to provide specialised technical advice to assist with the assessment of ‘at risk’ sites.

41 I have read the evidence of Rowan Freeman from the Regional Council’s Contaminated Sites Team and agree that what is proposed is workable in the context of the Regional Council’s submission on the Bylaw. I agree that these recommendations would enable WDC to more effectively integrate the draft Bylaw into the LWRP framework.

42 The development of a clear approval process that integrates with LWRP permitted activity rule 5.93A would enable WDC to approve stormwater discharges into reticulated systems in accordance with a case by case assessment of the discharge. This approval could cover all aspects of the stormwater discharges including the volume, rate and contents of stormwater discharges, which would remove the need to grant several separate approvals. It is anticipated that the approval would require an associated PPP.

43 The approval under the Bylaw would also be the “written permission” of WDC to discharge stormwater into the reticulated system for the purposes of the Rule 5.93A of the LWRP. This means that where a person has an approval under the draft Bylaw, the discharge to the reticulated system would be a permitted activity under the LWRP.

44 It is my understanding that if the draft Bylaw set clear terms around the revocation of an approval granted under the draft Bylaw, then if it is revoked a stormwater discharge would no longer meet the conditions of LWRP permitted activity rule 5.93A. In the absence of a relevant resource consent, the Regional Council would be entitled to take
enforcement action under the RMA for any ongoing stormwater discharge that was in breach of the rules in the LWRP. If the lack of enforcement powers under the LGA is a concern for WDC then this mechanism would create an avenue of recourse to enforcement action under the RMA.

45 Further details of the recommended amendments to the draft Bylaw are set out in Appendix A. It is also my understanding that the Regional Council would be interested in discussing how these suggested amendments could work in practice and how we could provide technical advice and assistance in the future.

Conclusion

46 The legislative framework and policy in Canterbury provides a platform for the integrated management of stormwater discharges between the Regional Council and territorial authorities. The objectives of the draft Bylaw are directed towards the same management goals as the Regional Council but the Regional Council’s submission notes that the draft Bylaw does not consistently align with the regional planning framework.

47 If some small amendments are made to the draft Bylaw, most specifically to the categorisation of risk, content of Pollution Prevention Plans and approval process, it would enable WDC to manage stormwater inputs into reticulated systems in a way that effectively integrates with the LWRP.

48 A simpler approval process for discharges into WDC reticulated stormwater systems would make it easier for individual property owners to understand and meet their stormwater obligations while avoiding the creation of an overly complicated resource consent and stormwater approval regime. A case by case approval process would also provide WDC with an opportunity to explore the resourcing and expertise requirements that would be required to implement an independent management regime that is integrated and aligned with the direction indicated in the LWRP.

49 The Regional Council would like to assist WDC by providing specialised resources and expertise to assist WDC with the assessment of applications to discharge into WDC stormwater systems. The Regional
Council would be interested in continuing the conversation about mechanisms for providing this in practice.

Samuel Peter Leonard

16 February 2018
Appendix A

Amendments sought to the draft Bylaw

1 The Regional Council is seeking that amendments be made to the draft Bylaw in relation to:

(a) The risk categories;
(b) The development of an approval process; and
(c) Additional requirements for Pollution Prevention Plans

2 A summary of the amendments sought are set out below.

Risk categories

3 The Regional Council is seeking that the medium and high risk classification regime used in the Bylaw is replaced by one "at risk" category, this would encompass the following amendments:

(a) Deletion of the definitions of "medium risk activities" and "high risk activities" and Schedule 1 of the draft Bylaw.
(b) Inserting a new definition of "at risk activities" that means those activities that are listed on the 'Hazardous Industries and Activities List'; excluding those activities that consist of operational phase stormwater from residential activities.
(c) Amendments to the clause 9 of the Bylaw to reflect the change to a single "at risk activity" category.
(d) Deletion of clause 10 of the Bylaw.

Approval Process

4 The Regional Council is seeking that the Bylaw contains an approval process by which WDC is to approve discharges into its reticulated stormwater system. The amendments to the draft Bylaw would consist of:

(a) The addition of an approval process, by which WDC would approve all aspects of the discharge of stormwater into its reticulated system for which WDC's approval is required under the
draft Bylaw, including the acceptance of the stormwater, the
discharge of contaminants, discharges from “at-risk” activities, new
connections, and any works required.

(b) The draft Bylaw should indicate that the approval of the discharge
of stormwater from “at-risk” activities will be determined on a case-
by-case basis after considering a range of factors, including (as
relevant):

(i) The types, sources and distribution of contaminants
associated with a hazardous activity on a site;

(ii) The presence or absence of scientific evidence of
environmental conditions on a site where hazardous
activities have occurred or are occurring;

(iii) The proximity of proposed stormwater discharges in relation
to areas prone to hold contamination and or hazardous
substance containments;

(iv) The proximity, sensitivity and types of stormwater receptors;

(v) Ease of contaminant migration to stormwater receptors;

(vi) The nature of proposed construction works;

(vii) The type of activities from which stormwater discharges may
be generated;

(viii) The robustness of the site-specific construction management
plan (CMP); and

(ix) The appropriateness of construction and operational
stormwater treatment;

(c) The draft Bylaw should also indicate that any approval that is
granted may include conditions to be met that address (among
other things):

(i) the location of the work or activity;

(ii) the type and nature of the discharge approved;

(iii) construction, design, and maintenance requirements for the
work or activity;

(iv) compliance with specified water quality limits;
Pollution Prevention Plans

5 The Regional Council is seeking amendments to the use and content of Pollution Prevention Plans, as follows:

(a) Requiring the use of Pollution Prevention Plans by all "at-risk" activities;

(b) Amendments to clause 9 of the draft Bylaw to require a Pollution Prevention Plan to include protocols for responding to the accidental discovery of contamination at a site;

(c) Requiring site owners to use scientific evidence to justify the content and appropriateness of Pollution Prevention Plans; and

(d) Amendments to require a suitably qualified and experienced practitioner to provide input on the minimum requirements of a Pollution Prevention Plan for any "at risk" activity.