



ORDINARY MEETING OF COUNCIL

Open Attachments Under Separate Cover

Meeting Date: Tuesday 19 November 2019

Time: 1.00pm

Venue: Council Chambers
Hawke's Bay Regional Council
159 Dalton Street
Napier

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MITCHELL
DAYSH

NAPIER CITY COUNCIL

**PROPOSED AMENDED NAPIER
CITY STORMWATER BYLAW
2019**

Report of Submissions

11 November 2019

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REPORT INFORMATION

| | |
|----------------------|--------------------------|
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| Author | Phillip McKay |
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1. INTRODUCTION

1.1 PURPOSE OF REPORT

This report provides an analysis of submissions received on the proposed Stormwater Bylaw 2019, and outlines recommendations to Council on proposed amendments as a result of submissions.

1.2 REPORT STRUCTURE

The analysis of submissions identified 3 general themes in relation to the proposed changes to the Bylaw. Each submission raised has informed an officer's response. Section 2.1 of the report provides general analysis against the three main submission themes. Section 4 of the report sets out officer recommendations for changes to the Bylaw in response to the submissions. Appendix 1 is a summary table of the main points of each submission and the officer's recommendations indicating whether any changes are recommended as a result of the submission. Appendix 2 includes the submissions received in full.

1.3 BACKGROUND SUMMARY

Napier City Council Stormwater Bylaw 2012

Napier City Council first adopted a Stormwater Bylaw on 12 December 2012. It was considered that bylaw was the most appropriate way of addressing the issue of stormwater contamination and the issue of unlawful damage or alteration to the Council's network.

The bylaw was introduced as a key tool to assist Council in adhering to its Stormwater Discharge Permit conditions issued by the Hawke's Bay Regional Council (HBRC). The 2012 bylaw gives the Council the ability to¹:

- Control the discharge of contaminants into the stormwater network
- Require the use of the network for the drainage of stormwater only
- Protect the network from damage or unauthorised alteration

The Statement of Proposal for the Draft Stormwater Bylaw 2019 identifies that the 2012 Bylaw is focussed on construction activities and cross references to the requirements of the Napier District Plan and associated Code of Practice for Subdivision and Land Development. It is therefore considered that the 2012 Bylaw does not capture all possible risks to the stormwater network.

¹ Stormwater Bylaw 2019 Communication Plan, Napier City Council, August 2019 (page 3).

The 2019 Review

The Local Government Act 2002 requires that all Bylaws be reviewed after 5 years of the operation and thereafter they are required to be reviewed every 10 years. If a local authority considers that the bylaw should be amended within these statutory timeframes it can do so but must proceed using the special consultative procedure as amended by the Local Government Act 2002, Section 86, in relation to the making of a bylaw and revoking of the previous bylaw.

Napier City Council is proposing to change its approach to protecting and managing the stormwater network to ensure requirements are clear and enforceable. In doing so, the Council proposed to revoke its existing Stormwater Bylaw 2012 and adopt a new Stormwater Bylaw. The Bylaw has been revised to²:

- *Make it clear that certain activities that damage or pose a threat to the stormwater network are prohibited and will need to be managed through an approval from the council;*
- *Require all new connections to the public stormwater network to have an approval from the Council;*
- *Require discharges of certain types of stormwater to the public stormwater network require an approval;*
- *Clarify obligations in relation to private stormwater systems;*
- *Outline the process for obtaining an approval where one is required under the Bylaw, and the matters council may take into account, and make the subject of conditions;*
- *Detail the implications of failing to comply with the conditions of an approval, or the Bylaw itself*

A review identified a number of limitations and ways the 2012 Bylaw could be amended in order to ensure its requirements are clear and that the process for obtaining approval to discharge to the network is comprehensible.

Stormwater Regulation under the RMA

Discharges from the public stormwater network are regulated by discharge consents issued by Hawke's Bay Regional Council to Napier City Council under the Resource Management Act 1991 (the RMA). Additional requirements are expected to arise over the next 10 years as a result of the introduction of the TANK Plan Change³ to the Hawke's Bay Regional Resource Management Plan, and the related implementation plan. In order to meet its RMA obligations, the Napier City Council needs to have an understanding of what

² NCC Statement of Proposal: Draft Stormwater Bylaw 2019 – For Public Consultation (2019)

³ Tūtaekurī, Ahuriri, Ngaruroro, and Karamu Catchment Plan Change, Change 9 to the Regional Resource Management Plan.

is being discharged to the stormwater network and to be able to appropriately manage and control discharges to the network.

The TANK Implementation Plan includes the following actions relating to urban stormwater:

- Develop/maintain a programme for the creation and implementation of site management plans for 'high risk' activities in urban stormwater areas.
- Undertake an urban stormwater network stocktake and establish timetable for developing integrated stormwater management plans including through resource consent processes ...
- Establish a joint council education programme (for the purpose of educating the public), through collaboration between council staff (e.g. policy, engineers and communications), to develop programme topics, milestones, events etc. to deliver clear messages to the public how to enhance the quality of stormwater, and ultimately our river, estuary and coastal environments.
- Carry out review of bylaws and engineering standards for stormwater network design and control of stormwater inputs to ensure consistency and alignment between councils.
- Encourage and promote wetland protection, management, enhancement and creation and other opportunities for increasing stormwater infiltration where feasible within new urban and industrial developments, roading realignment and construction and when installing and designing stormwater networks.
- Encourage an adaptive management approach (including short, medium and long term actions) to form the basis of applications for discharge consent (larger-scale) that result in material improvements over time in stormwater quality entering our waterways including the Ahuriri and Waitangi estuaries.
- Investigate on-site stormwater storage options within new and existing buildings/developments, to ensure appropriate stormwater management e.g. timely release to the network; maintenance of the groundwater quality and quality of stormwater into the receiving environment.

Notification of the proposed changes

A significant investment has been made in consultation and engagement on the Draft Stormwater Bylaw 2019. A Stormwater Bylaw 2019 Communication Plan was developed in August 2019 to inform this process.

In accordance with the Communication Plan a multi-pronged approach using a variety of media was applied in the engagement process, involving:

- Targeted consultation with primary stakeholders (approximately 1,000 letters sent to industries and primary stakeholders including: property owners in Napier's Industrial zones, HBRC, Hastings DC, iwi authorities, mana whenua groups, DOC, Forest and Bird and the Ahuriri Estuary Protection Society).
- Industry pop up meetings in Onekawa and Pandora on 7th October.
- Awareness campaign with wider community involving radio, billboards (x6) and social media.
- Special Consultative Procedure (this submission process on the Draft Bylaw) in conjunction with wider community engagement and proactive, targeted consultation with key stakeholders.

The following is a timeline of the consultation and engagement undertaken in association with the notification of the Draft Stormwater Bylaw:

- Prior to 25 September 2019: Direct engagement letters to identified industries and stakeholders;
- 25 September – 2 October 2019: Public notice and media release;
- 2 October – 16 October 2019: Online and radio campaign and billboards;
- 22 October – 28 October 2019: Reminder of submission close on social media.

A key feature of the engagement process was to put the implications of the bylaw into plain language and to provide everyday examples of activities that may breach the bylaw. This included the following wording from the radio advertising campaign:

"Washing your car, emptying your pool, dumping greenwaste, throwing rubbish, washing down industrial sites....? That isn't stormwater. Only rain should go down the drain! Proposed Stormwater Bylaw Improvements: Have your say!"

As can be seen from the submissions, the implications of the draft Bylaw on car washing generated a significant response.

The period for consultation ran from the 25 September to the 28 October 2019. As outlined above, the public consultation process followed the special consultative procedure pursuant to section 83, 83AA and 86 of the Local Government Act 2002.

2. SUMMARY OF SUBMISSIONS

The 37 submissions received included comments on several aspects of the proposed bylaw. The following is a summary of the main points:

- Some 19 submitters were in support of the proposed changes to the Bylaw. Reasons in support of these changes were:

- The need for increased protection of the Ahuriri Estuary from stormwater pollution.
 - A better understanding on what is acceptable / unacceptable to flow into the stormwater system, with submitters emphasizing that this will need to be reinforced by education from the Council.
 - Improved environment from better quality stormwater.
 - Improved water quality in Pandora Pond for recreation
- Nine of the submissions in support of the proposed Bylaw included added suggestions, including comments about public education and ways to improve the Ahuriri Estuary.
 - Nine of the submissions in opposition were concerned about the effect of the Bylaw on car washing, with several referring to constraints in accessing a grass verge or lawn to carry out this activity in avoiding chemicals directly entering the stormwater system.
 - Four submissions requested that NCC develop a purpose-built stormwater treatment plant to treat stormwater prior to its discharge to the Estuary.
 - Three submissions requested that stormwater currently discharging to the Estuary be intercepted and discharged towards Awatoto or directly to the sea.
 - The Ahuriri Estuary was the main concern highlighted in submissions that were both in support of and opposition to of the proposed Bylaw changes.
 - Nine submissions were made by organisations affected by the proposed changes including the HBRC, industry companies and environmental advocacy organisations, the remainder were from individuals.

2.1 ANALYSIS OF SUBMISSIONS

The primary analysis of individual submissions is provided in the 'Officer Response' column in Appendix 1. Some general analysis of the main submission themes is however provided below.

The protection of the Ahuriri Estuary from stormwater pollution and restrictions of washing cars on driveways were the two main issues highlighted in the submissions received. Below is an analysis of these specific issues, followed by a general analysis of submissions highlighting various issues.

Ahuriri Estuary

Some 11 submissions expressed concern about the vulnerability of the Ahuriri Estuary to direct stormwater pollution (including supporting and opposing submissions. Some of these submissions made suggestions towards how the proposed bylaw could better manage the stormwater flowing into the water body. Four submitters suggest the option of diverting stormwater to a purpose-built treatment facility before it is discharged into the estuary. Another three submitters requested that stormwater discharge to the estuary should either be further limited or cease all together by diverting to Awatoto or to the sea.

Officer's response – Ahuriri Estuary

The water quality of the Ahuriri Estuary has also been identified as a concern and a key issue to be resolved in the consultation and engagement processes undertaken by the Hawke's Bay Regional Council on the TANK plan change. The Napier City Council stormwater discharges to the Ahuriri Estuary are subject to resource consents (discharge permits) from the Hawke's Bay Regional Council.

There is approximately 14,500ha of land that drains to the Ahuriri Estuary, including farm land, rural residential properties and the Napier urban area. Approximately 70% of the stormwater in Napier City flows to the Ahuriri Estuary, the remainder is discharged directly to the Pacific Ocean from Marine Parade, Westshore and Hardinge Road.⁴

Stormwater runoff from different land uses can pose different risks to the Estuary ranging from sediment and nutrients associated with rural land uses and various contaminants, including sediments, chemicals and heavy metals from urban discharges. The draft Bylaw provides the opportunity to reduce contaminants from entering the stormwater system, and therefore the Estuary, at source.

To improve the quality of stormwater discharges to the Ahuriri Estuary, Council has budgeted \$6.2M to implement various stormwater related initiatives in the Ahuriri Estuary and Coastal Edge Masterplan in improving stormwater quality via infrastructure enhancement. These are summarised on Council's website⁵ as follows:

1. *Stormwater study: we're undertaking a comprehensive stormwater study before researching or implementing other stormwater-related projects. This will help us to determine the feasibility of projects to better manage stormwater in the city.*
2. *Pandora Catchment: together with at-source stormwater quality improvements carried out by individual businesses throughout the Pandora catchment, we are evaluating options for the preferred stormwater quality improvement works to the*

⁴ <https://www.napier.govt.nz/services/stormwater/our-stormwater-system/>

⁵ <https://www.napier.govt.nz/napier/projects/stormwater-projects/>

Thames and Tyne drains. We will look to add value through including education and recreation benefits.

3. Direct outfalls: addressing stormwater quality at individual outfalls that flow directly into the estuary or coastal environment. Measures may include treatment devices, wetlands/swales, bio-retention systems, or screens.

4. Upper Catchment: improvements to stormwater quality entering the estuary from the upper catchment, including Bay View, Lagoon Farm, and the airport, as well as run off from rural residential areas of the western hills.

An initial sampling programme is being peer reviewed before work commences. The sample programme is looking at 21 sites across the catchment to enable better decision making in terms of education and treatment options.

These proposed works are relevant to those submissions that suggest that stormwater quality is better improved by treatment through the stormwater network rather than by removing contaminants at source. Like the draft Bylaw, the proposed works outline above are part of a comprehensive response to improve the quality of stormwater and therefore the Ahuriri Estuary.

Car washing on driveways and at businesses

A number of submissions opposed the proposed Bylaw's tighter regulations which will restrict people from washing their cars on their driveways or businesses washing cars in car yards. A common reasoning for this opposition is the financial burden it will leave on residents who are forced to use a carwash if they do not have a grass verge to use – which is mentioned as too expensive and impractical for several submitters. One submitter claims that the proposed bylaw will eliminate the recreational aspect of vehicle washing for car enthusiasts.

One submission, representing a car dealership, expresses concern over the fact that Company Trading vehicle stock, Customer Vehicles and Service Vehicles would have to be moved to a designated and approved wash station daily. Further to this, there were concerns that if a vehicle car yard must collect any wash water runoff, there could be significant financial consequences.

Several submitters refer to the fact that there are biodegradable washing materials that can be used and that the impacts of car washing are insignificant in comparison to the large unsealed industrial yards. Some have asked how the proposed bylaw will police these restrictions and believe that many residents will not report others for making an offence.

One submitter, however, supports the educational aspect of the proposed bylaw, claiming that more people need to understand what happens to the water as a result of washing cars.

Officer's response – car washing on driveways

The draft Bylaw does not specifically mention car washing however under clause 5b) “No person shall – allow any chemical (including detergents) that is likely to cause a nuisance, directly into the stormwater network.” The definition of ‘nuisance’ includes ‘adverse effects on the environment’ and ‘an accumulation of chemicals causing a breach of any stormwater discharge consent condition’. Car washing detergents typically contain sulphates which remove oxygen from water ways which can be fatal to aquatic life including freshwater fish and eels. Car washing runoff will generally also include sediments and trace metals and can therefore be deemed a nuisance in adversely affecting the environment and with the potential for an accumulation of contaminants causing a breach of Council’s stormwater discharge consents. Expectations under the draft Bylaw are for people to wash their cars on their lawn or other area of pervious surface or wash their car at dedicated commercial facilities.

Other local Council’s also control car washing in maintaining stormwater quality. The following is extracted from the Greater Wellington Regional Council website⁶ and includes options for preventing car washing runoff entering the stormwater system:

Everything that goes into the gutter ends up in local streams and eventually the sea via our stormwater systems. Water from car washing contains pollutants like detergent, dirt, metal particles and oils, which are carried directly to the sea. Here they can seriously affect fish and other aquatic life.

Keeping carwash water out of drains and stormwater systems is a great way to keep our streams and beaches healthy.

Follow these tips when you wash your car:

- Wash your car on a gravel surface or lawn where the wastewater can soak in
- Put rags or towels near the drains to keep water out
- Wipe the car clean – don’t hose it down
- Tip the dirty water down the sink or the toilet
- Go to a carwash station

General

- Some organisations provided comprehensive comments on the draft Bylaw these organisations include:
 - Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd (the Oil Companies)
 - Te Taiao Hawkes Bay Environment Forum

⁶ <https://www.gw.govt.nz/responsible-car-washing/>

- Hawke's Bay Regional Council
- Motor Trade Association
- The Oakburn Trust
- Lowe Corporation Limited, Lowe Corporation Pacific Limited, Hawkes Bay Protein Limited (the Lowe Companies)
- Hawke's Bay, Taupo, Rotorua, and Eastland Toyota
- Ahuriri Estuary Protection Society Inc

Of those organisations several included in their submission's requests for specific changes to the Bylaw on a clause by clause basis, with the most comprehensive of these being from the Oil Companies and from the Lowe Companies. A full response to these submissions is provided in the submission summary, but in general the submissions are constructive and some of the requested changes are recommended to be accepted and that the bylaw be amended as a result.

The recommended changes are consolidated under section 4 of this report below from the Officer Response column of Appendix 1.

3. OPTIONS

The following options are available to the Committee:

1. Status Quo
2. Amend the Bylaw
3. Public Education
4. Reliance on existing statutory powers

3.1 DEVELOPMENT OF THE PREFERRED OPTION

Of the options above, Council considers a combination of options 2,3 and 4 provide the most appropriate way to address issues around the stormwater management in the District. This involves amending the bylaw as outlined in section 4 below, while relying on legislation (Local Government Act 2002) for enforcing the Bylaw. Council's approach to public education will be assisted by and continue in parallel with administration of the Bylaw.

4. OFFICER’S RECOMMENDATION

Table 1 below sets out the amendments to the draft Bylaw recommended by this report and links the recommended amendments to the submissions that requested them.

Table 1 – Recommended Changes to Bylaw in Response to Submissions

| Bylaw Clause Ref | Wording of amendment (added text in bold font, deleted text in strike through font) | Submitter(s) (including Ref. Number) Requesting Amendment |
|--|--|---|
| 3. c) (Purpose) | <i>“Ensure that discharges into the public stormwater network are appropriately managed at source, and do not... Council’s water quality targets for the receiving environments.”</i> | Te Taiao Hawkes Bay Environment Forum (submission 38); Judy Mills (submission 50) Ahuriri Estuary Protection Society Inc. (submission 56) |
| 4. (Definitions) | <i>“Approval means a written approval issued by Council in accordance with the process set out in clauses 9 – 11 below, or an equivalent approval issued by Council prior to this bylaw commencing; or a resource consent approved by the Hawke’s Bay Regional Council for a discharge of stormwater via the Napier City Council stormwater network.”</i> | The Oil Companies (submission 44) The Lowe Companies (submission 48) |
| 5.1 – 5.3 (Protection of Stormwater Network) | <i>“5.1 No person shall: a) cause or allow to be caused, any damage to the public stormwater network; b) allow any material, chemical (including chlorine and detergents), rubbish, litter, or other substance that causes or is likely to cause a nuisance, directly into the public stormwater network;... e) remove vegetation from or damage vegetation in any wetland on a premises that the person owns, occupies, or manages, if the removal or damage is likely to adversely affect the ability of the wetland to contribute to the performance of the public stormwater network, unless the Council approves or that person is expressly authorised by an operative resource consent. 5.2 Every person excavating or working around the public stormwater network must take due care to ensure the excavation or work does not damage and/or compromise the integrity of the public stormwater network.</i> | The Lowe Companies (submission 48) |

| | | |
|--|--|---|
| | 5.3 Any person who knows of damage to the public stormwater network must report it to the Council immediately." | |
| 6.1 (Approvals for works affecting Stormwater Network) | "A person must obtain an Approval before: a) Erecting any structure on, over, or within the distance from the public stormwater network specified in any relevant Control confirmed by Council prior to these works; " | The Lowe Companies (submission 48) |
| 6.1 (Approvals for works affecting Stormwater Network) | Add the following under 6.1: "Advice Note: Where the approval sought under clause 6.1, or connection sought under 7.1, relates to a development requiring resource consent the approval process under this bylaw will be undertaken as part of the Engineering Approval or Building Consent processes." | The Lowe Companies (submission 48) |
| 8.1 (Discharges to Public Stormwater Network) | "From the date of commencement of this Bylaw, no person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network without an Approval." Advice Note: For the avoidance of doubt, Regulated Stormwater can not be discharged without either an existing authorisation or a new approval. | The Oil Companies (submission 44) |
| 9.1 (Private Stormwater Systemes) | "The owner, occupier and manager of a private stormwater system must ensure that the system: a) Complies with any relevant Control confirmed by Council prior to the installation of the system; and... " | The Lowe Companies (submission 48) |
| 10.1 b) (Applications for Approval) | " b) accompanied by: ... (iii) such further supporting information as the Council requires to consider the matters under clause 11.1 and process the application." | The Lowe Companies (submission 48) |
| 10.1 (Applications for Approval) | Add the following under 10.1: "Advice Note: Council will generally require an environmental management plan when: (i) the site is occupied by a high risk industry; and / or (ii) the site is considered to have potential for stormwater contamination after a site assessment by Council staff; and / or (iii) a stormwater contamination event has occurred from the site." | The Oil Companies (submission 44) |
| 11.1 (Consideration of application for Approval) | Add the following new clause: k) Compliance with any relevant industry best-practice guidelines, including the Environmental Guidelines for Water Discharges from Petroleum | The Oil Companies (submission 44) The Lowe Companies (submission 48) |

| | | |
|-------------------|--|------------------------------------|
| | <p>Industry Sites in New Zealand (Ministry for the Environment, 1998);</p> <p>l) Pollution prevention plans; and</p> <p>m) k) Any other reasonable considerations the Council considers appropriate including consideration of the best practicable option.</p> | |
| 11.1 e) | “(e) compliance with any relevant Control confirmed by Council prior to the application for Approval; ” | The Lowe Companies (submission 48) |
| 15. (Enforcement) | <p>Add the following under clause 15.2:</p> <p>“Advice Note: In referring to owners, occupiers and manager it is the person most able to ensure compliance with the Bylaw that will be considered responsible under the Bylaw.”</p> | The Lowe Companies (submission 48) |



APPENDIX 1

**TABLE SUMMARY OF
SUBMISSIONS AND OFFICER
RESPONSE**

| No. | Submitter | Summary of submission | Officer Response | To be heard |
|-----|------------------|--|--|-----------------|
| 7 | Mereana Barsdell | <ul style="list-style-type: none"> Supports the proposed changes New offences will be easy to avoid, yet will make a significant difference in maintaining a clean estuary | No changes requested. Support acknowledged. | N |
| 10 | Graeme Dickey | <ul style="list-style-type: none"> Opposes draft Bylaw. Biodegradable items are not a threat to the ocean, as they will break down into harmless elements Dust washed off cars is only a minor contributor to stormwater pollution while no ruling has been made to the large unsealed industrial yards, which are the worst contributors to stormwater pollution. Concerned about the less obvious pollution from unsealed yards which enters Pandora Pond Requests a bylaw to prevent dust dirt and stones leaving large unsealed sites within the city | <p>In regard to large unsealed sites and the potential for dirt, dust and stones to be washed directly into stormwater, this is covered by clause 5b) of the draft Bylaw. The definition of 'nuisance' includes 'adverse effects on the environment'. Sedimentation of the estuary from stormwater runoff is an adverse effect on the environment. The draft Bylaw would therefore enable action to be taken under clause 15 if the stormwater discharge from the unsealed site was deemed a 'nuisance'.</p> <p>No change recommended.</p> | N |
| 11 | Phil Ryan | <ul style="list-style-type: none"> Opposes draft Bylaw. A number of light to heavy industrial users who either discharge dirt or dust will be producing a significant amount of the pollutants entering the stormwater 'We are a storage shed business in Thames St and do not discharge anything into the stormwater other than water off the building and concrete areas when it rains'. The dust which | <p>The reality is that Council will be required to exercise discretion to ensure that resources are targeted at polluters of stormwater and not at low risk situations of roof runoff and clean sealed yards.</p> <p>No change recommended.</p> | NS ⁷ |

⁷ NS = Not specified.

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|----|------------------------------------|--|---|---|
| | | <p>accumulates on the roof is a result of the discharge to air from surrounding businesses.</p> <ul style="list-style-type: none"> Concerned that the proposed by law changes will allow the Council to throw the book at all businesses in the Pandora area, forcing their business to contribute some form of primary treatment on site at considerable cost. Gives example of water metre requirement. If the proposed by law changes addresses the large polluting businesses, then they are supportive of it Requests that the Bylaw should contain a section that the Council must exercise discretion for businesses that are not "major" polluters of the stormwater. | | |
| 12 | Stacey Wilson - Eastbridge Limited | <ul style="list-style-type: none"> Supports the proposed changes As a company Eastbridge Limited fall under definition 4, Existing Stormwater network. What are the control devices that we need to make sure we comply to the new bylaw? | <p>No changes requested.</p> <p>Regarding the question about control devices, the specific solution for each site is dependent on the specific contaminants and practices on site and may or may not require a device to be installed. Investigations of sites are needed through the development of an environmental management plan. Control devices refer to acceptable low impact solutions or treatment devices specified in the Engineering Code of Practice. The Code of Practice is currently under review with the District Plan and is likely to require low impact design solutions to be considered at site development stage. The Bylaw is part of a suite of Council stormwater regulatory tools, including the District Plan and Code of Practice.</p> | N |
| 14 | Paul Bailey | <ul style="list-style-type: none"> Supportive of the proposed changes however provides the following suggestions as 'decision requested': Would like to see the key behaviour changes sought by Council to be listed in the preamble. Views this as part of the 'public education' requirements. The 'public education' requirements should also include where waste can be disposed of safely in Napier. Possibility of | <p>The points are acknowledged with public education intended to be an important part of Councils package of stormwater and estuary health improvements, of which the bylaw is one component.</p> | Y |

| | | | | |
|----|---------------|---|---|---|
| | | <p>some sort of recycling station for these materials set up by NCC.</p> <ul style="list-style-type: none"> As part of the 'public education' requirements it could be beneficial to see a graphic of where this Bylaw fits into the overall plan to improve Stormwater quality in Napier. It is difficult to understanding the overall goal when each of the improvements are broken into their isolated parts. | <p>Education messages can be included on web pages linked to the Bylaw but should not form part of the Bylaw, which has a s specific regulatory function.</p> | |
| 15 | John Warren | <ul style="list-style-type: none"> Supports the proposed changes but suggests that NCC should define the acceptable contamination levels in receiving bodies of water and define the measures needed to achieve those levels (in addition to the requirements in the Bylaw). | <p>Contamination levels, or water quality objectives, are a requirement of regional plans under the National Policy Statement for Freshwater Management 2014 and form a component of the soon to be notified HBRC TANK Plan Change (Change 9 to the Regional Resource Management Plan). Council's discharge consents will be required to be renewed under that Plan Change and the conditions of consent will reflect the water quality objectives that need to be met.</p> <p>No change recommended.</p> | Y |
| 17 | Simon Murfitt | <ul style="list-style-type: none"> Supports bylaw. The estuary is vital for the community and needs cleaning up. If this Bylaw achieves this purpose, then will be supportive of the changes Support for swimming structures for community within estuary. | <p>Support acknowledged.</p> <p>The issue of providing swimming structures within the Estuary is not something that can be addressed through this bylaw. A submission to the Annual Plan / LTP would be the appropriate avenue.</p> | N |
| 18 | John Overend | <ul style="list-style-type: none"> Opposes Bylaw. No faith that the council will 'police' these regulations if the following problems cannot be resolved: Have complained of the significant amount of rubbish on Austin Street coming from the recycling business across the road from their property. No progress in getting the company to clean it up. Significant amount of dirt and dust from trucks accumulates on Angus Place, particularly on windy days. Council time and money would be better spent on screening storm water before it goes into the sea | <p>As part of Council's comprehensive stormwater improvement programme the frequency of street sweeping is being increased.</p> <p>It is difficult to clean stormwater at the point of discharge, wetland systems are being investigated to help filter sediments prior to discharge to the estuary, however wetlands cannot resolve hydrocarbons and heavy metals, so it is more effective to remove contaminants at source in adopting a polluter pays approach.</p> | N |

| | | | | |
|----|----------------|--|--|---|
| | | | No change recommended. | |
| 19 | Steve Tutbury | <ul style="list-style-type: none"> • Supportive of changes. • Increasing population density and greater education as to what is acceptable to flow into the stormwater system requires a greater public understanding reinforced by the Council. • Pandora pond is particularly important – should be viewed as a recreation spot, not as a sewage cesspit. | <p>Support acknowledged.</p> <p>Public education is part of Councils wider approach to improving stormwater quality.</p> | N |
| 21 | Chris Denby | <ul style="list-style-type: none"> • Opposes Bylaw. • Banning people from washing their cars in their driveways seems a bit draconian. • For many it means a trip to an expensive carwash facility (more fuel too). • Takes away the recreational aspect of car washing for car enthusiasts. • Decision requested is to leave the joy of the carwash on the home driveway | <p>The draft Bylaw does not specifically mention car washing however under clause 5b) car washing detergents can be deemed a nuisance in adversely affecting the environment and with an accumulation of such chemicals potentially causing a breach of Council's stormwater discharge consents. The environmental concern is that car wash detergent contains sulphates which remove oxygen from water ways which can be fatal to aquatic life including eels. Expectations under the draft Bylaw are for people to wash their cars on their lawn or other area of pervious surface or wash their car at dedicated commercial facilities.</p> <p>No change recommended.</p> | N |
| 24 | Margaret Gwynn | <ul style="list-style-type: none"> • Supports draft Bylaw. • It will enable the council to enforce compliance with the bylaw and compel those discharging contaminants into the stormwater system to stop polluting important areas like the Ahuriri Estuary. • Decision Requested is adoption of the draft Bylaw. | Support acknowledged. | N |
| 25 | Mike McCarthy | <ul style="list-style-type: none"> • Opposes draft Bylaw. • Does not support the proposed Changes and opposes the ban of washing cars on driveways. • Will this new bylaw stop the city council dumping sewage into estuary when flooding occurs? • Who is going to police this new bylaw and what are the penalties? • Decision requested: Is to stop this nonsense... | <p>Refer to response to submission 21 above regarding car washing.</p> <p>The policing of the Bylaw is the responsibility of the Napier City Council and policing of discharges to the Estuary is the responsibility of the Hawke's Bay Regional Council.</p> | N |

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| | | | <p>Enforcement of the Bylaw is set out under clause 15. Any penalty imposed is subject to the Local Government Act 2002.</p> <p>No change recommended.</p> | |
| 26 | Adriaan Stolk | <ul style="list-style-type: none"> • Opposes draft Bylaw. • It is unfair to penalise people who cannot access a grass verge on their property for washing their vehicles, especially as biodegradable wash & wax solutions are commonly on sale. • Road salts are already entering the estuary when it rains. • Need to divert the stormwater to a purposed built storm water treatment facility before it is discharged into the estuary. • Need sustainable infrastructure that will benefit people and not penalise them unduly. • Impractical to claim that natural debris isn't allowed in the estuary any further as that is how the natural cycle of nature functions. • Decision requested is provision of a purpose-built stormwater treatment facility without having to significantly impact people's freedom. | <p>Refer to response to submission 21 above regarding car washing.</p> <p>Refer to response to submission 18 above regarding provision of a stormwater treatment facility.</p> <p>No change recommended.</p> | N |
| 27 | Ann Webster | <ul style="list-style-type: none"> • Opposes draft Bylaw. • It is unfair regarding washing your car if you are unable to drive onto your lawn and wash it there. The wording should therefore be changed to include "where practical". • Should not have to pay someone else to be able to wash your car. | <p>Refer to response to submission 21 above regarding car washing.</p> <p>Adding 'where practical' to clause 5 would dilute its potential effectiveness as that term requires a subjective judgement. In reality Council will need to exercise discretion in enforcement of the Bylaw to target resources where they can make the biggest difference.</p> <p>No change recommended.</p> | N |
| 28 | Ann Webster | <ul style="list-style-type: none"> • Opposes draft Bylaw. • Have all of the stormwater go through a treatment process before releasing it into the estuary. • There is always going to be pollution in the gutters. On rubbish and recycling days - items are blown into the gutters and then washed into drains. | <p>Refer to response to submission 18 above regarding provision of a stormwater treatment facility.</p> <p>No change recommended.</p> | N |

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| 29 | Rodger Hedley | <ul style="list-style-type: none"> • A treatment plant is the only way. | <ul style="list-style-type: none"> • Opposes draft Bylaw. • We need to be able to wash our cars at home | N |
| | | | <p>Refer to response to submission 21 above regarding car washing.</p> <p>No change recommended.</p> | |
| 30 | Ruth Smithies | <ul style="list-style-type: none"> • Supports draft Bylaw. • Need to become more aware of what happens to the water of the washing of our cars. • Applying penalties will send a strong message. • Decision requested: A strict Bylaw should be introduced and enforced to save our seas. | <ul style="list-style-type: none"> • Supports draft Bylaw. • Supportive of the proposed changes but suggests that the council needs to take some responsibility for ensuring that they are not causing this pollution. • Suggests checking vulnerable areas before and after rain • Not letting all the stones, leaves and branches find their way into the stormwater system in the first place. | N |
| | | | <p>Support acknowledged.</p> <p>As part of Council's comprehensive stormwater improvement programme the frequency of street sweeping is being increased. The implementation of the Ahuriri Estuary and Coastal Edge Masterplan encourage low impact stormwater management in areas near the estuary and wetland treatment of stormwater.</p> <p>No change recommended.</p> | |
| 32 | Isabel Morgan | <ul style="list-style-type: none"> • Supports draft Bylaw. • Suggests that NCC will divert all stormwater from the Thames/Tyne Street area and the general Pandora catchment area, so that it flows to the Awatoto area and not the Ahuriri Estuary. • It should prevent stormwater entering the Ahuriri Estuary • Concerned about the saline water entering the Onehunga Road end, the far reaches of the Estuary, and changing the salinity of the water where the critically endangered Australasian Bittern have made a home. | <ul style="list-style-type: none"> • Supports draft Bylaw. • Anything to improve water quality and the integrity of our stormwater network has to be good | N |
| 35 | Michele Grigg | | <p>Support acknowledged.</p> <p>Stormwater modelling indicates that it may be possible to divert some of the southern portions of the urban area stormwater to Awatoto. However, total diversion is not an option as the estuary requires freshwater inputs to function ecologically. Regardless this is a matter of stormwater infrastructure works rather than an issue to be resolved through the bylaw.</p> <p>No change recommended.</p> | |

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| | | <ul style="list-style-type: none"> Decision requested is to adopt the proposed bylaw. | | |
| 37 | Matt Carney | <ul style="list-style-type: none"> Opposes draft Bylaw. Does not agree with banning people from washing their car in their driveway Few people on Napier Hill will have a lawn to do this on and will therefore be forced to either use an auto wash or to line up at the expensive and crowded self-wash facility. If the main concern is soap, what about specifying certain types of environmentally friendly soaps that can be used? Window cleaners in the city would surely be more of a problem than people washing their cars. Believes industry is the problem when it comes to polluted waterways, not private residents. Decision requested is to remove car washing restrictions for private residents from the policy. | <p>Refer to response to submission 21 above regarding car washing.</p> <p>No change recommended.</p> | N |
| 38 | Jenny Baker - Te Taiao Hawkes Bay Environment Forum | <ul style="list-style-type: none"> Strongly supportive of the draft Bylaw. Would like to see that under Purpose 3 c the addition of the words “the prevention, containment and management of contaminants at source” be included so that the purpose is stated very clearly. The definition of contaminant needs to be more clearly articulated in the same way as the term ‘Nuisance’ has been expanded so inclusions are clear. Would the present definitions also include, for example, littering in the street and the non-removal of dog faeces? Strongly supports the expansion of the Purpose to more adequately protect the stormwater network from damage. Strongly supports the increased clarity around compliance and enforcement in section 12,13 and 14. May need to be clearer around definitions of private stormwater systems particularly in areas like the Napier Hill. Concerning that stormwater breaches have occurred in new developments Bylaw needs to be taken into account when planning new subdivision and zone changes and the associated regulations inform the Heretaunga Plains Urban Development Strategy (HPUDS). Suggests the development of a map of the stormwater system showing the catchments and how 68% of Napier stormwater flows to the estuary. | <p>Support acknowledged.</p> <p>It is agreed that Clause 3c) could be clarified by adding the words ‘at source’, so that it reads: <i>“Ensure that discharges into the public stormwater network are appropriately managed at source, and do not...”</i></p> <p>‘Prevention, containment and management’, are appropriate terms for a regional plan managing discharges to water, but not for a bylaw which is limited to managing inputs into the stormwater network.</p> <p>‘Nuisance’ is the more important definition to the bylaw as it is referenced in clause 5. The word ‘contaminant’ is only referred to in the definition of ‘Regulated Stormwater’ for which its RMA definition is sufficient.</p> <p>A stormwater map could be a useful addition to stormwater education information on Council’s website but is not necessary to include in the Bylaw itself.</p> | Y |

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| | | <ul style="list-style-type: none"> • Would like to see associated Guidelines to the bylaw be developed in order to translate into practical householder action • Te Taiao HB Environment Forum members are particularly supportive of the development of extensive polishing wetlands in the Lagoon Farm area, but this development does not lessen the need for the essential prevention of point-source and diffuse contaminant discharge. • Any regulation needs to take in to account: <ul style="list-style-type: none"> - The Treaty Settlement of Mana Ahuriri and Te Komiti Muriwai o Te Whanga - The requirements of HBRC Plan Change 9 and the TANK process - Central Government Requirements - The long term anticipated effects of Climate Change on the region. | <p>Similarly, guidelines would be associated with stormwater education. The example of car washing used in the Bylaw consultation is an example of this and generated a number of submissions even though 'car washing' is not specifically referred to in the bylaw itself.</p> <p>The draft Bylaw is intended as a tool to help achieve Councils regulatory obligations for its stormwater discharge and has taken into account the forthcoming requirements of the TANK Plan Change (Change 9).</p> <p>It is recommended that the minor wording change to Clause 3c) as outlined above be made in response to this submission.</p> | |
| 39 | Ron Wareham | <ul style="list-style-type: none"> • Opposes draft Bylaw. • Pollution of the Ahuriri waterway and in particular the Pandora Pond area will never be alleviated by making bylaws prohibiting the public and industry from letting run off contaminants enter the storm water system. • Suggests redirecting stormwater to discharge out to sea along the waterfront preferably via a ponding area where the water is treated. • Does not agree with feeding contaminated water into a purpose developed wetland with the view that it will only get increasingly polluted. • Recreational activities and events have been affected by the contamination of the Pandora Pond, resulting in fewer people using the area and affecting a local kayak and eatery business • Made a submission to the Regional Council but it appears as if though there has not been any positive action done. • Concedes that solutions will be costly but unless these are found to eliminate pollution future generations will inherit polluted areas that will no longer support the bird and aquatic life • Have observed the changes that happened in Auckland and now in Napier. • Decision requested: A plan for positive solutions to the Ahuriri contamination problems. | <p>As stated in response to submission 32 above, diversion of stormwater directly to the Ocean is not considered to be a viable option as the estuary requires freshwater inputs to function ecologically.</p> <p>A purpose developed wetland would be effective in removing sediment from stormwater, but the submitter is correct that it would not address the issue of contaminants. The Bylaw proposes a polluter pays approach in seeking to remove contaminants at source and this is considered to be a legitimate approach under the LGA.</p> <p>The importance of Pandora pond for recreation is acknowledged.</p> <p>No change recommended.</p> | Y |

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| 40 | Stuart McMillan | <ul style="list-style-type: none"> • Opposes draft Bylaw. • Does not believe the Bylaw will be effective in policing the population • Suggests the installation of sandbags to stop the build-up of silt being discharged in Pandora Pond area. • Views that it there are most likely 20 discharge points that can have sand traps installed, that can be emptied twice a year with a truck and digger | <p>As discussed in regard to other submissions a wetland is being investigated prior to discharge into the estuary, which would perform a similar function to sandbags in removing silt.</p> <p>A Bylaw is a necessary tool in assisting the Council to meet the conditions of its stormwater discharge consent conditions, including future reviews.</p> <p>No change recommended.</p> | N |
| 41 | Gary Curtis | <ul style="list-style-type: none"> • Adamantly opposed to the proposed Bylaw, particularly those that restrict residents from washing their vehicles on their driveways • Views it as hypocritical because from the 1st November due to the changes to the Council's recycling collection programme, the amount of vehicle tyre rubber residue being washed into the storm water system will increase significantly. • Views that within the Bylaw Council does not elaborate on what it is going to do to reduce (or eliminate) sediment and other detritus from roadworks or from new footpath construction or repairs from washing into the storm water system. • What is Council going to do stop HBRC vehicles (i.e. grass mowers, trucks and utes) from dropping mud or dirt onto the road when returning to their depot on Guppy Road – a regular occurrence • Other than expensive commercial car washing facilities, where is there to wash vehicles? • How will Council police the Bylaw? | <p>Refer to response to submission 21 above regarding car washing.</p> <p>Council's Engineering Code of practice includes requirements for sediment traps when earthworks are being undertaken, which are typically enforced as resource consent conditions for new developments.</p> <p>No change recommended.</p> | N |
| 42 | John Warren | <ul style="list-style-type: none"> • Supports the proposed changes. • However, suggests that Napier adopt Blue Flag standards and seriously address receiving water quality (example attached) • Need to enable safe shellfish gathering in Estuary. | <p>Support acknowledged.</p> <p>The water quality standards to be achieved are set by the HBRC and these are about to be updated by Change 9. The difficulty with the Ahuriri Estuary is that it has a catchment of 14,500ha, with much of it being beyond the jurisdiction of the Napier City Council and outside of urban catchments. Improving the quality of its stormwater</p> | Y |

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| | | | <p>discharge through the draft Bylaw is within the control of the Council but setting standards for the water quality of the Estuary is not.</p> <p>No change recommended.</p> | |
| 43 | Ian Baggott – Motor Trade Association | <ul style="list-style-type: none"> • Opposes draft Bylaw. • MTA represents over 800 retail service stations and works closely with Oil Companies (Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Ltd) to understand the environmental actions needed at retail sites. • MTA has had the benefit of reading a draft submission from 4Sight Consulting Ltd on behalf of the Oil Companies. MTA shares the views of the Oil Companies' submission and agrees with suggested amendments to the Draft Bylaw. • In addition, encourages clear and comprehensive education of affected businesses about any new or changed compliance obligations, followed by visible enforcement of the regulations on parties that have failed to adapt to the new requirements. • Recommends that consideration be given to allowing sufficient time for a just transition for businesses to bring themselves into compliance with any new or changed environmental standard. | <p>The Oil Companies submission is commented on below (submission 44).</p> <p>In regard to allowing sufficient time, the Council would need to apply reasonableness in its enforcement of the Bylaw and would look to work through the options available to the business.</p> <p>In the situation of car washing at motor vehicle dealer yards there may be solutions available such as sacrificing a small area of paving for a raingarden to absorb contaminants prior to discharge into the stormwater system. Therefore, there may be practical solutions available without significant cost implications.</p> <p>No change recommended.</p> | N |
| 44 | Kahliia Thomas - 4Sight Consulting Ltd (on behalf of Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd) | <ul style="list-style-type: none"> • The Oil Companies support the intent of Clause 8.1 to apply to all new discharges, however, do not support the scope of the definition of regulated stormwater. All stormwater will to some degree contain contaminants. • The definition applies to all industrial and trade premises irrespective of what and how they are managing stormwater at present. The provisions are therefore requiring retrospective approvals for effectively all industrial and trade premises. This is opposed. • Refers to Tauranga City Council's Stormwater (Pollution Prevention) Bylaw 2015 (provided as Appendix A) as a good example of an effective approach where the Council identifies and targets key high-risk industries • The Oil Companies also view that consented discharges from HBRC should not be required to obtain an additional | <p>In referring to the requested amendments:</p> <p>(a) amending clause 8.1 to limit it to new discharges is agreed with as is exempting discharges which are already authorised by a resource consent. The following rewording is recommended:</p> <p><i>"From the date of commencement of this Bylaw, no person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network without an Approval. Advice Note: For the avoidance of doubt, Regulated Stormwater cannot be discharged without either an existing authorisation or a new approval."</i></p> <p>This will clarify that retrospective approval will only be</p> | Y |

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| | | <p>Approval. Refers to the Bylaw's definition of 'Approval' as unclear and has concerns about what is included in "an equivalent approval issued by Council..."</p> <ul style="list-style-type: none"> • The oil companies seek the following amendments to the Bylaw (refer to submission document for full suggested amendments): <ul style="list-style-type: none"> - (a) Amend Section 8.1 to ensure that only new discharges and changes to existing discharges are required to obtain an Approval, and to provide an exemption for discharges which are authorised via a resource consent - (b) Delete the definition of regulated stormwater - (c) Include a definition of material change. - (d) Add a new clause to Section 11.1 to recognise that discharges in accordance with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand will be considered acceptable in terms of stormwater quality. - (e) Include provisions in the bylaw relating to preparation of environmental management plans along the lines as set out in Section 6 of Tauranga City Council's Stormwater (Pollution Prevention) Bylaw 2015 - (f) Add a further clause in in 11.1 to allow Pollution Prevent Plans to be approved by the Council. - (g) Make all and any necessary consequential amendment to give effect to the submission. | <p>required where there is not existing authorisation for a discharge of Regulated Stormwater.</p> <p>The following is recommended to be added to the definition of 'Approval': "..., or a resource consent approved by the Hawke's Bay Regional Council for a discharge of stormwater via the Napier City Council stormwater network." The Napier City Council would be considered an affected person in any such resource consent process.</p> <p>(b) It is recommended that the definition of Regulated Stormwater be retained as the specific targeting of 'high risk industries' is what the previous bylaw was based on. Stormwater contamination potential is not just associated with industries that involve hazardous substances.</p> <p>(c) If the reference to Regulated Stormwater is retained in clause 8.1 as recommended, there will be no need to replace it with a reference to 'material change'.</p> <p>d) Agreed that it would be appropriate to add a new subclause to 11.1 to reference the Guidelines as requested.</p> <p>e) Agreed that further clarification is required to clause 10.1 as to when Council will require an environmental management plan. It is therefore recommended that the following advice note be added: <i>"Council will generally require an environmental management plan when (i) the site is occupied by a high risk industry; and / or (ii) the site is considered to have potential for stormwater contamination after a site assessment by Council staff; and / or and (iii) a stormwater contamination event has occurred from the site."</i></p> <p>f) Agreed that it would be appropriate to add a new subclause to 11.1 to reference pollution prevention plans.</p> | |
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| | | | It is therefore recommended that this submission be allowed in part by amending the bylaw as set out above. | |
| 46 | Michael Hockey - Royal Forest and Bird Protection Society of New Zealand, Napier Branch | <ul style="list-style-type: none"> Supports this Bylaw change as a small ongoing step to improving the stormwater outflow into the Te Whanganui-a-Orotu (Ahuriri Estuary) which they feel is a top priority project for the Napier City Council. Decision Requested: Press on urgently with stormwater improvements in Napier City and reprioritise the Ahuriri Masterplan. | <p>Support acknowledged.</p> <p>The draft Bylaw is a component of improved stormwater management. The prioritisation of the Ahuriri Masterplan is a works and budgeting matter.</p> | N |
| 47 | Deborah Burnside - The Oakburn Trust | <ul style="list-style-type: none"> Opposes draft Bylaw. Agrees with the intention and purpose of the Bylaw but not its content as expensive to enforce and impossible to meet. Concerns about the following matters: <ul style="list-style-type: none"> Short timeframe to consider the content and potential effect of the Bylaw Have yet to receive a response to the stakeholder letter. That the bylaw is coming may come into effect while a new Council is yet to be sworn in. The enforcement and compliance stance in the language of the bylaw is 'apparent', despite a noted preference for an educational approach in the proposal. Considers that parts 5(a-c) unclear. Spilled or dropped material from kerbside recycling would be a breach of these bylaws. Dissatisfaction with the methodology of the submissions in clicking or ticking simple statements that all citizens would likely agree with. Questions the remedies available for when non-compliance is discovered. Will contaminated water from firefighting require approval under the Bylaw. Water from the public supply is chlorinated so could not go into the stormwater system. | <p>The Bylaw will provide a high bar and it is an important tool for improving the quality of Council's stormwater discharge.</p> <p>The timeframes for making submissions have been provided in accordance with the Local Government Act Special Consultative Procedure requirements.</p> <p>Education will remain an important part of the implementation of the Bylaw and will be a more effective means for achieving compliance than reliance on the enforcement provisions of the Bylaw.</p> <p>It is disagreed that clauses 5a) – c) are unclear.</p> <p>The points about kerbside recycling, water from firefighting, and the chlorinated drinking water supply are acknowledged. Council will need to apply discretion and reasonableness in enforcing the bylaw.</p> <p>No change recommended.</p> | Y |
| 48 | Amber Davies – Lowe Corporation Limited, Lowe | <ul style="list-style-type: none"> Opposes draft Bylaw. Generally, supports the ambition of the Bylaw | The point about Interaction with other Acts and Codes is agreed with. The response recommended to submission | Y |

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| <p>Corporation Pacific Limited, Hawkes Bay Protein Limited (collectively referred to as "Lowe" in the submission)</p> | <ul style="list-style-type: none"> • However, seeks clarity regarding the following matters to provide certainty to industry while protecting Council infrastructure: <ul style="list-style-type: none"> - Interaction with other Acts and Codes - needs to be clear guidance on how other local body government requirements and processes interact. Should be provision that the Bylaw does not override resource consents or activities permitted by the Hawkes Bay Regional Council (HBRC). It is also unclear how clauses 6.1 and 7.1 are intended to interact with the existing Council approval process for these activities - Protection of Stormwater Network - submits that clause 5 should relate to the public stormwater network and that where this clause refers to a "stormwater network" that this should be replaced with the "public stormwater network" - Discharge to Public Stormwater – submits that Clause 8.1 does not appropriately target sites that are 'high risk' and catches all and any industrial or trade premises. Submits that paragraph (b) should be deleted as any industrial or trade premises stormwater discharge containing contaminants will be captured under paragraph (a). If the above amendment is not accepted it is submitted that Regulated Stormwater should be amended to provide: <i>"any stormwater discharging which ... (b) discharges from an industrial or trade premises covering an area of less than 2 ha, excluding premises used for the storage of any hazardous substance."</i> <p>Lowe suggests the following amendments to clause 8.1: <i>"No person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network, likely to cause a nuisance without an Approval"</i></p> <ul style="list-style-type: none"> - Environmental Management Plan - submits the definition of Environmental Management Plan (EMP) is too broad. - Private Stormwater Systems – Submits that the matters in clause 9 should be deleted from the Bylaw. If this submission is not accepted, Lowe submits that Clauses | <p>44 above clarifies that the Bylaw would not override resource consents. An additional advisory note could be added to explain that in regard to 6.1 and 7.1 the approval process under the Bylaw is intended to be integrated with existing Engineering Approval (often associated with subdivision s224(c) condition approvals) and Building Consent connection approval processes when associated with a new development.</p> <p>The requested amendments to clause 5 are agreed with. All references to 'stormwater network' are recommended to be amended to 'public stormwater network'.</p> <p>The requested amendments to clause 8.1 are not agreed with. Council officers advise that experience with stormwater contamination often involves smaller sites and sites without hazardous substances, as substances that are not hazardous to human health can still cause an ecological hazard to waterways such as milk, cement dust, saw dust or general sediment. The amendment requested to clause 8.1b) uses the wording from the existing RRMP⁸ in determining whether discharges from industrial premises area a permitted activity. That wording is not proposed to be included in the TANK stormwater rules through Plan Change 9 to the RRMP.</p> <p>The addition of the wording 'likely to cause a nuisance' to 8.1 is not agreed with as it is intended to apply to all new connections and then discretionary judgement will be applied in the assessment of the application under 10.1 in determining if the application requires an environmental</p> | |
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⁸ Regional Resource Management Plan, Rule 42.

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| | | <p>9.2 and 9.4 be deleted. Clauses 9.5 and 9.6 should also be deleted.</p> <ul style="list-style-type: none"> - Council Public Stormwater System - The Council should be responsible for its own system in the same way that owners, occupiers and managers are responsible for private stormwater system under clause 9 - "Controls" - Submits that Controls should not have retrospective application. We suggest amendments to provide: <i>6.1 A person must obtain an Approval before: a) Erecting any structure on, over, or within the distance from the public stormwater network specified in any relevant Control confirmed by Council prior to these works;</i> <p><i>9.1 The owner, occupier and manager of a private stormwater system must ensure that the system: a) Complies with any relevant Control confirmed by Council prior to the installation of the system; and</i></p> <p><i>11.1 When considering an application for Approval, ... (e) compliance with any relevant Control confirmed by Council prior to the application for Approval;</i></p> <ul style="list-style-type: none"> - Approvals – Suggests the following amendments to clause 10.1: <i>"An application to obtain the approval of the Council under this bylaw must be: ... b) accompanied by: ... (iii) such further supporting information as the Council reasonably requires to consider the matters under clause 11.1 and process the application."</i> <i>requests that reasonable Council processing time frames and request for information timeframes be added to this provision to clause 10 to ensure that expectations can be met.</i> <p>When considering approvals, the Council should take a more balanced approach and consider the 'best practical option' for treatment of stormwater. These factors should be added to clause 11.1 as additional considerations (j) and (k). Submits that these considerations in clause 11.1 are mandatory and the clause should be amended as follows:</p> | <p>management plan. It is considered that the broad definition of environmental management plans will enable businesses to utilise or modify existing plans to achieve compliance.</p> <p>The changes requested to clause 9 'Private Stormwater Systems' are not agreed with as when private systems do not function correctly overflow from the site will generally find its way into the public system.</p> <p>The Council is responsible for maintenance of its own system and this is regulated through its resource consents with HBRC.</p> <p>It is agreed that 'Controls' as referred to in the Bylaw should not have retrospective application as per the requested amendments to 6.1, 9.1 and 11.1 or similar wording as set out in the recommendations in section 4 of this report.</p> <p>Regarding section 11.1 approvals, timeframes are not required to be given in a Bylaw.</p> <p>The requested cross reference to section 11.1 in 10.1b) iii) is agreed with as it will add additional clarity to the Bylaw.</p> <p>It is agreed that reference to the 'best practicable option' is appropriate to add to clause 11.1k). It is not considered that the requested rewording of clause 11.1 is appropriate as 'may take into account' has an equivalent meaning to 'must take into account (where relevant)'. The requested amendments to clause 14 are not supported as Council is subject to fines under the Resource Management Act of up to \$200,000 if it is in breach of its resource consent conditions. It must</p> | |
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| | | <p><i>"When considering an application for Approval, and the conditions to which the Approval will be subject should the application be granted, the Council may <u>must</u> take into account any of the following (where relevant):"</i></p> <ul style="list-style-type: none"> - - <u>Enforcement</u> - It is submitted that clause 14 is unduly punitive. Submits that warning notices should be a precursor to cancellation of an approval. It is also submitted that there are better means (LGA, s155) to encourage an otherwise compliant stormwater network use. <p>Lowe submits that clause 14 is amended as follows:</p> <p><i><u>14.1 Where a person does not comply with the terms and conditions of the Approval granted by the Council, including compliance with an environmental management plan for the site, without limiting Council's enforcement options, the Council may take one or more of the following steps:</u></i></p> <p><i>a) Issue a written warning to the person, which may be considered as evidence of a prior breach of a condition of the approval during any subsequent review of the Approval;</i></p> <p><i>b) Review the Approval, which may result in:</i></p> <p><i>i) amendment of the Approval; or</i></p> <p><i>ii) temporary suspension of the Approval until the non-compliance has been investigated by the Council; or</i></p> <p><i><u>c) withdrawal of the Approval.</u></i></p> <p><i><u>14.2 An Approval may be withdrawn by the Council by notice in writing if:</u></i></p> | <p>therefore have reasonable enforcement means through the Bylaw to manage stormwater within its stormwater network.</p> <p>Regarding the request to remove 'managers' from clause 15.2, the intent is to be able to refer to the person most able to ensure compliance with the bylaw which in cases of leasing and subleasing may not be the property owner or occupier. An advisory note is recommended to clarify this matter.</p> <p>It is therefore recommended that this submission be allowed in part by amending the bylaw as set out above.</p> | |
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| | | <p><i>(a) the owner or occupier of the premises to which the Approval relates is convicted of an offence under this Bylaw; or</i></p> <p><i>(b) the Council gives a written warning and the Owner or Occupier of the premises to which the Approval relates fails to take the steps required by the Council within the time period specified in the written warning; or</i></p> <p><i>(c) the Council has issued a written warning on three (3) occasions in the previous 12 months, notwithstanding that on each occasion the steps required by the Council have been taken within the time period specified in the notices.</i></p> <p>- Managers, Owners and Occupiers - It is submitted that the reference to managers in the Bylaw should be deleted and that clause 15.2 should be deleted.</p> | | |
| 50 | Judy Mills | <ul style="list-style-type: none"> • Supports the draft Bylaw. • Suggests that the first clause should highlight a clear link between the Bylaw and protection of marine life. • Emphasises the importance of public education | <p>Acknowledges support.</p> <p>The purpose of the Bylaw already refers to discharges not compromising water quality targets. These relate to both freshwater and the marine environment. The following addition is however recommended to clause 3 c) to clarify this:</p> <p><i>"...Council's water quality targets for the receiving environments."</i></p> <p>It is agreed that education is important, and this will need to be associated with this Bylaw.</p> | N |
| 53 | Murray Sinclair – Hawke's Bay, Taupo, Rotorua, and Eastland Toyota | <ul style="list-style-type: none"> • Opposes draft Bylaw. • Concerns over having to move the Company Trading vehicle stock/Customer Vehicles/Service Vehicles to a designated and approved wash station on a daily basis • Their understanding from the NCC staff is that environmentally manufactured vehicle washing products are not an acceptable solution. This requires clarification | <p>Refer to response to submission 21 above regarding car washing.</p> <p>Refer to response to submission 43 n regard to allowing sufficient time and reasonableness and to potential lower cost solutions.</p> | Y |

| | | | | |
|----|--|---|---|----|
| | | <ul style="list-style-type: none"> An instantaneous decision that a vehicle yard must collect any wash water runoff has the potential to be financially untenable – this will certainly require dialogue. The industry would struggle to take on excess costs when there is potential for adding operating costs and nil ability to upsell to offset these costs. | No change recommended. | |
| 54 | Neil Forbes | <ul style="list-style-type: none"> Supports the proposed changes Particularly concerned with the protection of the Ahuriri Lagoon from the effects of industrial, residential and rural pollution | Support acknowledged. | |
| 55 | Ellen Humphries - Hawke's Bay Regional Council | <ul style="list-style-type: none"> In general, HBRC is supportive of the proposed Bylaw. It appropriately focusses on stopping pollution at source and supports the introduction of "users pay" clauses while continuing with public education initiatives. HBRC consider stormwater Bylaws to be complimentary to the various implementation tools noted in Section 5.32.4 Actions of HPUDS (2010). Recommends improving alignment with the TANK Plan Change in terms of the following matters: <ul style="list-style-type: none"> <u>High risk sites</u> – recommends NCC provide a clear connection between high risk sites and the need for regular inspection, Site Management Plans and good site management practices <u>Low impact design</u> – Suggests that there is an opportunity for NCC to signal a preference for low impact stormwater design (established in HPUDS and the RPS) through Clause 11.1 of the Bylaw. <u>References to other documents</u> – Suggests the Bylaw be amended to include references and clarify links to related documents (i.e. District Plan, LGA, HPUDS) in order to improve usability <u>Definition of nuisance</u> – Suggests NCC ensures the definition of nuisance enables Council to achieve the purpose of the Bylaw <u>Consistency and collaboration</u> – Encourages NCC to continue working with HDC to ensure a joint approach. <u>Enforcement</u> – Supports the greater enforcement approach but recognises greater resourcing may be required. Also encourages continued dialogue with the HBRC Compliance Team. | <p>Support acknowledged.</p> <p>As discussed above past experience has not necessarily involved high risk sites in terms of hazardous substances as being the primary contributors to contamination of the stormwater system.</p> <p>Low impact stormwater design is acknowledged as an important initiative, but this will be addressed through the forthcoming Engineering Code of Practice and District Plan Review as it is a matter of design for new development.</p> <p>Regarding the referencing of other documents, this would be more appropriate to occur on the website home page for the Bylaw rather than within the Bylaw which is a standalone document under the LGA.</p> <p>No changes recommended.</p> | NS |

| | | | | |
|----|---|--|---|---|
| 56 | Angie Denby – Ahuriri Estuary Protection Society Inc. | <ul style="list-style-type: none"> • Strongly supports proposed bylaw • Encouraged that changes will enable better control over 'contaminants' entering the Estuary, and that the focus will be on stopping contaminants 'on site'. • Concerned about the mixed stormwater / wastewater being released into the Estuary at times of heavy or on-going rainfall. • Since discovering where the problematic areas of piping are, what physical work is being done to resolve this issue? • In response to section 3(c), suggests more regular cleaning of urban sites where rubbish collects and also there be a review of the size of grill or mesh used in the holding areas, to prevent release of smaller items. In addition, the submitter would like to see that the 'purpose of the Bylaw', relates to the health and well-being of the 'sensitive receiving environment' of the Ahuriri Estuary. • How many businesses in the area have made wetlands? How do Council encourage this? • In Connections to Public Stormwater Network, p. 9, does the expression 'No person may...' place the onus on private operators, not NCC? • Who monitors NCC? • What guarantee do citizens of Napier have that adequate staffing be available to complete the tasks of the new Bylaw? • Could the cross-country drain be an alternative for more of the stormwater that currently drains to the Estuary? | <p>Support acknowledged.</p> <p>Many of the matters raised in the submission relate to the maintenance and management of the stormwater infrastructure, which is important, but not a matter that can be addressed in the Bylaw.</p> <p>As discussed under submission 50 above the purpose of the Bylaw already refers to discharges not compromising water quality targets. These relate to both freshwater and the marine environment. The following addition is however recommended to clause 3 c) to clarify this:</p> <p><i>"...Council's water quality targets for the receiving environments."</i></p> <p>In regard to the last point the estuary requires freshwater imports for its ecology.</p> | Y |
| 57 | James Gray | <ul style="list-style-type: none"> • Supports proposed changes • 'It helps in revision of new laws over old ones' | Support acknowledged. | N |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 26 September 2019 4:04 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#7]

Follow Up Flag: Follow up
Flag Status: Flagged

| | |
|---|---|
| Name * | Mereana Barsdell |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | These new offenses are easy to avoid, they will not be difficult to maintain yet they will make a huge difference in maintaining a clean estuary. |
| I/we seek the following decision: * | I would like to see this passed and become law. |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Saturday, 28 September 2019 2:50 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#10]

Name * Graeme Dickey

Who are you submitting as? * Individual

Postal Address *

Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

No

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

Firstly biodegradable items are not a threat to the ocean. They will break down in to harmless elements
The small amount of dust washed off cars while helpful is only a small contributor to storm water pollution while no ruling has been made in regard to the large unsealed industrial yards causing major amounts of dirt and dust to enter the storm water system. Those yards with heavy traffic are by far the worst contributors as clouds of dust disturbed by trucks and blown into the air to settle is not only washed from the roads but also all of the surrounding sites when rain falls. Other unsealed yards pour dirt laden water into the stormwater drains too but this is less obvious as it is not seen until it enters Pandora pond
You guys already know this from previous submissions but clearly have chosen to ignore it. If you really want to fix this problem this issue needs to be addressed and included in the bylaw change.
The fact it has not been leads me to the obvious conclusion that either this is just a bit of window dressing, or is to simply tick the consultation box then ignore the issue which seems to be the current councils MO.

I/we seek To include a bylaw to prevent dust dirt and stones leaving large unsealed sites within the city
the
following
decision: *

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please

From: Environmental Solutions <environmental.solutions@napier.govt.nz>
Sent: Friday, 1 November 2019 9:32 AM
To:
Cc:
Subject: FW: Draft Submission on Stormwater Changes

Good morning

Another submission received (as below) from one of the incomplete original submissions –submission #11

Thanks,



This communication, including any attachments, is confidential. If you are not the intended recipient, please delete it. Thank you. Refer to the Electronic Transactions Act 2002.
Please consider the environment before printing this email.

From: Paula and Phil Ryan
Sent: Thursday, 31 October 2019 5:26 PM
To: Environmental Solutions <environmental.solutions@napier.govt.nz>
Subject: Draft Submission on Stormwater Changes

Hi,

I submit the following:

Not all businesses in the Pandora area are polluting the estuary. There are a number of light to heavy industrial users who either discharge dirt, dust etc through smoke stacks or run off from their processing/commercial operations into the stormwater.

Those businesses will be producing a significant amount of the pollutants entering the stormwater (and impacting other non-polluting sites particularly from their air discharge).

We are a storage shed business in Thames St and do not discharge anything into the stormwater other than water off the building and concrete areas when it rains. The dust that accumulates on our roof and in our yard is a result

of natural wind flows picking up dust and debris and entering our yard and the discharge to air from surrounding businesses, including the galvanising plant beside us and the engineering plant behind us.

Evidence of the discharges from the galvaniser and the engineering company that affect our site, can be seen from Google satellite photographs of our premises and a visual inspection of our site.

My concern is that the proposed by law changes will allow the Council to throw the book at ALL businesses in the Pandora area, forcing us to put in some form of primary treatment on site at considerable cost (a cost a small business like ours cannot afford).

If the proposed by law changes addresses the large polluting businesses (based on the type of activity they undertake rather than the general area) then I would support it but I cannot see any exemptions for non-polluting businesses.

I have first hand evidence of the "one size fits all" Council enforcement of by laws.

In 2010 we applied for a building consent to increase the number of storage sheds on our site. A condition of the building consent required us to install a water meter at our cost. Despite spending some time explaining that a storage shed business does not use water and therefore doesn't need a water meter I was told that it was a "requirement for all businesses in the area and there were to be no exceptions". No amount of logic could dissuade the Council employee that it was unnecessary. To this day, our water total water useage on site (in the last 9 years) would be less than a standard house in one year.

Therefore, my submission is that the by law should contain a section that the Council must exercise discretion for businesses that are not "major" polluters of the stormwater. The Council should not make the burden of proof fall on the business owner but should have a team of reasonable professionals available for those business owners so that the amount of "pollution discharge" can be independently assessed and any treatment cost are proportionate to the amount of pollution "generated" by that business (as opposed to blown on site by the wind or from neighbouring properties).

A "one size fits all" by-law only encourages a heavy handed approach from the Council enforcers as my water meter example illustrates.

Yours sincerely,
Phil Ryan
Owner
Thames St Storage

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Tuesday, 1 October 2019 10:51 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#12]

| | |
|---|--|
| Name * | Stacey Wilson |
| Who are you submitting as? * | Organisation |
| Name of Organisation | Eastbridge Limited |
| Postal Address * |  |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | Information to comply. |
| I/we seek the following decision: * | Question. As a company we fall under definition 4, Existing Stormwater network. What are the control devices that we need to make sure we comply to the new bylaw? |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to | No |

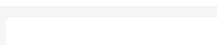
From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 3 October 2019 8:43 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#14]

Name * Paul Bailey

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you Yes
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: * The strengthening of the Bylaw is a necessary step to improve our Stormwater system.

I/we seek the following decision: *

1/ I would like to see the key behavior changes you are after to be listed in the preamble so that it is clear to the average citizen what you are expecting them to do. I see this as part of the 'public education' requirements.

Personally I found it fairly straight forward but then I have had some experience with these sorts of documents, most haven't. You already have a list in the Say It page on your web site which would be a good start ie

The following would all be offences under the proposed bylaw:

Washing dirt, mud and brake dust off your car with car wash foam, in the driveway and roadside.

Emptying your pool into the stormwater system.

Leaving your DIY project's sawdust on the driveway to be washed away by the rain.

Dumping any rubbish or greenwaste in or near a stormwater drain.

Washing industrial chemicals or oils off your forecourt and allowing it to drain into the stormwater.

Allowing sediment from construction sites to wash into the roadside drains.

2/ Whilst not part of the Bylaw the 'public education' requirements should also include where waste such as oil and paint etc can be disposed of safely in Napier. This may also mean that NCC needs to set up some sort of recycling station for these materials if it has not already done so. Certainly none spring to mind for me.

3/ As part of the 'public education' requirements it would have been nice to see a graphic of where this Bylaw fits into your overall plan to improve Stormwater quality in Napier. eg your ongoing smoke testing work to find point source discharges and your plan for a wetlands at Lagoon Farm. It's hard to see the overall picture when each of the improvements are broken into their isolated parts. Legal consultation requirements are the minimum you have to do. There is nothing stopping you from including more in a consultation document than what is legally required.

If you wish Yes

to speak at

the

Hearing we

will contact

you to

arrange a

time.

Please

include a

daytime

phone

number for

us to

arrange a

time.

I wish to

speak at

the

Hearing

(please

tick): *

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 3 October 2019 3:53 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#15]

Name * John Warren

Who are you submitting as? * Individual

Postal Address *

Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you Yes
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: * All contaminant discharges should be mitigated

I/we seek the following decision: *

That Napier define the acceptable contamination levels in receiving bodies of water and define the measures needed to achieve those levels. If levels such as shellfish gathering are proposed then it is highly unlikely that the measures proposed in the by law will achieve these levels on a consistent basis. Therefore Napier should define the measures it itself will take to achieve the defined levels IN ADDITION TO THE REQUIREMENTS IN THE BY LAW

Attached my summary of how Napier should set high standards for receiving water quality and how those high standards can be achieved. I can provide additional background material as needed

Attach a
File



[one_pager_stormwater_management_kirton.docx](#) 16.73 KB · DOCX

If you wish Yes
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime
phone
number for
us to

One Pager Storm Water Management

John Warren

B.Sc. Civil Engineering University of Manchester Institute of Science and Technology (Now Manchester University)

M.A.Sc Civil (Environmental) Engineering University of Windsor Ontario Canada

Postgraduate degree included full thesis which addressed impacts and mitigation methods regarding discharges to receiving bodies of water. One concept I developed was “mass emissions of contaminants in urban storm water are similar to mass emissions of contaminants in sanitary wastewater for the same area”- or “storm water is a hazardous substance”

At the time of research there was much activity particularly in USA regarding storm water management and impacts of discharges on receiving bodies. A major project at the time of my research was Chicago TARP

https://en.wikipedia.org/wiki/Tunnel_and_Reservoir_Plan

When working in the City of Toronto as Deputy Commissioner of Environmental Services in the early 1990's I became involved in assessing how to improve the quality of Lake Ontario adjacent to the City. Toronto had spent large amounts of money separating the combined sewer system in its older area adjacent to the lake. This had greatly reduced basement flooding but contrary to hopes, no improvement of the lake quality occurred.

By coincidence two of my colleagues has been educated and practised engineering in Germany. In Germany there was good understanding of the contamination levels of urban storm water which had not been generally understood in Canada (and as far as I can tell is currently not well understood in New Zealand)

Together we developed a solution similar to the Chicago TARP. This involved construction of a tunnel at the lakeshore that intercepted all stormwater and combined sewer overflows from the parallel trunk system. The return design capacity period for the tunnel was a one-year storm. All collected fluid was discharged to the wastewater treatment plant for treatment before discharge. The time after storm for complete discharge was as much as a week to avoid overloading the wastewater treatment plant.

The results were startling. Very quickly contamination levels in the Lake dropped typically to around 15 faecal coliform colonies/100 ml. This is a very good result adjacent to a very dense and large urban area.

Typical current results for one of the monitoring areas can be found at

<http://app.toronto.ca/tpha/beach/9.html>

I note that Toronto proceeded with this concept based on our professional advice. There was no pressure from the Provincial Government, simply a political wish to have high quality water in the lake adjacent to the City. The City has its own Public Health department and officials from that department were very supportive when we advocated this work.

Part of the objective was not simply compliance with Provincial standard but International Certification by means of the Blue Flag award

https://www.toronto.ca/health/swimsafe/beaches_blueflag.htm

For Ahuriri and New Zealand I am of the opinion that the goal should not simply to meet NZ standards (Which seem to me to be quite lax) but to achieve what is possible under current practise. Some would refer to this concept as “Best Practice” or “Public Health Risk Minimization”

Napier could be a leader in this concept

Toronto is now extending the concept I was involved in initiating to the Don River and it is being adopted by Ottawa to improve the quality of the Ottawa River.

<https://esemag.com/stormwater/sewage-overflow-tunnel-projects-underway-ottawa-toronto/>

What I am describing is not “experimental” – it is proven wastewater management practise and, in my opinion, should at least be evaluated as an alternative when considering how to improve the quality of receiving bodies of water. I am concerned that what s proposed in Napier, while well meaning, will not achieve anything like the results obtained in Toronto and decent water quality will be lost for another generation.

Of course, local control of discharges is still important see below current thinking from Toronto

<https://www.toronto.ca/services-payments/water-environment/managing-rain-melted-snow/what-the-city-is-doing-stormwater-management-projects/other-stormwater-management-projects/>

John Warren

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Monday, 7 October 2019 7:33 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#17]

| | |
|---|---|
| Name * | Simon Murfitt |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | The estuary is vital for the community and needs cleaning up. If these bylaws achieve this purpose then I support them. |
| I/we seek the following decision: * | The bylaws to go through, the estuary cleaned up, support for swimming structures for community there too. |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Tuesday, 8 October 2019 9:07 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#18]

Name * John Overend

Who are you submitting as? * Individual

Postal Address *



Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

We have no faith that the council will "police " these regulations because we have complained of the massive amount of rubbish that continues to litter Austin Street daily coming from the recycling business across the road from our property. The problem is worse now than it's ever been and attempts to get the company to clean it up are very sporadic.

Also the dirt and dust that accumulates in Angus Place is often horrendous. This comes from the trucks. When the wind is particularly bad we cannot even leave a door open on our property. If problems like this cannot be sorted then there is little hope that any revised bylaws will actually do better than the old bylaws. Council time and money would be better spent on screening storm water before it goes into the sea.

I/we seek See paragraph above
the
following
decision: *

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime
phone
number for

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Wednesday, 9 October 2019 11:35 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#19]

Name * Steve Tutbury

Who are you submitting as? * Individual

Postal Address *

Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * Yes

Do you support the proposed draft Stormwater Bylaw? * Yes

Reasons: * Increasing population density and greater education as to what is acceptable to flow into the stormwater system requires greater vigilance and understanding from the public, reinforced by the Council when required, to clean up our water ways, especially Pandora pond. This should be our pre eminent harbour swimming and sporting activity area, not signposted off like a sewage cesspot

I/we seek the following decision: * Implementation of the proposed bylaw

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. No

I wish to speak at the Hearing (please tick):
 *

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 10 October 2019 9:38 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#21]

Name * Chris Denby

Who are you submitting as? * Individual

Postal Address *

Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

Banning people from washing their cars in their driveways seems a bit draconian. Given that most people hardly ever wash their cars, and allow the rain to get rid of dirt from the car (which goes into the stormwater system from the road anyway), would enforcement of this make any real difference? For many it means a trip to an expensive carwash facility (more fuel too) for the poor motorist, who gets hit with ever-increasing government-imposed costs. This is one relaxing and pleasurable activity that I enjoy every now and then...and now it too is under threat. For us car buffs, it's one of the last joys of life before we are threatened with extinction – T-shirt and jandals, nice sunny day, chamois in hand, car radio playing on a favourite station, shiny chrome, gleaming paintwork...it's a Kiwi tradition that should not be quashed.

Attach a
File  [dscf4027.jpg](#) 256.02 KB · JPG

I/we seek Please leave the joy of the carwash on the home driveway.
the
following
decision: *

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a



From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Saturday, 12 October 2019 4:30 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#24]

Name * Margaret Gwynn

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * Yes

Do you support the proposed draft Stormwater Bylaw? * Yes

Reasons: * It will enable the council to enforce compliance with the bylaw and compel those discharging contaminants into the stormwater system, either private or public, to stop polluting important areas like the Ahuriri Estuary.

I/we seek the following decision: * The adoption of the draft stormwater bylaw by Napier City Council

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. No

I wish to speak at the Hearing (please tick):
*

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Tuesday, 15 October 2019 3:20 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#25]

| | |
|---|--|
| Name * | Mike Mccarthy |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | No |
| Do you support the proposed draft Stormwater Bylaw? * | No |
| Reasons: * | Will this new bylaw stop the city council dumping sewage into estuary when flooding occurs. Who is going to police this new bylaw and what are the penalties |
| I/we seek the following decision: * | Stop this nonsense. Napier people need to be treated better than this with trying to ban washing of our cars in our own drives. This council has better things to. |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Tuesday, 15 October 2019 10:22 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#26]

Name * Adriaan Stolk

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

It is unfair to penalise people who cannot access a grass verge on their property for washing their vehicles, especially as biodegradable wash & wax solutions are commonly on sale. The road salts are already entering the estuary when it rains. If you're going to improve stormwater discharge from cars and roads you need to divert the stormwater to a treatment facility before it is discharged into the estuary. This is a better use of resources for the future as we need sustainable infrastructure that will benefit people and not penalise them unduly. It is also impractical and frankly inappropriate to say that dirt and other natural debris isn't allowed in the estuary any further as that is how the natural cycle of nature functions, if you are insisting on unilaterally proceeding with this legislation regardless of input, as the council has been loathe to do; as is with unwanted rates increases, then the best solution is to still create a stormwater treatment facility. This would also benefit the economy by creating more jobs.

I/we seek A purpose built stormwater management facility to be created that will have the storm water diverted
the to it that will then in turn be able to treat the water without having to severely impact the autonomy
following and rights to freedom of all the people in Napier.
decision: *

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 17 October 2019 3:35 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#27]

Name * Ann Webster

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * No

Do you support the proposed draft Stormwater Bylaw? * No

Reasons: * I think it is unfair regarding washing your car if you are unable to drive onto your lawn and wash it there. I think that the wording needs to be changed. Some houses do not have a front lawn to drive onto (ours included) so where are we meant to wash our cars?? We should not have to go and line someone elses pockets by having to wash the car at a carwash.
The wording needs to have "where practical" added in.

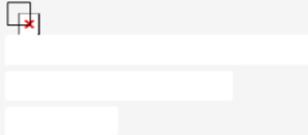
I/we seek the following decision: * I want the wording changed regarding washing your car if you do not have a front lawn to drive onto to wash it there. The words "where practical" should be added in.

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. No

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 17 October 2019 4:43 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#28]

Name * Ann Webster

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * No

Do you support the proposed draft Stormwater Bylaw? * No

Reasons: * It is unworkable. Where are people meant to clean cars???
 If they are serious about keeping pollution out of the estuary then have ALL of the stormwater go through a treatment process BEFORE releasing it into the estuary. There is ALWAYS going to be stuff in the gutters eg. on rubbish and recycling days – items are blown into the gutters and then washed into drains.
 Even with all the best of intentions, there is ALWAYS going to be non rain that is in the stormwater drains.
 A treatment plant is the only way.
 Much better use of funds than on a swimming pool.

I/we seek the following decision: * If they are serious about keeping pollution out of the estuary then have ALL of the stormwater go through a treatment process BEFORE releasing it into the estuary. There is ALWAYS going to be stuff in the gutters eg. on rubbish and recycling days – items are blown into the

gutters and then washed into drains.
Even with all the best of intentions, there is ALWAYS going to be non rain that is in the stormwater drains.
A treatment plant is the only way.
Much better use of funds than on a swimming pool.

If you wish to speak at the Hearing we will No
contact you to arrange a time. Please
include a daytime phone number for us to
arrange a time.

I wish to speak at the Hearing (please tick):

*

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 18 October 2019 5:43 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#29]

| | |
|---|--|
| Name * | Rodger Hedley |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | No |
| Do you support the proposed draft Stormwater Bylaw? * | No |
| Reasons: * | We need to be able to wash our cars at home |
| I/we seek the following decision: * | ??? |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 18 October 2019 3:25 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#30]

| | |
|---|---|
| Name * | Ruth Smithies |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | We need to change our ways and become more aware of what happens to the water of the washing of our cars, etc. Having penalties will bring the message home even though it is hard for people without lawns as in Parklands. The Bylaw will change the way developers will build their houses (hopefully). Time is running out on our seas to stay healthy. |
| I/we seek the following decision: * | That a strict by law be introduced and enforced to save our seas. |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Sunday, 20 October 2019 9:03 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#31]

| | |
|---|---|
| Name * | Liz Thomas |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | There is too much of very thing mentioned going into our stormwater drains. I do feel however that the council needs to take some responsibility for ensuring that they themselves are not causing this pollution (as has happened after the recent rain). Checking vulnerable areas before and after rain. Not letting all the stones, leaves and branches find their way into the stormwater system in the first place. |
| I/we seek the following decision: * | That the amendment to the stormwater bill is passed as is. |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Sunday, 20 October 2019 3:06 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#32]

| | |
|---|--|
| Name * | Isabel Morgan |
| Who are you submitting as? * | Individual |
| Postal Address * | <input type="text"/> <input type="text"/> <input type="text"/> |
| Daytime Contact Phone * | <input type="text"/> |
| Email Address * | <input type="text"/> |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | It should prevent stormwater entering the Ahuriri Estuary. I am very concerned about the saline water entering the Onehunga Road end, the far reaches of the Estuary, and changing the salinity of the water where the critically endangered Australasian Bittern have made a home. They do not live in saline water. |
| I/we seek the following decision: * | That NCC will divert all stormwater from the Thames/Tyne Street area and the general Pandora catchment area, so that it flows to the Awatoto area. And NOT into the AHURIRI ESTUARY! |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Wednesday, 23 October 2019 10:23 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#35]

Name * Michele Grigg

Who are you submitting as? * Individual

Postal Address *



[Redacted postal address]

Daytime Contact Phone *

Email Address *

[Redacted email address]

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * Yes

Do you support the proposed draft Stormwater Bylaw? * Yes

Reasons: * Anything we can do to improve water quality and the integrity of our stormwater network has to be good.

I/we seek the following decision: * Adopt the proposed Stormwater Bylaw.

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. No

I wish to speak at the Hearing (please tick):

*

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Thursday, 24 October 2019 11:00 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#37]

Name * Matt Carney

Who are you submitting as? * Individual

Postal Address *

Daytime Contact Phone *

Email Address *

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

No

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

Most of the proposal is common sense however banning people from washing their car in their driveway is ridiculous. Few people on Napier hill would have a lawn they can park on to do this and therefore the law will force these residents and ratepayers to either use an auto wash or to line up at the expensive and crowded self wash facility at the base of the hill. Break dust and dirt washed off your car would be insignificant when compared with what ends up on the road anyway so if the main concern is soap, what about specifying certain types of environmentally friendly soaps that can be used? Window cleaners in the city would surely be more of a problem than people washing their cars from a personal observation. This is not a good policy as I believe industry is the problem when it comes to polluted waterways, not private residents.

I/we seek Remove car washing restrictions for private residents from the policy or come up with an alternative
the without adding cost to the resident.
following
decision: *

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime
phone
number for

#38

SUBMISSION to the Napier City Council

Draft Stormwater Bylaw 2019

Jenny Baker, John Cheyne

Te Taiao Hawke's Bay Environment Forum

Contact:

Jenny Baker

Te Taiao Hawke's Bay Environment Forum (Te Taiao), formed in 2011, is an umbrella group for a number of conservation/environmental groups in Hawke's Bay active in protecting the region's natural assets. The members seek to achieve better environmental outcomes by improved coordination and sharing of information. The principles that guide the group include:

- Strong sustainability (recognising that our society and economy depend on a healthy environment)
- Interconnectedness of our key environmental issues
- Dependence of social, cultural and economic well-being on environmental well-being

As a community stakeholder group attending the Napier City Council Stormwater Working Group meetings, we thank you for the opportunity to submit on the revised NCC Stormwater By-law.

We are in support of the new and revised regulations of the proposed Draft Stormwater Bylaw as they will assist, along with continuing education, the Napier City Council to improve the quality of our waterways and particularly the sensitive receiving environment of Te Whanganui a Orotu, Ahuriri Estuary. As a nationally significant estuary both culturally and ecologically, one of the largest wetland systems on the East Coast and a DoC Wildlife Refuge it's ecological health should be given the highest priority.

We strongly support the proposed changes to the 2012 Bylaw as contained in the 2019 Draft and seek the following decisions:

(As there are no page numbers on the by-law document provided comments are referred to by headings and associated numbers)

1. We strongly support the expansion and broadening of the Bylaw so that is not restricted to High Risk Facilities. This will give better scope to managing and preventing the discharge of contaminants at source. It is essential that contaminants be prevented, contained and managed at source and not downstream.

We would like to see that under Purpose 3 c the addition of the words "the prevention, containment and management of contaminants at source" be included so that the purpose is stated very clearly. The term pollution prevention has been removed from the document and that is the key outcome for the regulation.

Under the definitions glossary the term Contaminant be expanded to include the wording from the Resource Management Act. The definition needs to be more clearly articulated in the same way as the term "Nuisance" has been expanded so inclusions are clear.

Would the present definitions also include, for example, littering in the street and the non-removal of dog faeces?

2. We strongly support the expansion of the Purpose to more adequately protect the stormwater network from damage.

Protection of Stormwater Network (5) and Approvals for works affecting Stormwater Network (6) have been well expanded to cover most occurrences that could adversely affect the stormwater network.

3. We strongly support the increased clarity around compliance and enforcement in section 12,13 and 14.

We support the "polluter pays" principle and the bylaw is ineffective without compliance, enforcement and follow up. We are aware that this takes a lot of staff time but is essential that this is supported by Council resourcing and we ask that Council consider this an essential service with high priority and one that will be even more costly if not addressed urgently.

Other related comments:

We are impressed with the way NCC staff and particularly the Environmental Solutions team have engaged with the public, industries and rural landowners through the Stormwater Working Group to tackle these huge legacy issues and their proactive consultation for the Bylaw. We were disappointed at the poor turn out at the meeting held on October 11 which was a very worthwhile consultation exercise.

There may need to be more clarity around definitions of private stormwater systems particularly in areas like the Napier Hill where older parts of the network are no longer functioning or unable to be identified.

It is concerning that stormwater breaches have occurred in new developments e.g. Parklands. We would like to see the Bylaw taken into account when reforming local building codes and construction bylaws e.g. the use of semipermeable or permeable surfaces for parking, landscaping, the use of swales and bunding to hold water in the landscape, the support of domestic water tanks etc.

The Bylaw needs to be taken into account when planning new subdivision and zone changes and the associated regulations inform the Heretaunga Plains Urban Development Strategy (HPUDS)

It is helpful to see an expanded list of storm water management devices included in the definitions section of the Bylaw.

It is essential that education is ongoing and targets different parts of the population and different areas.

The signage around the estuary and Taradale Road is effective and the messages are clear. Signage could extend to painted stencils on drain covers and grates.

One educational feature we would like to see developed, publicly accessible and promoted is a map of the stormwater system showing the catchments and how 68% of Napier stormwater flows to the estuary. A map such as that in the Aquanet Report: Effect of Urban and Industrial Discharges in the

HB Region (2011) page 15 could be used/modified. We would contend that a huge majority of residents would have little idea of the extent of the catchment and the quantity of discharge to the receiving environment of the estuary and this tool could have impact.

We would like to see associated Guidelines to the bylaw be developed in order to translate into practical householder action the purpose and outcomes of the Bylaw for the public.

In the same way that solid waste management needs continuing public education we suggest that monthly articles be submitted to and supported by Hawke's Bay Today and the community newspapers. This could include good news stories and community actions as well as practical hints for the public which would support and reinforce the signage already developed.

The "wet and forget" "spray and walkaway" advertising needs to be countered and more community collections for hazardous substances or collection points established.

Education for schools could include the re-use of "The Great Drain Game" which originated in Auckland and has been used by HBRC in the past. Coordination of NCC and HBRC education programmes is essential.

Te Taiao HB Environment Forum members have proposed and are particularly supportive of the development of extensive polishing wetlands in the Lagoon Farm area, but this development does not lessen the need for the essential prevention of point-source and diffuse contaminant discharge. The water quality still needs to be such that it does not harm wetland flora and fauna. The entire Napier City Council Lagoon Farm should be set aside for the development of wetlands for treatment of the storm water before it enters the Ahuriri Estuary. For this method to be successful it requires appropriate wetland design and maximising the retention time of storm water in the wetlands before entering the Estuary to enable the best result. Retention time essentially requires large size (area and volume) plus a long, elongated flow path within the wetland. Setting the entire Lagoon Farm aside for this purpose at this stage is strongly supported with the additional benefit of climate change adaptation and providing buffering for sea level rise.

Any proposed policy and regulation need to take into account:

- The Treaty Settlement of Mana Ahuriri and Te Komiti Muriwai o Te Whanga
- The requirements of HBRC Plan Change 9 and the TANK process
- Central Government Requirements

The Ministry for the Environment's Action for Healthy Waterways Discussion Document September 2019 includes a section 7.3 pp 60-62 on Stormwater and nationally consistent measures.

"We are proposing to introduce a new obligation for stormwater network operators, in a new Water Services Act, to report annually on a set of nationally -prescribed environmental performance measures to both their communities and a central regulatory agency. These would cover stormwater discharges, environmental outcomes, resilience, social/cultural indicators, compliance metrics, and other relevant performance indicators. We will be working with stormwater network operators, regulators, communities and tangata whenua to further develop this proposal." Page 61.

- The long term anticipated effects of Climate Change on the region.

Thank you for this opportunity to submit. We would like to speak to this submission depending on the timing of the hearing.

Jenny Baker and John Cheyne
For Te Taiao HB Environment Forum

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 11:52 AM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#39]

Name * Ron Wareham

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

Pollution of the Ahuriri waterway and in particular the Pandora Pond area will NEVER be alleviated by making bylaws prohibiting the public and industry from letting run off contaminants enter the storm water system. Fining those who so do does nothing to rectify the contamination that has already occurred and increasing urban and industrial development means that the problem will only get worse. The only solution, in my opinion, is to redirect this storm water to discharge out to sea along the waterfront preferably via a ponding area where the water is treated in some way prior to discharge and not direct it into this important waterway. Likewise feeding contaminated water into a purpose developed wetland and expect somewhat purified water to emerge the other end is dreaming, all that will happen is that the wetland will get increasingly polluted. Articles from overseas, that I have read, state that some migrating birds that depend on wetlands as a stopping and feeding area in China are producing infertile eggs due to the contamination of their food , both aquatic and plant life because of heavy metals, chemicals etc from run off into the wetlands.

Contamination of Pandora pond has already been the main contributor in the collapse of the kayak hire business established there which is where many organisations, including schools, taught water craft safety to young people. Sporting events,such as the Iron Maori triathlons, have been affected and moved away from Pandora Pond, which is, safety wise, the best place to swim. Where will parents of young children take them to swim, free of charge, in an area where they can be closely supervised ? The moving away of sporting events from Pandora Pond and the ongoing contamination of the waterway resulting in fewer people using the area is also affecting an eatery which also leases its premises from the Napier City Council. Whilst there has been much publicity over the contamination of the water has there been any studies on what contaminates are being up taken by the estuary plant and aquatic life such as the crustaceans, snails and young fish forms that feed there and form part of the food chain for bird life?

I have had a one on one meeting with our immediate former Mayor, and made a submission to the Regional Council but it appears as if though there has not been any positive action done , or planned, despite talk of same being implemented, for the immediate future for solutions. I concede that solutions will be costly but unless these are

found to eliminate pollution future generations will inherit polluted areas that will no longer support the bird and aquatic life forms that depend on them and loose a safe swimming area which could with foresight be improved to a much larger and safer area.

I have witnessed the degradation of an area of Auckland, where I lived, and would not like to see the same thing happening here. I have no qualifications in environmental studies but have observed the changes that happened in Auckland and here in Napier, having spent many hours night spearfishing for flounder in Pandora Pond and have observed first hand contaminates entering the area. This is a past time that I no Longer do as I would no longer eat the flounder. I would welcome being invited, and be quite prepared to discuss my thoughts and experiences on this matter.

I/we seek A plan for positive solutions to the Ahuriri Estuary contamination problems.
the
following
decision: *

If you wish Yes
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime
phone
number for
us to
arrange a
time.

I wish to
speak at
the
Hearing
(please
tick): *

#40

From: Stuart McMillan
Sent: Thursday, 31 October 2019 2:10 PM
To: Environmental Solutions
Subject: Storm water Napier hill.

Hi there,

I am the owner of _____, that over the last 2 years have had a large slip come down on my property due to old, undersized, and poorly maintained storm water system, that may have been ok 40 years ago but now with higher rain falls, and more roof area in the street above, is no good today.

The council did a patch up job at the time, but has left power and phone cables hanging in mid air at slip face.

There is no money in the kitty to fix these problems on Napier hill.

You are never in the next 50 Years going to get the population to be model citizens, and not drop any litter, or stop dirt and dust going down the drain, or stop the leaves falling of the trees.

May i suggest a more workable way forward. We are trying to stop buildup of silt etc being discharged in Pandora Pond area ?

There is most likely 20 discharge points that can have sand traps installed, that can be emptied twice a year with a truck and digger.

Each sand trap i would think may cost \$70,000 each x 20= 1.4 mil.

a lot less trouble than keep track on every citizen, witch can not possibly work.

Yours Stuart McMillan

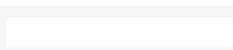
From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 12:12 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#41]

Name * Gary Curtis

Who are you submitting as? * Individual

Postal Address * 

Daytime Contact Phone *

Email Address * 

Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality

of our
waterways?
*

Do you No
support
the
proposed
draft
Stormwater
Bylaw? *

Reasons: *

I am adamantly opposed to the ill conceived, hypocritical Napier City Council Draft Stormwater Bylaw 2019 proposal to stop residents from washing their vehicles on their driveways. Hypocritical, because from the 1st November due to the changes to the Council's recycling collection programme, the amount of vehicle tyre rubber residue being washed into the storm water system will increase threefold (300%).

As far as I can see, nowhere in the Draft Stormwater Bylaw 2019 proposal does Council elaborate on what it is going to do to reduce (or eliminate) sediment and other detritus from roadworks (repairs, new roads etc) or from new footpath construction or repairs etc from washing into the storm water system which it undeniably currently does.

What action it is the Napier City Council going to take to stop Hawke's Bay Regional Council vehicles (e.g. tractors with rotary hoes or grass mowers attached , trucks and utes) from dropping mud, dirt and other detritus onto the road when returning to their depot in Guppy Road – a regular occurrence..

Other than using 'commercial' car washing facilities which is impractical and costly, how and where do Napier City Council staff/Councillors suggest I wash my vehicle. During summer I usually wash my vehicle on my lawn but this is totally impractical during winter.

Where too are people who live in flats or retirement villages or on Bluff Hill (unless they will be exempt because of where they live) going to wash their vehicles?

Whilst I appreciate the sentiment and logic of removing sawdust from drive ways to avoid it being washed into the storm water system by the rain I am opposed to making it a by-law.

How is Council going to 'police' the by-law? Are they going to get people to 'dob in' their neighbour's or citizens or will they employ yet another person or people to drive around the city in yet another Napier City Council vehicle or vehicles looking for by-law breakers again increasing the amount of vehicle tyre rubber residue being washed into the storm water system?

I'm sure people will LOVE living in 'friendly - dob in your neighbour- Napier!

I support making the following (within reason) an offence:-

Dumping any rubbish or greenwaste in or near a stormwater drain.

Washing industrial chemicals or oils off your forecourt and allowing it to drain into the stormwater.

Allowing sediment from construction sites to wash into the roadside drains.

| | |
|--------------------|--|
| I/we seek | That the proposal to make it an offence to wash a vehicle in a residents drive be removed from the |
| the | draft proposal. |
| following | That the proposal to make it offence to allow DIY (not commercial activity) sawdust to wash into the |
| decision: * | storm water system removed from the draft proposal. |

If you wish No
to speak at
the
Hearing we
will contact
you to
arrange a
time.
Please
include a
daytime
phone
number for
us to
arrange a
time.

I wish to
speak at
the
Hearing

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 12:14 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#42]

| | |
|---|--|
| Name * | John Warren |
| Who are you submitting as? * | Individual |
| Postal Address * |  |
| Daytime Contact Phone * | |
| Email Address * |  |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | No |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | It is a good idea to control discharges as much as possible but the natural contamination of storm water is probably much greater than the contaminants addressed by the by law and hence even with the enforcement of the by law receiving waters will continue to be of low quality, particularly after rainfall. I would suggest that Napier adopt Blue Flag standards and seriously address receiving water quality . An example is attached |
| Attach a File |  blue_flag.pdf 1.59 MB · PDF |
| I/we seek the following decision: * | That the by law be passed and that Napier establish shellfish gathering quality objective for the Ahuriri Estuary and develop a plan that will consistently achieve that quality Over a shellfish-gathering season, the guideline for recreational |

shellfish gathering water quality is: a median faecal coliform count not exceeding 14 per 100 mL; and, not more than 10% of samples exceeding 43 per 100 mL.

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time.

Yes

I wish to speak at the Hearing (please tick):

*

3 FN BJOCHPEPN FOUJUCSOUFE \$ BOCF BDDFTFE WB <https://napier.wufoo.com/cabinet/d7205d5f-7f1a-498f-a597-1a592fa70563>

INTRODUCTION

Toronto is a great city on a Great Lake. Beaches are a key feature of Toronto's waterfront parks which contribute significantly to the quality of life in the city. In turn, swimmable beaches are often used as an indicator of Toronto's environmental performance and quality of life. While the state of the City's beaches has improved markedly over the past five years – a fact recognized internationally by the awarding of six Blue Flags – a comprehensive approach to waterfront revitalization requires additional beach improvements.

The Toronto Beaches Plan identifies actions to further improve Toronto's six Blue Flag swimming beaches, to bring five other beaches up to the international Blue Flag standard, and to potentially create a new swimming beach. These measures will complement other continuous service improvements now underway at or planned for the City's 11 swimming beaches.

To set the context for action, the plan discusses the importance of swimmable, quality beaches and outlines the policy and program foundation for great beaches in Toronto. Recent accomplishments, current conditions and key challenges and opportunities are reviewed. The plan then defines a vision of great swimming beaches in Toronto, a strategy for achieving that vision, and 27 actions – organized around the themes of beach water quality, maintenance and operations, facilities and amenities, programming, and education and communications – that will give life to that strategy.

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 12:14 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#43]

| | |
|---|--|
| Name * | Ian Baggott |
| Who are you submitting as? * | Organisation |
| Name of Organisation | Motor Trade Association |
| Title/Position | Sector Manager – Energy & Environment |
| Postal Address * |  |
| Daytime Contact Phone * | |
| Email Address * |  |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | No |
| Reasons: * | Do not fully support regulations as drafted. Please see attached submission for details |
| Attach a File |  mta_submission_to_napier_city_council_on_draft_stormwater_bylaw_2019.pdf 526.09 KB · PDF |
| I/we seek the following decision: * | Please see attached submission |
| If you wish to speak at the Hearing we will contact you to arrange a | No |



MTA Submission

Submission to Napier City Council on the Draft Stormwater Bylaw 2019

25 October 2019

Dear Sir / Madam

Submission: Draft Stormwater Bylaw 2019

This submission is from:

Motor Trade Association (Inc)
PO Box 9244
Marion Square
Wellington 6141

The contact person in respect of this submission is:

Name: Ian Baggott
Title: Sector Manager – Energy & Environment
Ph:
Email:

Thank you for the opportunity for MTA to provide comment on the Draft Stormwater Bylaw 2019 regarding the views of and its effect on the automotive industry.

Yours sincerely,



Greig Epps
Advocacy & Strategy Manager

Motor Trade Association
PO Box 9244
Marion Square
Wellington 6141
Phone: 04 385 8859



www.mta.org.nz

Introduction

The Motor Trade Association (Inc) (MTA) was founded in 1917 and in 2017 celebrated 100 years of trust with the NZ motoring community. MTA currently represents approximately 3,600 businesses within the New Zealand automotive industry and its allied services. Members of our Association also operate businesses including automotive repairers (both heavy and light vehicle), collision repair, service stations, vehicle importers and distributors and vehicle sales. The automotive industry employs 57,000 New Zealanders and contributes around \$3.7 billion to the New Zealand economy.

Submission

MTA represents over 800 retail service station sites nationwide and works closely with the Oil Companies (Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Ltd) to understand the environmental actions needed at retail sites.

MTA has had the benefit of reading a draft submission from 4Sight Consulting Ltd on behalf of the Oil Companies. MTA shares the views of the Oil Companies' submission and agrees with suggested amendments to the Draft Bylaw.

In addition to our support for that submission, we would also like to make a general comment on behalf of our members working in the wider automotive sector who may be impacted in terms of compliance with this Bylaw.

As with most regulatory requirements, having a consistent approach to enforcement of these requirements by the Regulator does create a level playing field for everyone affected as well as reinforces the understanding of the importance of complying with the requirements.

This is best done through clear and comprehensive education of affected businesses about any new or changed compliance obligations, followed by visible enforcement of the regulations on parties that have failed (after a suitable transition period) to adapt to the new requirements.

Finally, with any environmental compliance activity, costs will be borne by the business and some of these costs may involve the need to seek professional advice and/or undertake physical works on the business premises. MTA requests that consideration be given to allowing sufficient time for a just transition for businesses to bring themselves into compliance with any new or changed environmental standard.

MTA appreciates the opportunity to submit on the Draft Stormwater Bylaw 2019



NATIONAL CONTACT DETAILS

Physical address

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13-27 Manners
Street Te Aro,
Wellington 6011

Postal address

PO Box 9244
Marion Square
Wellington 6141

Phone

04 385 8859

**Members toll
free phone**

0800 001144

Mediation Line

0508 682 633

Fax

0800 000 695

Email

mta@mta.org.nz

Website

mta.org.nz

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 1:17 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#44]

| | |
|---|---|
| Name * | Kahlia Thomas |
| Who are you submitting as? * | Organisation |
| Name of Organisation | C/O – 4Sight Consulting Ltd (on behalf of Z Energy Ltd, BP Oil NZ Ltd and Mobil Oil NZ Ltd) |
| Title/Position | Planning and Policy Consultant |
| Postal Address * |  |
| Daytime Contact Phone * | |
| Email Address * |  |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | No |
| Do you support the proposed draft Stormwater Bylaw? * | No |
| Reasons: * | Please refer to attachments: – The Oil Companies' Comments on the Draft Napier SW Bylaw 2019_v2 – Attachment A – TCC Stormwater Pollution Prevention Bylaw 2015 |
| Attach a File |  the_oil_companies_comments_on_the_draft_napier_sw_bylaw_2019_v2.pdf 361.35 KB · PDF |

I/we seek the following decision: *

Please refer to attachments:

- The Oil Companies' Comments on the Draft Napier SW Bylaw 2019_v2
- Attachment A – TCC Stormwater Pollution Prevention Bylaw 2015

Attach a File



[attachment_a__tcc_stormwater_pollution_prevention_bylaw_2015.pdf](#)

252.61 KB · PDF

If you wish to speak at the Hearing we Yes

will contact you to arrange a time.

**Please include a daytime phone
number for us to arrange a time.**

**I wish to speak at the Hearing (please
tick): ***



**COMMENTS BY THE OIL COMPANIES
ON THE DRAFT NAPIER CITY COUNCIL STORMWATER BYLAW 2019**

To: Napier City Council
Private Bag 6010
NAPIER 4142

Via online lodgement - "Say It Napier" website

Submitters: Z Energy Limited¹ BP Oil NZ Limited Mobil Oil NZ Limited
PO Box 2091 PO Box 99 873 PO Box 1709
WELLINGTON 6140 AUCKLAND 1149 AUCKLAND 1140

Date: 25 October 2019

Address for Service: 4Sight Consulting Limited
PO Box 911 310
Victoria Street West
Auckland Central 1142

Attention: Kahlia Thomas
Phone:
Email:
File ref: AA6309



LAND. PEOPLE. WATER.

¹ On behalf of the wider Z Group, including the Z and Caltex operations in New Zealand



1. INTRODUCTION

- 1.1. Napier City Council (*Council*) is seeking feedback on its Draft Stormwater Bylaw 2019 (*the Draft Bylaw*).
- 1.2. Z Energy Ltd, BP Oil New Zealand Ltd and Mobil Oil New Zealand Ltd (*the Oil Companies*) receive, store and distribute refined petroleum products around New Zealand. In Napier City, the Oil Companies own, operate and/or supply petroleum products to service stations, truck stops and airfields. The Oil Companies also own and operate bulk fuel storage terminals in Napier, which supply fuel to the entire Hawke's Bay Region and wider areas, including Gisborne.
- 1.3. The Oil Companies' interests in the Draft Bylaw relate primarily to how it addresses stormwater discharges from areas where hazardous substances are stored and used and being industrial and trade premises. The Oil Companies seek clarity regarding these matters to provide certainty to industry while ensuring protection of the environment and Council's infrastructure.

Background

- 1.4. Discharges from petroleum industry sites (including service stations and terminals) are addressed in the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998). The Guidelines provide specific measures to ensure water discharges from petroleum industry sites will not cause significant adverse effects on the environment. They were prepared by a working group comprising industry, central and regional government and continue to be widely recognised as best practice. This is reflected in a number of regional plans around the country (e.g. the Waikato Regional Plan recognises that compliance with the Guidelines achieves permitted stormwater quality).
- 1.5. The Guidelines recognise that there is potential for stormwater from petroleum sites, from areas where fuels are stored and handled, to contain oil contaminants and that these require appropriate treatment prior to discharge. The Guidelines require that the high-risk areas are directed by design (e.g. appropriate surface grading, bunds) into grated sumps/gutters to drainage systems via treatment devices prior to discharge.
- 1.6. The Guidelines set out detailed criteria for sizing of treatment devices based on rainfall and require that service station separators have the capacity to contain a 2,500 litre spill of hydrocarbons – the maximum credible spill. Terminal interceptors operate differently in that discharges via the separator only occur under manual supervision. Devices at service stations which use gravity separation are recognised as the most practicable option to remove oil from water and achieve the desired discharge quality. Appendix 2 of the Guidelines explains the methodology and results of the trial of an American Petroleum Institute (*API*) separator. That exercise confirmed that the API could retain a 2,500 litre spill with the outlet valve in the open position while also achieving a discharge quality of less than 15 milligrams per litre of total petroleum hydrocarbons. A SPEL separator has been similarly tested and subsequently certified by the former Auckland Regional Council as being compliant with the Guidelines. Both SPEL and API separators are now widely used around the country.
- 1.7. The Guidelines recognise that the maximum levels of contaminants allowable in discharges are 15 milligrams per litre for total petroleum hydrocarbons and 100 milligrams per litre for total suspended solids respectively (when averaged over the design storm event) and that operating within these limits will ensure minimal adverse toxic effects. These standards have been applied by way of resource consent conditions by the Hawkes Bay Regional Council for the discharge of stormwater from petroleum sites, e.g. from the BP Napier Terminal.



2. COMMENTS

2.1. Clause 8.1 states that “no person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network without an Approval”.

2.2. Regulated stormwater is defined as follows:

Regulated Stormwater means any stormwater which:

- (a) Contains contaminants;
- (b) Discharges from industrial or trade premises;
- (c) Is required by a Control to obtain an Approval.

2.3. The Oil Companies support the intent of Clause 8.1 to apply to all new discharges. The Oil Companies do not support the scope of the definition of regulated stormwater. All stormwater will to some degree contain contaminants. The definition applies to all industrial and trade premises irrespective of what and how they are managing stormwater at present. The intent expressed in the summary information is to:

Require discharges of certain types of stormwater to the public stormwater network require an approval (even if there is already a connection in place);

2.4. The provisions are therefore requiring retrospective approvals for effectively all industrial and trade premises. This is opposed.

2.5. Such an approach is inefficient and will impose unnecessary costs on compliant industries. The Oil Companies consider that a more effective approach would be for the Council to identify and target key high-risk industries. Tauranga City Council’s Stormwater (Pollution Prevention) Bylaw 2015 (provided as **Appendix A**) is considered a good example of such an approach. Section 6 provides that Tauranga City Council may require a ‘high risk’ site which discharges to the public stormwater network to prepare a Pollution Prevention Plan which includes, among other things, methods and timeframes to control contamination of the public stormwater network. In other words, where Council has identified that there is an issue with a premise in the first instance. To do that it needs to have a programme of inspection and compliance. Compliance with the bylaw requirement is unlikely to be achieved solely by reliance on those compliant industries making applications, as it is more than likely that it is those sites that have less regard for compliance that are an issue. The proposed bylaw refers to “environmental management plans” (and which can include pollution prevention plans) but does not contain specific provisions for this to be sought on an as required basis, rather it is something that would be added to the approval process. Establishing an environmental management plan process as a means of triggering the approval process (as opposed to requiring all parties to seek approval) would also match the Council’s desire to get better results through an educative process while also providing sufficient regulatory backing.

2.6. The Oil Companies also consider that discharges which are sanctioned via a resource consent from Hawke’s Bay Regional Council should not be required to obtain an additional Approval. For example, the BP Napier terminal (operated by NZOSL) holds resource consents for the discharge of both stormwater and operational waters to the coastal marine area (discharges are via the Councils stormwater network). The discharges have been assessed and determined as being appropriate, and conditions are in place to ensure that the discharge is managed so that the effects on the environment are acceptable.



2.7. The definition of Approval in the bylaw is as follows:

Approval means a written approval issued by Council in accordance with the process set out in clauses 9 – 11 below, or an equivalent approval issued by Council prior to this bylaw commencing.

2.7 The Napier City Council gave its affected party approval under the RMA to those discharges at the time of application. It is far from clear whether Council will consider that to be an “equivalent process”. The current bylaw, as drafted, could potentially enable Council to relitigate those process.

2.8 A further feature of the Tauranga City Bylaw is that it permits those discharges that are permitted by the Regional Plan. Council should give further consideration as to whether the Bylaw needs to approve otherwise permitted discharges. If Council does consider there to be a need then that should only be a concern in terms of quantity (whether there is sufficient capacity in the network) for such permitted discharges and not raise concerns with the quality of those discharges.

2.8. The Oil Companies seek the following amendments to the Bylaw:

(a) Amend Section 8.1 to ensure that only new discharges and changes to existing discharges are required to obtain an Approval, and to provide an exemption for discharges which are authorised via a resource consent, as follows (additions in underline; deletions in strikethrough):

8.1. ~~No person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network without an Approval.~~ All new connections to the public stormwater network are required to obtain an Approval.

8.2. Any material changes to existing discharges to the public stormwater network via existing connections are required to obtain an Approval, or where Council has determined a site needs an environmental management plan.

8.3. Discharges to the public stormwater network which are sanctioned via a resource consent from Hawke’s Bay Regional Council or are a permitted activity under the Regional Resource Management Plan are exempt from Clauses 8.1 and 8.2 above.

(b) Delete the definition of regulated stormwater.

(c) Include a definition of material change (i.e. increase in volume runoff from additional impervious surfaces or change in contaminant characteristics).

(d) Add a new clause to Section 11.1 to recognise that discharges in accordance with the Guidelines will be considered acceptable in terms of stormwater quality. This could be achieved by amending Section 11.1 along the following lines:

11.1. *When considering an application for Approval, and the conditions to which the Approval will be subject should the application be granted, the Council may take into account any of the following:*

...

k) Compliance with any relevant industry best-practice guidelines, including the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998); and

l) ~~k) Any other reasonable considerations the Council considers appropriate.~~



- (e) Include provisions in the bylaw relating to preparation of environmental management plans along the lines as set out in Section 6 of Tauranga City Council's Stormwater (Pollution Prevention) Bylaw 2015.
- (f) Add a further clause in in 11.1 to allow Pollution Prevent Plans to be approved by the Council.
- (g) Make all and any necessary consequential amendment to give effect to the submission.

Supported Provisions

- 2.9. Clause 5 seeks to protect the stormwater network and is supported. In particular, Clause 5(b) which requires that no person shall "*allow any material, chemical (including chlorine and detergents), rubbish, litter or other substance that causes or is likely to cause a nuisance, directly into the public stormwater network*", is supported.
- 2.10. Clause 9 relates to the maintenance of private stormwater systems, which includes stormwater treatment devices such as the SPEL and API separators used by the Oil Companies. The Oil Companies support the requirements in Clause 9 to maintain such systems in good operating condition and in accordance with the operations and maintenance manual.

3. CONCLUSION

- 3.1. Thank you for reviewing the above comments. The Oil Companies have experience across the country under a wide variety of bylaws and would be pleased to discuss these matters further if that would assist.

Signed on behalf of Z Energy Ltd, BP Oil New Zealand Ltd and Mobil Oil New Zealand Ltd

A handwritten signature in black ink that reads 'Kahlia Thomas'.

Kahlia Thomas
Planning and Policy Consultant
4Sight Consulting Limited

Attachment A: Tauranga City Council's Stormwater (Pollution Prevention) Bylaw 2015

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Friday, 25 October 2019 1:47 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#46]

| | |
|---|---|
| Name * | Michael Hockey |
| Who are you submitting as? * | Organisation |
| Name of Organisation | Royal Forest and Bird Protection Society of New Zealand, Napier Branch |
| Title/Position | Committee Member |
| Postal Address * |  |
| Daytime Contact Phone * | |
| Email Address * |  |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | We support this bylaw change as a small ongoing step to improving the stormwater outflow into the Te Whanganui-a-Orotu (Ahuriri Estuary) which we feel is a top priority project for the Napier City Council. |
| Attach a File |  napier_forest_bird_submission_to_ncc_district_plan_jan_2019_1.docx 1.04 MB • DOCX |

I/we seek the following decision: *

We seek that the Napier City Council presses on urgently with storm water improvements in Napier city and reprioritize the Ahuriri Estuary Masterplan, as per our January 2019 submission to NCC, (attached), Section 5 and 6.

If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time.

No

I wish to speak at the Hearing (please tick):

*



Royal Forest and Bird Protection
Society of New Zealand Inc.
www.forestandbird.org.nz
napier.branch@forestandbird.org.nz

NAPIER FOREST AND BIRD SUBMISSION TO NCC DISTRICT PLAN 2019-2029

INTRODUCTION

With Council having already signed off on a Long- Term Plan 2018-2028, as well as the Ahuriri Masterplan, most people could reasonably assume that the District Plan Review is a “fait accompli”. We would prefer not to contribute to the planning process by means of ticking smiley face boxes as we believe that supposed key outcomes planned for the next 10 years just fail to address the major deficiencies and so more detailed deliberation is required. We would therefore like to take this opportunity to point out several areas where we consider the Council needs to step back, reassess priorities and focus more on core activities and essential services.

Our focus relates to the Environment. Forest and Bird strives to give a voice to Nature.

SUMMARY OF FOREST AND BIRD PROPOSALS

1. “ESSENTIALS BEFORE SPARKLES” - NCC SHOULD RE FOCUS ON CORE FUNCTIONS
2. LAGOON FARM REGIONAL PARK
3. HIGH RISK POLLUTING INDUSTRIES IN THE AHURIRI CATCHMENT TO BE RELOCATED
4. DROP THE NATIONAL AQUARIUM PROPOSAL
5. CLEAN UP THE ESTUARY AND PICK UP AN “AHURIRI ESTUARY WETLAND” PROPOSAL
5. REPRIORITIZE AHURIRI MASTERPLAN PROJECTS
6. ADOPT THE GODWIT/ KUAKA AS THE MUNICIPAL AND ESTUARY RESTORATION MASCOT

1. “ESSENTIALS BEFORE SPARKLES” – NCC NEEDS TO RE FOCUS ON CORE FUNCTIONS

1.1 In terms of providing core public services, namely clean drinking water, efficient stormwater and sewage systems and a safe clean environment - Napier has gone backwards over the past ten years. There is acknowledgment it needs to do better, but if one should “follow the money” as set out in the NCC Long Term Plan 2018-2028, there is little to indicate any change of direction or resetting of priorities.

Any new ten year plan should place these items as top priority. The Local Government Act considers these items as core Council responsibilities. The city is simply not delivering.

1.2 The very aptly named Pandora Pond has been Napier’s ‘dirty little secret’ for a while. Those of us in the Environmental movement have seen this developing for many years. We share the shame when the National News reports National sporting events being cancelled due to elevated bacterial contaminants. What will it take to see meaningful progress? The Ahuriri Masterplan, while identifying the problems, still largely focuses on “nice to have” projects, not essential works! Conditions will get worse before they get better.

1.3 The Ahuriri Estuary Masterplan, while having a number of good points, lacks urgency in the areas where there is greatest need. There is far too much emphasis on street improvements, car parks, transport adjustments and the likes. Existing wildlife and marine habitat already remain under threat and will be more susceptible by further “development”. The bulk of projected works planned and budgeted for just fail to address infrastructural deficiencies - which we stress are Council’s core obligations.

The Council needs to reset priorities.

1.4 New Zealand overall has witnessed major change in terms of environmental values. All political parties recognise this shift. The Hawke’s Bay Regional Council has moved forward. Napier regrettably is lagging. Napier may look pretty, but Pandora Pond, like the proverbial canary in a coal mine, looks sick and at times stinks. Staying with the canary analogy for a while: Pike River had numerous prior warning signs and indeed, closer to home, so did Havelock North with their campylobacter outbreak - yet in both cases warning signals were largely ignored.

1.5 If there was a report card of how well Napier has coped over the past 10 years, it may indeed score well in terms of a visitors first impressions but meeting residents’ needs for clean drinking water, efficient sewage and stormwater systems - it sadly fails.

Core statutory obligations concerning the health and safety of residents should rank higher in priority than aquariums, aquatic centres, cycleways or new carparks.

2. LAGOON FARM REGIONAL PARK

2.1 Forest and Bird views the Lagoon Farm Regional Park proposal as an opportunity for the City to finally give something back to Nature. It gives the Council the rare opportunity to create a genuine "Environmental Excellence" project. It assists in improving the Estuary's water quality as well as improving habitat for wildlife. In turn it could also offer future eco- tourism and environmental education opportunities, and not insignificantly, the opportunity for a broad- based community project that will be a legacy for generations to come. The Lagoon Farm would also help future proof and protect the city from rising sea levels.

2.2 We all recognise the Estuary as a "jewel" yet treat it almost as a rubbish bin. It is now a health hazard with the precious remnant wildlife habitat being threatened. Ironically that portion of former Estuary, south of the channel, which was a "gift" of sorts from the earthquake, could be a key to the city's current stormwater/waste water problem, as well as providing a safety barrier in the event of future rising sea levels. Nature can be very forgiving, but a point can also be reached where if abused, Nature can react with unexpected fury. The proverbial Pandora's Box (Pond)!

2.3 At last a tangible project that Forest and Bird can enthusiastically support, however, our enthusiasm is tempered by lack of detail and the pervading uncertainty incorporated in the phrase: " Undertake a feasibility study on the establishment of a Regional Park on Lagoon Farm land" (Ref: Ahuriri Masterplan: First 12 Projects Final /July 2018).

We are deeply disappointed that the future use of Lagoon Farm as a Regional Park is accorded mere "feasibility study" status. To Forest and Bird this reflects a lack of vision, a lack on the part of key individuals in Council to see the win /win potential of the site, and what we have referred to on numerous occasions, for Napier to be seen to be giving a little back to Nature - perhaps for the first time in Napier's recorded history. If the present Council cannot see the potential, then hopefully future Councils may.

2.4 Other projects referred to in the Ahuriri Estuary Masterplan, specifically those involving: Pandora Road upgrade, Meeanee Quay road upgrade, West Quay North traffic improvements and car parking for the Ahuriri Business Park - all have budgets and time frames provided. Bridge Street transport improvements has a further \$5.148M allocated. None of these projects have any direct relevance to improving water quality or contributing to the Council's "Environmental Excellence" over- arching principle. They all receive funding approval, but the one project that could make the biggest single contribution to the health of the Estuary, and also assist in improving stormwater and contain Council sewerage mishaps, is accorded "feasibility study" status. Core statutory obligations are again deferred - not just for the current term of Council but for several terms to come.

Such ambivalence reinforces the widespread perception that Napier is increasingly out of touch with mainstream environmental values. All recent national opinion polls rate water quality, polluted waterways and general environmental degradation as the most important issues of the day. Napier's sobriquet 'environmental laggard' is fitting.

2.4 Sometimes it is useful to step back and consider things from a broad perspective. Of the original 3,840 hectares Te Whanganui-a-Orotu (the inner harbour estuary) existing prior to the 1931 Napier earthquake, only 470 hectares remains today.

2.5 The Regional Park provides an opportunity for the City to give a little back to Nature. This is a once in a lifetime opportunity for Councillors to leave a lasting legacy for our children's children. If the Council genuinely believes in the "Environmental Excellence" -here's your chance! The political environment at both National and Local level has never been better to transform this area into an Ecological Restoration project of National importance.

FOREST AND BIRD PROPOSES THE FOLLOWING:

- (a) That the current Business Park zoning within the area be changed.
- (b) Not less than a half of the existing Lagoon Farm area (that closest to the Estuary or existing adjacent drains) be rezoned Estuary and reserved for future AHURIRI WILDLIFE WETLAND HABITAT. Within this area, provision could be provided for stormwater "polishing" but this should not be a euphemism for sewage settling ponds. Ideally, all stormwater currently flowing into the Estuary should in future be directed through a series of wetland ponds designed to both filter/polish surface water as well as to provide a habitat for birdlife.
- (c) That there be no commercial or residential development on the property. Given the low lying nature of Lagoon Farm, the risk of liquefaction in the event of earthquake and the threat of inundation and flooding as rising sea levels become more apparent, such development would be entirely unsuitable to this area.
- (d) In conjunction with the wetland project above: to extend the salt- marshes, sand and shell banks along the south of the channel.
- (e) We would like to see much of the remaining land (that adjoining Prebensen Drive) to be rezoned for use as an Arboretum with New Zealand trees and shrubs, designed to attract native birds, thus creating a wildlife corridor stretching from Poraiti to Napier Hill. This would be also be in line with the Hawke's Bay "Cape to City" ecological restoration project. A broad range of passive public recreational activities could be catered for in this zone which would preferably be family orientated and respectful of the natural environment.
- (f) Forest and Bird would be keen to partner with the NCC Council, with DOC, Mana Ahuriri, Hawkes Bay Regional Council, various Community Groups and particularly Schools. Limited access would obviously be an important aspect to consider, given its sensitive status, particularly during the initial development phase.
- (g) Effective predator control would be crucial, with public access and cycleways kept to a safe viewing distance.

3. HIGH RISK POLLUTING INDUSTRIES IN THE AHURIRI CATCHMENT TO BE RELOCATED

3.1 The Council has identified high risk industries within the Ahuriri Estuary catchment. It is incumbent upon Council to start setting sunset time frames. Within the spirit of collaborative regional best practise, the Council should signal to these industries they need to relocate away from the Estuary Catchment. Tanneries, Abattoirs, Timber-processors, Galvanisers and Fertiliser Mixing Plants would be better sited elsewhere. Awatoto/Whakatu are two possible areas.

10-20 years should be a reasonable time frame for Industry to relocate. Many may already be considering expanding elsewhere.

3.2 Any future consents sought by these industries need to be restricted activities and much tighter conditions governing possible discharge applied.

3.3 In the mean while those industries that have the propensity or record of polluting should be required to upgrade facilities to ensure best practices are maintained

3.4 The Council's "Your Home Your Future" video, (which we actually considered rather trite and self-serving), extols a regional approach to Industry. Council should undoubtedly adopt a regional approach and work collaboratively with Hastings District, Hawkes Bay Regional Council and industry sectors. The notion this proposal is considered a novel idea is slightly disconcerting,

We would go further and contend most business leaders would welcome a common set of planning rules within the Region. This should not be construed as backdoor Amalgamation! We contend two City Solicitors, a Planner from each Council and a Convenor from the Chambers of Commerce could well have the modalities of a harmonised Plan developed within 6 months. Within 10 years there could be a harmonised set of Planning rules for the Region.

3.5 Current enforcement policy for discharging contaminates are not realistic. The \$6000 fine handed down to Scales Corp for their recent discharge into Tyne Street drain was derisory.

3.6 There should be greater use of Abatement Notices and compensatory damages sought in situations where pollution has occurred.

4. DROP THE NATIONAL AQUARIUM PROPOSAL

Forest and Bird objections to the Aquarium are on the following grounds:

4.1 Building Aquariums is not a core function of Council. Essentials should come before Sparkles!

4.2 It will undoubtedly impose a heavy burden on future ratepayers. We expect fierce public reaction to this proposal. An Aquarium could suck the city coffers dry – it could require to be bailed out time and again, only to be eventually bowled.

4.3 We would be surprised if Government backs the project particularly when there are so many core services in Napier requiring attention.

4.4 Aquariums are old fashioned. Animal Rights activists oppose Aquariums for the same reasons they oppose zoos. Although educational advantages are recognised there are still a host of valid reasons for voicing concern. Animals in an aquarium are confined to relatively small tanks and can get bored and frustrated. Different species are often kept together, which leads to predatory creatures eating their tank mates. Public perceptions on these sorts of activities have changed. Napier held onto Marine Land years after public interest had waned. The Aquarium was built as a form of substitute but public opinion has moved since then. Further expansion is likely to heighten its beached whale appearance.

4.5 If the current National Aquarium needs such a substantive upgrade just sixteen years after the last major refurbishment, it suggests the previous proposal was flawed. If Councillors or the public were informed a further \$53M refurbishment would be required, the original project would never have been approved. Additional razzle-dazzle from Weta Workshop, who are Masters of Illusion, simply confirms the proposal has little merit on its own.

4.6 Visitors, including the growing Cruise Ship passenger sector, are adequately catered for by diverse private sector operators.

4.7 If you step back and look at the merits of a National Aquarium in Napier you need to ask and answer a number of questions. Why Napier? Hawkes Bay has a relatively limited range of marine life whereas Wellington and Auckland both have more bio-diversity and certainly more population to visit the venue. Simply having the right to use the name “National Aquarium” is no guarantee of success.

4.8 There are good reasons why other cities shy clear of them. Lisbon has a huge spectacular Oceanarium that attracts 1 M visitors a year. It was one of a number of large wasteful projects that almost bankrupted Portugal a decade ago. Right around the world, similar facilities are experiencing cut- backs from sponsors and government support.

4.9 Reality is around the corner at the Ahuriri Estuary and that is where creative thinking and action is required!

5. CLEAN UP THE ESTUARY AND PICK UP AN "AHURIRI ESTUARY WETLAND" PROPOSAL

5.1 Councillor Tapine's question: "What if the health of the Estuary were a measure of our community values?" - remains very valid. Achievement should not be measured solely by how well we care for people, it must also embrace the notion of good stewardship; that Nature, the Environment, with all its wondrous beauty, has the right to at least co-exist with humankind.

5.2 Forest and Bird share the Mayor's stated vision of creating - "a vibrant, healthy and resilient Ahuriri Estuary and coastal edge". It is ironical that Napier is planning a new Aquarium when it has shown no leadership on Marine Environmental matters. The Ahuriri Estuary is an important fish hatchery but Council has done nothing to protect its status. Locals looking for kai now run a real risk of contracting paratyphoid because of elevated faecal indicator bacteria concentrations.

5.3 Benefits of a Lagoon Farm Regional Park, relocation of polluting industries and the necessity to improve storm-water and sewerage systems have already been discussed as vital factors that need addressing if the health of the estuary is to be improved.

Yet also - the Inner Harbour one can see dilapidated Council-owned marina berths, boats on Council moorings without holding tanks, no notices protecting against the introduction of invasive marine species being brought in on visiting vessels, and the Council takes little action to deter industries and fishing vessels discharging into the Estuary. It has been brought to our attention that Napier is evidently the only port in NZ which does not provide toilet and shower facilities to small moored fishing boats - the morning toilet buckets go straight into the sea! (to no doubt drift up into the Estuary on the incoming tide). The list could go on and on.

5.4 There has been a marked deterioration in water quality in both the Estuary and Inner harbour over the past year or so. The 2017 report by NIWA on Estuary Values highlights the need to clear up existing contamination of heavy metals and regular waste water pollution events.

5.5 Close the lower Estuary for recreational use until it is cleaned up. With-out wanting to appear alarmist, when considering the projected time-scale and works yet to be agreed upon, Ahuriri Estuary's poor water quality and threatened wildlife habitat will continue to deteriorate for a number of years. Council provided a bouncy castle in Pandora Pond encouraging children to swim knowing it was a serious health risk! After Children started to fall ill, the initiative for action came from Health Authorities and the Regional Council - not the Napier City Council. Pandora has the potential to spring more nasty surprises yet Council still encourages recreational activities in the area. A reasonable question for each Councillor to ask themselves is - Knowing the deteriorating state of the Estuary, would they encourage their children, grandchildren, visiting friends or family to swim there? Organising National events involving Pandora Pond is not just irresponsible, it could be a sure- fire way to get bad press affecting broader Hawkes Bay tourist activities.

5.6 The Council is playing a game of Russian Roulette allowing it to be used in the current manner. If it was a work-place environment, there could be criminal sanctions if death or injury occurred in situations where there was a known hazard-particularly where the employer contributed to the hazard and failed to adequately prevent a repetition of the same. The Council has a duty of care to the public which with respect it is not observing. Council needs to take ownership of the problem.

5.7 Often, we hear the refrain that these matters are complex and take time to remedy. If London, who not too many years ago faced a Thames Estuary that was so polluted that at times it was combustible, with a river catchment 20 times the size of Ahuriri, and a population approaching 20 million; if they were able to improve water quality to the degree that trout and salmon are now caught in its waters, and locals swim in its waters; surely Napier can get its act together a little more quickly.

5.8 Cleaning up the Estuary could be a far better Environmental Educational facility for both residents and visitors than an Aquarium stocked with fish and other marine creatures. The Aquarium project deserves to be dropped quickly. There are many more important projects demanding attention. The Lagoon Farm Regional Park and an Ahuriri Estuary Wetland could be real winners if Councillors seek to leave a legacy for future generations.

6. REPRIORITIZE AHURIRI ESTUARY MASTERPLAN PROJECTS

6.1 We are dismayed to observe that as the Masterplan is being rolled out, it is roading upgrades, carparking and titillation/sparkly projects that get the funding. The complex infrastructural projects, which have been neglected for so long, are largely pushed out beyond not just this term of Council, but two or three terms hence.

As in Projects 6 (Pandora Road Upgrade) through to Project 17 (Bridge Street Improvements) totalling some \$13 Million, and stretching out until 2028, focus almost exclusively on roading, car-parking, pedestrian access and “pedal power” options. We do not argue these “improvements” are unworthy or lack merit, but they contribute little if anything to improving the health of the Estuary. Again, not core functions.

6.2 Ahuriri Masterplan Stormwater Study – “A comprehensive stormwater study will be carried out in advance to any further exploration or implementation of other stormwater related projects....” Estimated Timeframe: 2018-2021

The Studies have been done! The evidence is in! The solution is to use Lagoon Farm as an expanded wetland/polishing system. Why can't it just be done? If it is beyond the ability of officials to advise or the Strategy and Infrastructure Committee or Finance Committees to make decisions, then replace them, or bring in the necessary support.

The Council's own table of project work illustrates our concerns (see Appendix 1, page 12).

6.3 Other Stormwater Projects- 1A 1C 1D 1F (as listed in Councils Ahuriri Masterplan: First 12 Projects). Given Councils past procrastination to deal with the issue the “Comprehensive Study” will probably be overtaken by events with the distinct possibility that none of these projects will ever get underway.

In the mean while we are invited to provide a smiley face of approval to The Councils “Your Home Your Future” video where urban growth in the Hills is promoted. A further 600 sections in the Taradale Hills has been approved notwithstanding existing stormwater and wastewater systems in the area are already overloaded. Further spillages and discharges into the Estuary must be expected. An essential pre- condition to the Taradale subdivision should have been to require a separate sewer line to Awatoto as well as safeguards governing storm water. The scouring and run off from the small Park Island sub division is probably a portend of what's to come, but on a much larger scale.

Another important point that appears to be overlooked, is that the stormwater projects identified (1A. 1C 1D 1F 1F) are all remedial by nature. They should not be held up as examples of how well Napier is doing in environmental terms, conversely, how appallingly bad the situation has been allowed to degrade to. The current situation makes a mockery of the principle of “Environmental Excellence”.

Forest and Bird argue that the task should be considered more than just remedial but to recognise the opportunity to actually give something back to Nature.

6.4 If after complaints from the Rugby Union concerning McLean Parks lighting and muddy playing surface Council virtually over-night finds \$5 Million, and the necessary works are completed before the next season kicked off, surely projects impacting on the health and safety of residents, can be accorded a little more urgency. We repeat-efficient storm water and sewage systems are **core statutory responsibilities** expected from Councils.

6.5 Given the overlap of responsibilities and common goals shared with the HB Regional Council, there may be merit in establishing a joint Ahuriri Estuary Committee with the Regional Council, but continuing to procrastinate on core responsibilities and recommending further reviews is reprehensible.

6.6 Westshore Point upgrade. It is good to note the recreational potential of this area is recognised. We would urge Council to ensure there is no loss of reserve land. This is a delightful area, particularly for families with kiddies to picnic and have a safe natural setting to paddle around in. It requires little alteration to its current form, perhaps a little gravel extraction, and it also holds numerous historical points of interest.

Whakarire Avenue residents will still retain their attractive views, but they should not be permitted to encroach beyond their legal boundaries. Property rights assumed by historical use or encroachment were extinguished years ago. Some of these residents have blatantly encroached on reserve land. That is wrong.

May we at this point record our appreciation for the work Councillor Dallimore has contributed to the Westshore erosion debate.

7. THE BAR-TAILED GODWIT/KUAKA AS NAPIER'S MUNICIPAL AND ESTUARY RESTORATION MASCOT

The story of the Godwit is fascinating. A delicate and beautiful little bird which visits our Estuary every year. From its breeding grounds in Alaska it flies non-stop to New Zealand to be here for our summer. In the autumn it flies, again non-stop, from New Zealand to the Yellow Sea (bordering China and the Koreas) for about a 6 week stop over before embarking on the final leg of its journey back to its breeding grounds in Alaska. A round flight of over 29,000kms! That's serious air miles! It's a wonderful story that instils imagination and admiration. Godwits may complete this round journey every year during their approximate 25-year lifespan. It should not be taken for granted that the bird will continue to return each year.

The raucous Australian Magpie by comparison is a rather crass character. It's not even a New Zealander! The Magpie may still have a place on the Rugby field, but the Godwit has a beauty, a delicateness and grace that understates its stamina and charm. Unfortunately, like many of our Estuary and Wetland birds, it is threatened and numbers are declining.

The godwit was the original symbol of Air New Zealand predecessor National Airline Corporation. The recent Watchman Road roundabout improvements highlight this wondrous bird and the proposed new airport building also plans to symbolise the Kuaka in flight. It could so easily become a civic symbol and also provide perfect reason for positive and friendly communication with the other countries to which the godwit belongs.

David Belcher

Chairman, Napier Branch Forest and Bird
napier.branch@forestandbird.org.nz

January, 2019

Schedule Appendix 1 - see page 12

Ahuriri Masterplan: First 12 Projects

Ahuriri Masterplan: First 12 Projects

The following table details the Ahuriri Masterplan projects included in the ten years of the proposed LTP Capital Programme.

| Stormwater Projects | Other Projects | Various Reserves Projects |
|--|--|--|
| <p>1. Ahuriri Masterplan Stormwater Study</p> <p>A comprehensive stormwater study will be carried out in accordance to carry further exploration or implementation of other stormwater-related projects in order to determine feasibility and consider options for better managing stormwater in the City.</p> <p>Estimated Timeframe 2018 - 2021 Estimated Cost \$306K</p> | <p>6. Pandora Road Upgrade</p> <p>Following the removal of the state highway status, reconfigure this road to provide greater space for the estuary side for recreation, whilst providing car parking and providing for cycling and pedestrian movements.</p> <p>Estimated Timeframe 2026 - 2028 Estimated Cost \$1,186M</p> | <p>17. Bridge Street Improvements</p> <p>Provide improved amenity for all modes of transport along the Bridge Street route, and improved safety for pedestrians and cyclists when crossing and travelling along this route. Changes may include adjustments to the pavement roundabout at the Iron Pier.</p> <p>Estimated Timeframe 2025 - 2028 Estimated Cost \$5,148M</p> |
| <p>1A. Stormwater Treatment Wetland</p> <p>Located adjacent to the Hā expression and prior to the outfall to the estuary, this wetland system will support improved or restore stormwater quality, remove nutrients and sediment, and provide habitat and effectively act as a polishing system to further remove contaminants from the stormwater. The wetland system may provide additional benefits to the community and environment, including additional habitat, recreation and educational opportunities.</p> <p>Estimated Timeframe 2023 - 2025 Estimated Cost \$2,625M</p> | <p>8. Meeanee Quay Upgrade</p> <p>Amenity, safety, and stormwater quality improvements along Meeanee Quay as a result of the change in status of this road from State Highway to local road. Improvements may include narrowing of the carriageway, additional planting, improved lighting, better crossing points, car and truck parking changes, and stormwater treatment devices.</p> <p>Estimated Timeframe 2022 - 2027 Estimated Cost \$2,950M</p> | <p>4. Future Use of Lagoon Farm</p> <p>Undertake a feasibility study on the establishment of a regional park on Lagoon Farm land to the south of the estuary channel.</p> |
| <p>1C. Improvements to Direct Outfalls</p> <p>A catchment-wide opportunity to address stormwater quality of individual outfalls flowing directly into the estuary or coastal environment. Measures may include treatment devices, wetlands/swales, bio-retention systems, or screens.</p> <p>Estimated Timeframe 2020 - 2021 Estimated Cost \$1,253M</p> | <p>10. Thames/Severn Streets Stormwater Management (from road) - Partial</p> <p>Investigation the incorporation of street rain gardens with appropriate planting to capture stormwater and filter out contaminants before discharging into the estuary.</p> <p>Estimated Timeframe 2020 - 2021 Estimated Cost \$541K</p> | <p>5. Humber Street Reserve Upgrade</p> <p>An upgrade to the Humber Street reserve including the previous Aotahi Drilling site at the end of Humber Street would improve the function and amenity of this increasingly used space. Improvements may include the replacement of the existing tyre edge, consideration for waka and yacht storage, an increase in carparking, on-urned estuary educational shelter, potential upgrade of the commercial buildings on the corner site, and additional shade and seating opportunities.</p> |
| <p>1D. Upper Catchment Stormwater Quality Improvements</p> <p>Work to make improvements to stormwater quality enhancing the estuary from the Upper catchment, including Bay View, Lagoon Farm, and the Airport, as well as run-off from rural residential areas of the western hills.</p> <p>Estimated Timeframe 2021 - 2023 Estimated Cost \$1,080M</p> | <p>12D. West Quay North</p> <p>Rationalise vehicle movement along West Quay to prioritise pedestrians and cyclists and provide for safe and efficient use of the working wharf area, with associated amenity improvements.</p> <p>Estimated Timeframe 2019 - 2021 Estimated Cost \$829K</p> | <p>12B. Create headland destination and pathway (Westshore Point)</p> <p>The Howke's Bay Trail currently misses the point and inner harbour access entirely. Extending the pathway along Meeanee Quay to the Westshore point would extend recreational opportunities along the water front and connect to the Windward Avenue coastal protection works. Coastal plantings could provide habitat and be an attractive view for nearby residential properties. Interpretative signage and sculpture could highlight social and cultural history of the point.</p> |
| <p>1F. Pandora Catchment Stormwater Quality System</p> <p>In conjunction with at-source stormwater quality improvements carried out by individual businesses throughout the Pandora catchment, evaluate options and implement the preferred stormwater quality improvement work to the Theatre and Tuna quays. Council will look to add value through integrated education and recreation benefits.</p> <p>Estimated Timeframe 2019 - 2021 Estimated Cost \$1,248M</p> | <p>West Quay Car Park</p> <p>Purchase and development of a carpark to the rear of West Quay to facilitate car parking for staff and customers of the bars/restaurants at West Quay during evening hours and weekends, and to provide additional carparking for office workers in the Ahuriri Business Park during the week day.</p> <p>Estimated Timeframe 2020 - 2022 Estimated Cost \$2,445M</p> | <p>12C. Upgrade West Quay South reserve</p> <p>Enhance the streetscape where West Quay meets the apex of the Inner Harbour to improve amenity and potentially provide for proximity to the waters edge. These upgrade may involve an upgrade to the public toilets if necessary and consideration of the stormwater outlet to improve the quality of stormwater discharge.</p> <p>Estimated Timeframe 2020 - 2022 Estimated Cost \$1,510M</p> |

#47

D Y & R J BURNSIDE –

27th October 2019

To Napier City Council

Private Bag 6010

Napier

Emailed to; info@napier.govt.nz

SUBMISSION ON THE PROPOSED DRAFT STORMWATER BYLAW – 2019

YES WE WOULD LIKE TO BE HEARD IN REGARD TO THIS SUBMISSION

Part 1/ Submission made as a Trustee to The Oakburn Trust due to notification as being a stakeholder with a stormwater drain in a property owned by The Oakburn Trust.

Part 2/ Submission made as an individual ratepayer and Director of a waste and recycling company.

While we agree with the intention and purpose of the bylaw and, as a long-term Napier resident with happy memories of swimming and drag net floundering in the Ahuriri estuary agree that its cleanliness is desirable for all Napier residents and the wider region, we do not agree with bylaws that are expensive to enforce, seemingly impossible to meet and appear to have the scope to arbitrarily shut down any business after any breach of any measure or encourage our citizens to become serial complainants over their neighbour washing their car or sanding down a table as a DIY project.

Specifically, additionally and in haste, we are concerned about;

- The short time to consider the content and potential effect of the bylaw – we do not feel the period of 25th September to 28th October (when even the close date is a public holiday) is fair time for professional, busy people in full time employment, identified by Council as stakeholders, to review the details and any effect upon them, or not as the case may be, of the proposed bylaw.
- While we have forwarded the stakeholder letter (sent by regular post to us, so only received some time after its issue date to our tenant) we have yet to receive a response.

- That this is occurring as a new Council is yet to be sworn in and will be coming to grasp with the operations of Council or the potential implications of this bylaw upon its citizens. For instance, I'm sure nobody in Napier expects a compliance officer call or visit and an abatement notice or fine to ensue over washing their vehicle on their driveway. Not that it's clear from the bylaw that this would occur, unless said washing of car would require an application to Council for approval to do so... surely that is not what was intended by the bylaw?
- The enforcement and compliance stance in the language of the bylaw is apparent, despite a noted preference for an educational approach in the proposal. Even the use of the word *prohibited... is not actually applied in a manner easy for a reader to identify what would/would not be prohibited when related to the bylaw's own definition of 'nuisance' and its seemingly contradictory impact with the Resource management Act's definition of 'contaminant' (which appears to be everything entirely would be prohibited from entering the storm water system) which is also used in the bylaw. **The word is not actually contained in the bylaw.*
- While I've read this in haste it does seem that Items 5/ a) b) c) – could mean that the NCC itself in delivering an open bin recycling system where waste product may blow out and liquid product drain out and enter the stormwater system appears to already breach its own drafted bylaw and would be required to seek approval to carry out such an activity (as that activity would meet the definition of contaminant under the RMA, but not seemingly the definition of nuisance). Should that approval be granted then it would be unreasonable to refuse such approval to any other similar businesses in the private sector carrying out such a public function. The bylaw could potentially be applied to the removal of birdlife/cats/dogs and horses as arguably their excrement more fits the nuisance definition under the public health act than an errant piece of paper blown by the wind.
- The click the box option submission online for ratepayers to use to make a submission notes what would be considered 'offences' in a description, but not what the punishment, if any, would be. Nor does the draft bylaw actually contain the word offence - shouldn't ratepayers and stakeholders, when making a submission on a bylaw be easily able to identify and understand not only what an offence is, but what is prohibited and what the punishment would be? What the cost of applying such a bylaw also would be. Otherwise any resulting submission is not fully informed.
- We wish to register our dissatisfaction with the online/preprinted methodology of offering submission options to citizens whereby clicking or ticking simple statements that arguably all citizens would likely agree with, is then used as any kind of mandate.
- Upon 'non-compliance' being discovered the only remedy appears that approval will be withdrawn (on the presumption it was either sought or granted in the first place – or even understood an application was required)... or a written warning issued. It does seem that in seeking to expand the scope beyond the construction application intent of the 2012 bylaw that it still appears largely relevant only to its original intent.
- Shouldn't our bylaws be easy for everyone to understand, be reasonable, be cost effective to apply and easily achieve the purpose they set out to? Take the fire service for instance, in fighting a house fire all water used and the resulting contaminants will enter the stormwater system... is it genuinely being contemplated here that the fire

service will need to make such an application for Council approval to fight a fire that they do not yet know where will occur or how much contaminated water will result from putting it out.

- I would also note that the water used would be chlorinated if drawn from the public system, chlorine being considered another such contaminant under the RMA and noted as such in the drafted material. Yet it was the NCC that put the chlorine in the water in the first place.

Part 1/ AS A PROPERTY OWNER – in regard to an existing stormwater drain linked to the network.

We agree with the intention and purpose of the bylaw being to improve local water quality through avoidance of ‘*contaminating’ discharges into the stormwater network.

*unfortunately the definition in the bylaw as being that of the RMA, means anything at all and that would be impossible to police or enforce and could then become a subjective application of the bylaw by Council officers, which is of serious concern to us.

We do not agree with property owners being held responsible for the activities of any tenant who deliberately, wilfully and knowingly discharges contaminants of quantity repeatedly into any stormwater drain connected to the network on the leased or tenanted property – again, this submission has been prepared in haste with no reasonable ability for our tenant to provide feedback and with only a rudimentary read through of the bylaw it was not easy to find such a distinction. Yet we have been identified as Stakeholders, therefore if such a bylaw was to be applied to us we would seek to ensure that council may not simply pursue a property owner rather than the actual perpetrator of any breach. Although as mentioned already it’s unclear what any penalty would be.

We would be concerned that Council had any arbitrary power to close down any business and its operations on the basis of an accidental or unknown discharge of a contaminant that was not also a nuisance as well as deliberate, of quantity, wilful and repeated.

Part 2/ AS AN INDIVIDUAL & BUSINESS OPERATOR IN WASTE & RECYCLING

Our business is already required to hold an offensive trade license to operate. This is applied for and paid for. It would seem we in our business and every citizen could now potentially be undertaking activities (such as compaction leakage from a drip tray or from a personal trailer or ute) that may be considered prohibited and everyone would be required to seek approval from Council to either empty a bin that may or may not contain rainwater or wash their car under the RMA definition of contaminant.

Part of our existing license to operate requires to attend to all spills in accordance with the district plan.

Yet there is no prescription in the bylaw for how to attend to such a rainwater spill (which under the terms of the bylaw appears would be considered ‘contaminated’), should one occur, in the bylaw and in our business rainwater is the only liquid that is ever likely contained in our bins or released from our vehicles and definitely would eventually be washed away down storm water systems.

We seek to understand the practical application of the bylaw as proposed.

It would appear from a quick read only that the only way to meet the terms of the bylaw is that any current stormwater connection is reconnected to the wastewater system and that no home or business hose outlet using a chlorinated water source is able to wash down any surface that leads to an NCC stormwater drain.

We would prefer that Council concentrated on potentially known (as in construction) or wilful repeated contamination of quantity into our stormwater system (something Council itself does with regularity) rather than incidental, organic contamination by ratepayers and business operators.

Thank you for your consideration of our submission.

Yours sincerely,

Deborah Burnside

The Oakburn Trust

Clean Earth Ltd

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Saturday, 26 October 2019 8:26 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#48]

| | |
|-------------------------------------|---|
| Name * | Amber Davies |
| Who are you submitting as? * | Organisation |
| Name of Organisation | Low Corporation Limited, Lowe Corporation Pacific Limited, Hawkes Bay Protein Limited |
| Postal Address * |  |

| | |
|--------------------------------|----------------------|
| Daytime Contact Phone * | <input type="text"/> |
|--------------------------------|----------------------|

Email Address *

| | |
|---|----|
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | No |
|---|----|

| | |
|--|----|
| Do you support the proposed draft Stormwater Bylaw? * | No |
|--|----|

| | |
|-------------------|--------------|
| Reasons: * | See attached |
|-------------------|--------------|

| | |
|----------------------|--|
| Attach a File |  submissions_on_ncc_stormwater_bylaw_2019_final.pdf 393.93 KB · PDF |
|----------------------|--|

| | |
|--|--------------|
| I/we seek the following decision: * | See Attached |
|--|--------------|

| | |
|---|-----|
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | Yes |
|---|-----|

SUBMISSIONS ON NAPIER CITY COUNCIL DRAFT STORMWATER BYLAW 2019

For: **Lowe Corporation Limited**
 Lowe Corporation Pacific Limited
 Hawkes Bay Protein Limited

Date: **24 October 2019**

Low Corporation Limited (Lowe) and its associated companies are privately held with businesses and partnerships in the rendering, hides & skins and farming industries.

Low Corporation operates Low Corporation Pacific in Pandora as well as owning various other industrial sites in Hastings and Napier. Low Corporation Pacific has the capacity to process 40,000 hides and skins per week and employs 40 people.

Hawkes Bay Protein Limited operates a rendering plant in Awatoto exporting high-quality meal to pet food manufacturers and is the largest ovine by-products producer in the country.

Low Corporation invests millions of dollars into the local community in the Hawkes Bay. For example, Low Corporation is the principal sponsor of the Low Corporation Rescue Helicopter and supports the Cape Sanctuary which is the largest privately owned and operated wildlife restoration project in New Zealand.

General

We welcome the opportunity to submit on the Napier City Council (“the Council”) Draft Stormwater Bylaw 2019 (“the Bylaw”).

Low Corporation generally supports the ambition of the Bylaw to manage stormwater and protect the stormwater network.

However, Low Corporation seeks clarity regarding these matters to provide certainty to industry while ensuring protection of the Council’s infrastructure

Interaction with other Acts and Codes

There are a number of other acts, codes and regional planning documents which address stormwater and its discharge. There needs to be clear guidance on how these local body government requirements and processes interact.

There should be provision that the Bylaw does not override resource consents or activities permitted by the Hawkes Bay Regional Council (HBRC).

This could be achieved by adding a new paragraph as follows:

Nothing in this Bylaw shall override any conditions of a resource consent granted by the Hawkes Bay Regional Council or permitted activities under the Hawkes Bay Regional Resource Management Plan which specifically addresses discharges into the stormwater system.

Failure to provide for these conflicting requirements, will mean the Approval process in the Bylaw will create significant duplication for those already required to obtain a stormwater consent from the HBRC. Such duplication only adds to confusion and uncertainty for industry.

It is also unclear how clause 6.1 'approval for works affecting the stormwater network' and clause 7.1 'connections to the public stormwater network' is intended to interact with the existing Council approval processes for these activities, for example under the Building Act. If this is a secondary approval process it is submitted that this will create, confusion and duplication and should be managed internally by the Council.

Protection of Stormwater Network

Low submits that clause 5 should relate to the public stormwater network and that where this clause refers to a "stormwater network" that this should be replaced with the "public stormwater network".

Discharge to Public Stormwater

Clause 8.1 provides that no person may discharge "Regulated Stormwater" into the Public Stormwater network without approval.

Regulated Stormwater is defined as "any stormwater discharging which ... (b) discharges from an industrial or trade premises".

It is submitted that this does not appropriately target sites that are 'high risk' (a concept used in the current stormwater bylaw) and catches all and any industrial or trade premises. Many industrial or trade premises carry the same risk for stormwater discharges as other sites, for example, roof stormwater, or where sites do not use or store hazardous substances. It is submitted that paragraph (b) should be deleted as any industrial or trade premises stormwater discharge containing contaminants will be captured under paragraph (a).

This also results in inconsistency with the Regional Resource Management Plan which provides that industrial discharges are permitted where conditions are met (maximum area and the absence of hazardous substances) (Rule 42).

If the above amendment is not accepted it is submitted that Regulated Stormwater should be amended to provide:

"any stormwater discharging which ... (b) discharges from an industrial or trade premises covering an area of less than 2 ha, excluding premises used for the storage of any hazardous substance."

It is submitted that is importance to differentiate discharges which cause nuisance and other discharges as provided for in clause 5 of the Bylaw. Lowe supports the inclusion of this distinction. It is submitted that this same distinction should be applied to the discharge of Regulated Stormwater in clause 8.1. Lowe suggests the following amendments:

"No person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network, likely to cause a nuisance without an Approval"

This would be consistent with the purposes of the Bylaw as stated in clause 3 and the balance of the Bylaw.

Environmental Management Plan

It is submitted the definition of Environmental Management Plan (EMP) is too broad. This plan should be in the context of the Bylaw and focused on ensuring discharges into the public network are appropriately managed. For example, an EMP should not be required to address stormwater runoff from roofed areas (common to all buildings) or where hazardous substances are not used or handled.

Private Stormwater Systems

It is submitted that the matters in clause 9 should be deleted from the Bylaw. Private stormwater networks are more appropriately addressed by the HBRC where a stormwater consent is required and/or by the Council where a building consent is required. Furthermore, it is submitted that clause 9 does not serve the purposes of the Bylaw which is protecting the public stormwater network.

If the above submission is not accepted, Lowe submits the following amendments should be made:

- Clause 9.2 should be deleted as it is already sufficiently addressed in clause 9.1; and
- Clause 9.4 should be deleted as already addressed in clause 9.3. It is overly prescriptive to require the owner to retain a copy of the manual if they can satisfy the requirements of clause 9.3.

Clauses 9.5 and 9.6 should also be deleted. It is not clear if these clauses relate to private redundant systems as the section heading would suggest. This should be clarified.

Assuming this is the case, this is a significant requirement for owners on their own private land. There is likely to be significant cost and disruption to use of a site where a redundant system is required to be removed and reinstated to Councils satisfaction for potentially no benefit to the public stormwater network.

Any rights of the Council in this respect must be considered against the purpose of the Bylaw which is to protect the public stormwater system. Lowe submits there is sufficient protection for the Council's stormwater network in clause 7.1, 8.1 and 9 of the Bylaw.

Council Public Stormwater System

We note that the Council owns and operates the public stormwater system. The Council should be responsible for its own system in the same way that owners, occupiers and managers are responsible for private stormwater system under clause 9. It is also important that any breach by the Council of their obligations under such a clause should act as a mitigating circumstance for any alleged breach by a private person.

"Controls"

Lowe has concerns with the inclusion of the concepts of "Controls" being incorporated into the Bylaw. We note the requirement within the definition that the Council must have given "*consideration to the views and preferences of persons likely to be affected by, or have an interest in, the matter*". Lowe supports the concept behind this provision and notifies the Council that it has an ongoing interest in matters relating to stormwater management and wishes to be consulted on the same.

We would also submit that Controls should not have retrospective application. We suggest amendments to provide:

- 6.1 A person must obtain an Approval before: a) Erecting any structure on, over, or within the distance from the public stormwater network specified in any relevant Control confirmed by Council prior to these works;
- 9.1 The owner, occupier and manager of a private stormwater system must ensure that the system: a) Complies with any relevant Control confirmed by Council prior to the installation of the system; and
- 11.1 When considering an application for Approval, ... (e) compliance with any relevant Control confirmed by Council prior to the application for Approval;

Approvals

Lowe suggests the following amendments to clause 10.1 to better serve the intention of the Bylaw:

- “An application to obtain the approval of the Council under this bylaw must be: ...*
- b) accompanied by: ...*
 - (iii) such further supporting information as the Council reasonably requires to consider the matters under clause 11.1 and process the application.”*

Low requests that reasonable Council processing time frames and request for information timeframes be added to this provision to clause 10 to ensure that expectations can be met.

It is important that when considering approvals the Council should take a more balanced approach and consider the rights of people to provide for social economic and cultural wellbeing and also the ‘best practicable option’ for the treatment of stormwater (as these concepts are provided for and defined in the Resource Management Act). These factors should be added to clause 11.1 as additional considerations (j) and (k).

It is also submitted that these considerations in clause 11.1 are mandatory and the clause should be amended as follows:

- “When considering an application for Approval, and the conditions to which the Approval will be subject should the application be granted, the Council ~~may~~ must take into account ~~any~~ of the following (where relevant):”*

Enforcement

It is submitted that clause 14 is unduly punitive. Under the currently drafted Bylaw the Council may withdraw the approval without any warning or review process. This does not provide users of the networks with certainty of tenure and investment into sites may be compromised. As the Council is aware there may be reasons for a discharge to stormwater, and it is reasonable to expect the Council to be required to investigate a non-compliance prior to taking any withdrawal action.

Low submits that warning notices should be a precursor to cancellation of an approval. If warning notices have been complied with, then there should be no, or minimal effects. It is also submitted that there are better means (LGA, s155) to encourage an otherwise compliant stormwater network user, who has complied with warning notices, to attain ongoing compliance. This could be addressed with

consultation and the realistic setting of Approval parameters or on any scheduled review of such Approval.

Lowé submits that clause 14 is amended as follows:

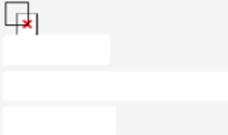
- 14.1 *Where a person does not comply with the terms and conditions of the Approval granted by the Council, including compliance with an environmental management plan for the site, without limiting Council's enforcement options, the Council may take one or more of the following steps:*
- a) *Issue a written warning to the person, which may be considered as evidence of a prior breach of a condition of the approval during any subsequent review of the Approval;*
 - b) *Review the Approval, which may result in:*
 - i) *amendment of the Approval; or*
 - ii) *temporary suspension of the Approval until the non-compliance has been investigated by the Council; ~~or~~*
 - ~~c) *withdrawal of the Approval.*~~
- 14.2 *An Approval may be withdrawn by the Council by notice in writing if:*
- ~~(a) *the owner or occupier of the premises to which the Approval relates is convicted of an offence under this Bylaw; or*~~
 - ~~(b) *the Council gives a written warning and the Owner or Occupier of the premises to which the Approval relates fails to take the steps required by the Council within the time period specified in the written warning; or*~~
 - ~~(c) *the Council has issued a written warning on three (3) occasions in the previous 12 months, notwithstanding that on each occasion the steps required by the Council have been taken within the time period specified in the notices.*~~

Managers, Owners and Occupiers

It is submitted that the reference to managers in the Bylaw should be deleted. It is inappropriate that this Bylaw should look through the corporate veil to employees that are employed to perform a role for the owner or occupier. It is sufficient that occupiers and owners are responsible under the Bylaw to protect the public stormwater network.

It is submitted that clause 15.2 should be deleted. Proportionate liability between the parties provides a more fair and equitable allocation of responsibility. There may be some instances where an owner of an occupied site has no involvement, or ability to be involved, in the operation of the site or management of the stormwater system.

From: Website Submission - Stormwater Bylaw 2019 <no-reply@wufoo.com>
Sent: Sunday, 27 October 2019 9:41 PM
To: Environmental Solutions
Subject: Draft Stormwater Bylaw 2019 Submission [#50]

| | |
|---|---|
| Name * | Judy Mills |
| Who are you submitting as? * | Individual |
| Postal Address * |  |
| Daytime Contact Phone * | |
| Email Address * |  |
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? * | Yes |
| Do you support the proposed draft Stormwater Bylaw? * | Yes |
| Reasons: * | It is vital to improve the quality of the stormwater which goes into the Ahuriri Estuary and finally the sea. Compliance with regulations must be ensured also. |
| Attach a File |  stormwater_draft_bylaw.doc 25.09 KB · DOC |
| I/we seek the following decision: * | See attached submission |
| If you wish to speak at the Hearing we will contact you to arrange a time. Please include a daytime phone number for us to arrange a time. | No |
| I wish to speak at the Hearing (please tick): | <input type="checkbox"/> |

I support the proposed measures of the Draft By-law on Stormwater and commend the Council for its foresight in planning financially for this.

I submit the following: The purpose of the Draft By-law should clearly state that it is intended to improve the quality of the water going into the marine environment, largely via the Ahuriri Estuary. This is an important asset to Napier, for many reasons, apart from its intrinsic environmental value. While the Draft does refer to the Council's "water-quality objectives" in the last clause, the public are expecting to see a clear link between the By-law and protection of marine life. I therefore submit that the first clause should highlight this purpose more clearly and should read:

"To improve the quality of stormwater from the system in order to enhance protection of the marine environment."

Public Education: I commend Council's efforts in this direction but believe there is much more to be done. Many people are still unaware that everything in the drains eventually finds its way to the sea. Slogans such as "Only the rain should go down the drain" can be useful, and I have seen in a city overseas a covering for a drain which said "The sea begins here."

Additional efforts on informing people on regulations and penalties will also need to be made when the By-law comes into force.

#53

From: Murray Sinclair
Sent: Thursday, 31 October 2019 1:53 PM
To: Environmental Solutions
Cc: Murray Sinclair
Subject: Submission - Proposed Stormwater Bylaw

Thanks for the opportunity to submit, we are happy to speak if required.
 Concern with Proposal:

- The daily function of complying with the proposal of moving our Company Trading vehicle stock/Customer Vehicles/Service Vehicles to a designated and approved wash station on a daily basis is not workable in the proposed format. Our Carlyle Street site would normally wash 50 display vehicles, 20 Service vehicles, 10 customer vehicles on a daily basis, “80 units” from time to time the display vehicles would be less, but certainly during the pollen period, it is an endless circle, the logistics is costly in staff/space/time/safety of vehicle movement.
- Our understanding from the NCC staff that environmentally manufactured vehicle washing products are not an acceptable solution, this would require discussion and clarification.
- Water collection: An instantaneous decision that a vehicle yard must collect any wash water runoff has the potential to be financially untenable without a generous lead in time-line that works for all parties, this will certainly require dialogue.

The Motor Vehicle industry is a high volume/low margin structure, the Napier Motor Vehicle Dealers irrespective of size will be operating on this national format, depending on the size of the operation potentially the smaller Dealers would have excessive outlay and a limited opportunity to recover that cost in a short term.

While we all would agree with the objective to improve freshwater quality, our industry would struggle to take on excess costs when there is potential for adding operating costs and nil ability to upsell to offset these costs.

Please do not hesitate to contact myself or other Dealers regarding the above

Regards

Murray Sinclair

Murray Sinclair | Managing Director

Hawkes Bay, Taupo, Rotorua, & Eastland Toyota | www.hbtoyota.co.nz

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#54



Submission to the Napier City Council

Draft Stormwater Bylaw 2019

All submissions must be in writing. You may attach a more detailed submission if you wish.

| | | |
|---|----------------|-----------|
| Name: | Forbes J. Neil | |
| Organisation: <small>(if on behalf of an organisation)</small> | | |
| Email: | | |
| Daytime contact no: | | |
| Postal address: | | Postcode: |

Submission

| |
|--|
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Do you support the proposed draft Stormwater Bylaw? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: |
| 1. They make good sense. |
| 2. The Council needs to protect the water of the Ahuriri Lagoon from the effects of industrial, residential and rural pollution. |
| F. J. Neil |
| retired Resource Management Planner |
| Manukau City Council & Auckland Council |
| (50 years) |

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| I/we seek the following decision: |
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| I wish to speak to my submission at the hearing (please tick): <input type="checkbox"/> Yes <input type="checkbox"/> No |
| If you wish to speak at the hearing, we will contact you to arrange a time. |

- Submissions must be in writing, by way of this form (plus supporting documents if required), or online by going to www.sayitnapier.nz
- Council will take into account all submissions made when making a decision on the proposed policy.
- There will be a Council hearing for submitters who may wish to speak in support of their submission. Please include a daytime phone number for us to arrange a time.
- You do not have to attend this meeting
- Please note that all written submissions will be made available to the public on the Council website and will be included in the agenda for the meeting, which is available to the public.

Return to:

Freepost 172273
 Draft Stormwater Bylaw 2019
 Napier City Council
 Private Bag 6010
 Napier 4142

Closing date for submissions is 12pm, Monday 28 October 2019

#55



24 October 2019

Napier City Council
Private Bag 6010
NAPIER 4142

Attn:

Dear

SUBMISSION ON DRAFT NAPIER CITY STORMWATER BYLAW 2019

Thank you for the opportunity to submit on the Napier City Council Stormwater Bylaw 2019 (the Bylaw).

BACKGROUND

Resource consents under RMA

As a consent authority under the RMA, HBRC assesses resource consent applications for discharges of stormwater (and many other discharges of contaminants) to land or water. The consented status of stormwater discharges in Napier City is mixed insofar as:

- resource consents have been granted for some discharges, and those consents have a few more years before they expire;
- applications for some discharges have been lodged and are currently being processed by HBRC such as the Westshore Tidal Gates replacement, Landcorp Farm discharge application and Lagoon Farm discharge application; and
- Napier City Council (NCC) is still preparing a resource consent application for the Onehunga Pump Station stormwater discharge which is likely to be a joint application with Landcorp Farming Limited.

Given this, our comments in this submission are made ‘without prejudice’ to any decisions HBRC might be required to make in respect of its own plan making and consent authority roles under the RMA.

We note that in some locations, HBRC and NCC are joint consent holders and managers of drainage and flood control assets within Napier City. In a small number of instances, stormwater from HBRC’s drainage assets will enter NCC’s open channel drainage network. In these cases, we assume HBRC will be subject to NCC’s Bylaw just like any other person.

Enhancing our environment together | Te whakapakari tahi i tō tātau taiao

06 835 9200 | info@hbrc.govt.nz | 159 Dalton Street, Napier 4110 | Private Bag 6006, Napier 4142

hbrc.govt.nz

Regional Policy Statement (RPS)

The RPS, which is included in the Hawke's Bay Resource Management Plan (see chapters 2-4), includes provisions specific to stormwater. Of particular relevance to this Bylaw are Policies UD12 and UD13.

Tūtaekurī, Ahuriri, Ngaruroro and Karamū Catchments Plan Change 9 (TANK Plan Change)

When implemented, the TANK Plan Change will update the Regional Resource Management Plan to consider the management requirements for land and surface water and their connected groundwater systems in the TANK catchments. We note that although this plan change is not yet publicly notified, it reflects the aspirations of the community of the four catchments.

In the discussion material provided with the Bylaw, NCC note the TANK Plan Change will result in changes to stormwater requirements in the next 10 years, particularly TANK Policies 28 - 32 and TANK Rules 19 - 23.

Heretaunga Plains Urban Development Strategy (HPUDS)

The 2010 Heretaunga Plains Urban Development Strategy contains several key approaches and actions in chapter 5.34 which directly relate to management of stormwater in the Heretaunga Plains sub-region which Napier City falls. These relate to active avoidance of pollution, using low impact technology, having appropriate plans in place and Comprehensive Stormwater Consent processes.

COMMENTS

In general, HBRC is supportive of the proposed Bylaw. We believe that it appropriately focusses on stopping pollution at source and supports the introduction of "user pays" clauses and the preferred option of amending the Bylaw, while continuing with public education initiatives. We encourage NCC to continue working with HBRC's Marketing & Communications Team to educate and promote awareness of stormwater issues.

HBRC consider stormwater bylaws to be complementary to the various implementation tools that are noted in section 5.34.4. Actions of HPUDS (2010). The Bylaw also particularly supports Key Approach 6 "*pollution of waterways is actively avoided*", by making it clear that no person may allow anything that will cause or is likely to cause a nuisance to enter the stormwater network. Further comments regarding the alignment of the Bylaw with HPUDS are included below.

NCC's approach to stormwater also largely aligns with the TANK Plan Change. In particular, the Bylaw supports an integrated catchment management approach and is to be delivered alongside education and public awareness initiatives. Comments related to improving alignment with the TANK Plan Change are included below.

High risk sites

We understand that the Bylaw has been reviewed to widen its scope beyond an overly restrictive focus on high risk facilities and that high risk activities are intended to be controlled

through environmental management plans. In accordance with the TANK Plan Change and HPUDS which both include provisions specific to “at risk” or “high risk” activities, sites or facilities, we recommend NCC provide a clear connection between high risk sites and the need for regular inspection, Site Management Plans and good site management practices. We understand that this may also involve a rework of the matrix used to identify high risk sites.

Low impact design

Chapter 5.34 of HPUDS establishes a preference for low impact stormwater design and the RPS sets a similar preference through Policy UD12(k). HBRC suggest that there is opportunity for NCC to signal this preference through Clause 11.1.

References to other documents

We suggest the Bylaw is amended to include references and clarify links to related documents in order to improve usability. For example, it would be helpful to clarify and specify links to the Introductory Bylaw 2014, District Plan, Code of Practice, HPUDS and Local Government Act 2002. Given the changing nature of some of these documents (e.g. the Introductory Bylaw and District Plan which have specific review periods), it may be most appropriate to note that the Bylaw should be read in conjunction with them and why, rather than including specific clause references. It may also be worthwhile including an advisory note with Clauses 10.1 and 10.2 that resource consents may be required from the Regional Council for some stormwater activities.

HBRC note that Central Government recently consulted on a proposed National Policy Statement for Urban Development (NPS-UD) to replace the National Policy Statement on Urban Development Capacity (NPS-UDC). We encourage NCC to ensure that any changes made to the Bylaw are made to align with the upcoming NPS-UD.

Definition of nuisance

It is unclear if the definition of nuisance is helpful for the purpose of the Bylaw, namely protection of the stormwater system and NCC's ability to comply with resource consents and water quality targets. Although using this definition aligns with NCC's Introductory Bylaw 2014 and Section 29 of the Health Act 1956 does not limit the meaning of the term nuisance, the examples given in that Act do not seem to be particularly relevant to the Bylaw. We suggest NCC ensure the definition of nuisance enables you to achieve the purpose of the Bylaw, particularly in complying with any applicable network discharge consent and water quality targets.

Consistency and collaboration

As part of an integrated catchment management approach we encourage you to continue working with HDC to ensure a joined up approach. The usability of your respective Bylaws may be improved by further aligning definitions and approval conditions and considerations according to TANK Policy 31.

Enforcement

We note that with the broader scope and lack of prescription, a greater burden of enforcement and discretion is required. We support the approach but recognise that greater resourcing may be required for it to be effective. We also encourage continued dialogue with the HBRC Compliance Team as we see value in undertaking joint site visits and responding to pollution call-outs together.

The Regional Council's address for service in relation to this submission is:

Hawke's Bay Regional Council
159 Dalton Street
Private Bag 6006
Napier 4110
Attn: Ellen Humphries
Phone
Email:

Should you have any queries with regards to the content of this submission please do not hesitate to contact Ellen Humphries, as above.

Yours sincerely



Ellen Humphries
Planner
Strategic Planning Group

Phone:
Email:

#56



Submission to the Napier City Council

Draft Stormwater Bylaw 2019

All submissions must be in writing. You may attach a more detailed submission if you wish.

| | |
|--|---|
| Name: | Angie Denby |
| Organisation: (if on behalf of an organisation) | Ahuriri Estuary Protection Society Inc. |
| Email: | |
| Daytime contact no: | |
| Postal address: | |

Submission

| |
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| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Do you support the proposed draft Stormwater Bylaw? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: See attached document. |
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| I/we seek the following decision: |
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| I wish to speak to my submission at the hearing (please tick): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
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Return to:

Freepost 172273
Draft Stormwater Bylaw 2019
Napier City Council
Private Bag 6010
Napier 4142

Closing date for submissions is 12pm, Monday 28 October 2019



Submission to Napier City Council

Public Consultation on the Draft Stormwater Bylaw 2019

Thank you for the opportunity to make a submission to Napier City Council on this issue so important to us – the cleanliness of the Ahuriri Estuary.

The Ahuriri Estuary Protection Society Inc **strongly supports** the Napier City Council draft Stormwater Bylaw 2019.

We are encouraged that the proposed changes will enable better control over 'contaminants' entering the Estuary, and that the focus will be on stopping contaminants 'on site'.

We are pleased that the mandate will broaden the powers of the Napier City Council, and enable them to approach any polluter of their Stormwater network.

We support the Preferred Option (p.5), that the 2012 Stormwater Bylaw will be amended.

We would like reassurance that the team whose task it is to carry out the new rules will be sufficiently resourced, particularly with staff numbers, to enable the proposals to be followed through.

Some concerns, questions, and suggestions we have are as follows:

We are acutely aware of the constant 'threat' hanging over the Ahuriri Estuary and its wildlife, of mixed Stormwater/Wastewater being released into the Estuary at times of heavy or on-going rainfall. Since discovering where the problematic areas of piping are, what physical work is being done to resolve this issue?

In the **Bylaw, section 3c**, (p.6, the only numbered page in the whole document), re management of discharges into the network, i.e. the rubbish, (particularly the urban sites), we are suggesting more regular cleaning of these areas where rubbish collects, and also there be a review of the size of grill or mesh used in the holding areas, to prevent release of smaller items.

In addition, in this section of the draft Bylaw, we would like to see an acknowledgement that the 'purpose of the Bylaw', besides relating to the NCC Stormwater network, is ultimately the health and well-being of the 'sensitive receiving environment' of the Ahuriri Estuary. Ultimately any improvement in the cleanliness of the Estuary enhances council's

purpose of increasing the recreational, educational, and environmental plans they propose for the Estuary, besides enhancing its wildlife values.

In the **definitions**, (p8), we support all the **Stormwater management devices**.

In **Protection of Stormwater Network, p.9, 5e** , where 'wetlands' are mentioned, we understand there is a wetland built for rainwater by Napier Port on their Pandora site. How many businesses in the area have made wetlands? How do you encourage this?

In **Conditions of Approval, p.12, 12.1**, regarding consents, we ask if there is sufficient depth of skill and knowledge in NCC for a consent officer to know the full outcome of the effects of an application? Or if an application is an acceptable request?

In **Connections to Public Stormwater Network, p.9**, does the expression 'No person may' place the onus on private operators, not NCC? Does it include organisations, business, etc?

In **Enforcement, p.13**, a question this raises for us is, who monitors NCC? For example, wastewater release is against the Resource Consent. When rules for business will be so tight, what are you doing urgently to ensure your Resource Consent is not being breached? We refer back to our first comment in our section of **Concerns, Questions, and Suggestions**.

And second question, what guarantee do citizens of Napier have that adequate staffing will be available to complete the tasks of the new Bylaw? When councillors allocate funding, they need to know exactly what is required to carry this out. We support the current staff team at Environmental Solutions to be given the staffing they require.

A question raised by a member of our committee is whether the cross-country drain could be an alternative for more of the stormwater that currently drains to the Estuary?

That concludes our response to the draft Stormwater Bylaw 2019, and the thinking it has raised in our group.

We would like to speak to our submission.

Yours sincerely,



Angie Denby
Chairperson



Sue Macdonald
Secretary

on behalf of the committee of the Ahuriri Estuary Protection Society Inc.

#57



Submission to the Napier City Council

Draft Stormwater Bylaw 2019

All submissions must be in writing. You may attach a more detailed submission if you wish.

| | |
|---|--------------|
| Name: | James J Gray |
| Organisation: <small>(if on behalf of an organisation)</small> | B. R Roofing |
| Email: | |
| Daytime contact no: | |
| Postal address: | |

Submission

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|---|
| Having read the draft Stormwater Bylaw are you satisfied that the new and revised regulations will assist Napier City Council to improve the quality of our waterways? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Do you support the proposed draft Stormwater Bylaw? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Reasons: if Helps in Revision of new laws over old ones. James J Gray |
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| I/we seek the following decision: |
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| I wish to speak to my submission at the hearing (please tick): <input type="checkbox"/> Yes <input type="checkbox"/> No |
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Return to:

Freepost 172273
Draft Stormwater Bylaw 2019
Napier City Council
Private Bag 6010
Napier 4142

Closing date for submissions is 12pm, Monday 28 October 2019

Adopted on 12 December 2012



NAPIER CITY

Stormwater Bylaw 2012

Napier City Council Stormwater Bylaw 2012

Adopted on 12 December 2012

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Napier City Stormwater Bylaw 2012

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Napier City Council Stormwater Bylaw 2012

Adopted on 12 December 2012

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Napier City Council Stormwater Bylaw 2012

Adopted on 12 December 2012

NAPIER CITY COUNCIL

STORMWATER BYLAW 2012

This bylaw is made by Napier City Council pursuant to the provisions of Section 146 of the Local Government Act 2002.

This bylaw came into effect on 13 December 2012

1. Scope and Purpose

The purpose of this bylaw is to prevent the misuse of Council's public stormwater network by:

- Controlling the discharge of contaminants into the network
- Requiring the use of the network for the drainage of stormwater only
- Protecting the network from damage or alteration.

Nothing in this bylaw shall override any conditions of a resource consent granted by the Hawke's Bay Regional Council which specifically addresses the quality of discharges into the stormwater network.

2. Interpretation

"**The Act**" means the Local Government Act 2002 and its amendments.

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

"**Best practicable option**" means the best method for preventing or minimising the adverse effects of any stormwater discharge on the environment having regard to:

- the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and
- the financial implications of an option compared with other options; and
- the effects on the environment; and
- the current state of technical knowledge and the likelihood that the option can be successfully applied.

"**Council**" means the Napier City Council.

"**Regional Council**" means Hawke's Bay Regional Council.

"**Construction activities**" means any activities involving the disturbance of the surface of any land but excludes farming and forestry activities.

"**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:

- 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

Napier City Council Stormwater Bylaw 2012

Adopted on 12 December 2012

- 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.

“High Risk Facilities (HRF)” means those facilities that, by reason of the activities being carried out, carry a higher risk of release of contaminants that may affect the downstream infrastructure or receiving environment.

High-risk activities will be as listed in Section 3 of the Hawke's Bay Waterway Guidelines, Industrial Stormwater Design 20090406, and as amended from time to time, or as otherwise determined by the Works Asset Manager.

“Works Asset Manager” means the person employed as the manager of infrastructural assets by the Council, or any person authorised to exercise the powers and duties of the said person.

“Public stormwater network” 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 Napier City Council. For the purposes of this Bylaw, it also means all drains, drainage channels or land drainage works within legal road reserve or other public places.

“Stormwater” means surface water run-off resulting from precipitation

3. Operation of Bylaw

- 3.1 This bylaw shall apply throughout the City and to any premises which, although located outside the City, discharge, or will discharge stormwater into a public drain within the City.

4. Construction Activities

- 4.1 Any construction activities must be carried out in accordance with the requirements of the Napier City Council District Plan Volume 2, (Parts A, B and C of the Code of Practise for Subdivision and Land Development).

- 4.2 Issues relating to stormwater control are contained within, but not limited to, the following sections:-

- A6 Rules for Subdivision and Land Development
- A7 Applications for Resource Consent, section 7.1.2.1(g)
- B6 Construction
- B8 Earthworks
- B12 Stormwater Drainage and Flood Control
- C4 Minimum Requirements for Subdivision and Land Development, section 4.2(e).
- C5.5 Earthworks
- C5.8 Stormwater

Additional guidance on the requirements for stormwater drainage design is given in Part D3 of the Code of Practise for Subdivision and Land Development.

5. Minimum Stormwater Quality Standard

- 5.1 No person shall allow the discharge of contaminants, either directly or indirectly, into any part of the public stormwater network unless:-

- The discharge is permitted by a rule in a regional plan
- is authorised by a resource consent

6. Treatment or Works to be Undertaken

- 6.1 Council may require the owner or occupier to implement management options, treatment or works, in order to prevent the discharge of contaminants into the public stormwater network, or otherwise protect the network from damage or alteration.

- 6.2 Any management options, treatment or works shall be implemented in a timeframe stipulated by Council, and shall be undertaken and/or maintained at the owner or occupier's expense.

7. Monitoring Discharges

- 7.1 Council may inspect private and public stormwater networks in order to ensure compliance with clauses 5 and 6 of this bylaw.

8. Pollution Prevention Plans

- 8.1 Operators of High Risk Facilities shall, upon request of the Works Asset Manager prepare and submit to the Works Asset Manager for approval, a site or operation-specific **Pollution Prevention Plan**. The Plan must be submitted within 6 months of being requested, or at such later date as agreed with the Works Asset Manager.
- 8.2 The Pollution Prevention Plan, required under Clause 8.1 above, shall include:
- a. A site assessment identifying all actual and potential sources of stormwater pollution
 - b. Suitably scaled plans showing the site layout, boundaries, all stormwater and sewer drainage, and relevant buildings and outdoor spaces (including identification of their use)
 - c. Identification and installation requirements of the best practicable options proposed to ensure that potential contamination of stormwater discharges are minimised. The application of other current Nationally accepted standards will be taken into account by the Works Asset Manager when assessing Pollution Prevention Plans.
 - d. Site specific spill prevention and spill response procedures.
 - e. A description of the maintenance procedures proposed, actions to be taken and/or infrastructure to be developed.
- 8.3 Within 6 months of the Pollution Prevention Plan being approved by the Works Asset Manager, or such later date as the Works Asset Manager might agree, the operator shall be fully compliant with the requirements of the approved Pollution Prevention Plan.

9. Review of Pollution Prevention Plans

- 9.1 Any Pollution Prevention Plan prepared in pursuance of Clause 8 shall be reviewed no less than three years after implementation and thereafter at three yearly intervals.
- 9.2 Notwithstanding Clause 9.1 above, the Works Asset Manager may require that any Pollution Prevention Plan shall be revised where they consider that there have been significant changes in the facility concerned or its operational procedures.

10. Monitoring of Stormwater Discharges

- 10.1 Council may independently monitor, sample and analyse discharged stormwater and recover costs from the property occupier, where failure to comply with the Pollution Prevention Plan is evidenced.

11. Offences

- 11.1 Unless a resource consent allows otherwise, or it is a permitted activity under a Regional Plan, every person who discharges or causes the discharge of stormwater to a public drain in contravention of Clause 5 hereof, or who fails to adhere to or comply with an approved Pollution Prevention Plan, or any occupier of a high risk facility or operator of high risk operations who fails to submit a Pollution Prevention Plan for the approval of the Works Asset Manager in accordance with Clause 8.1, commits an offence against this bylaw and on summary conviction is liable to a fine not exceeding \$20,000.

Napier City Council Stormwater Bylaw 2012

Adopted on 12 December 2012

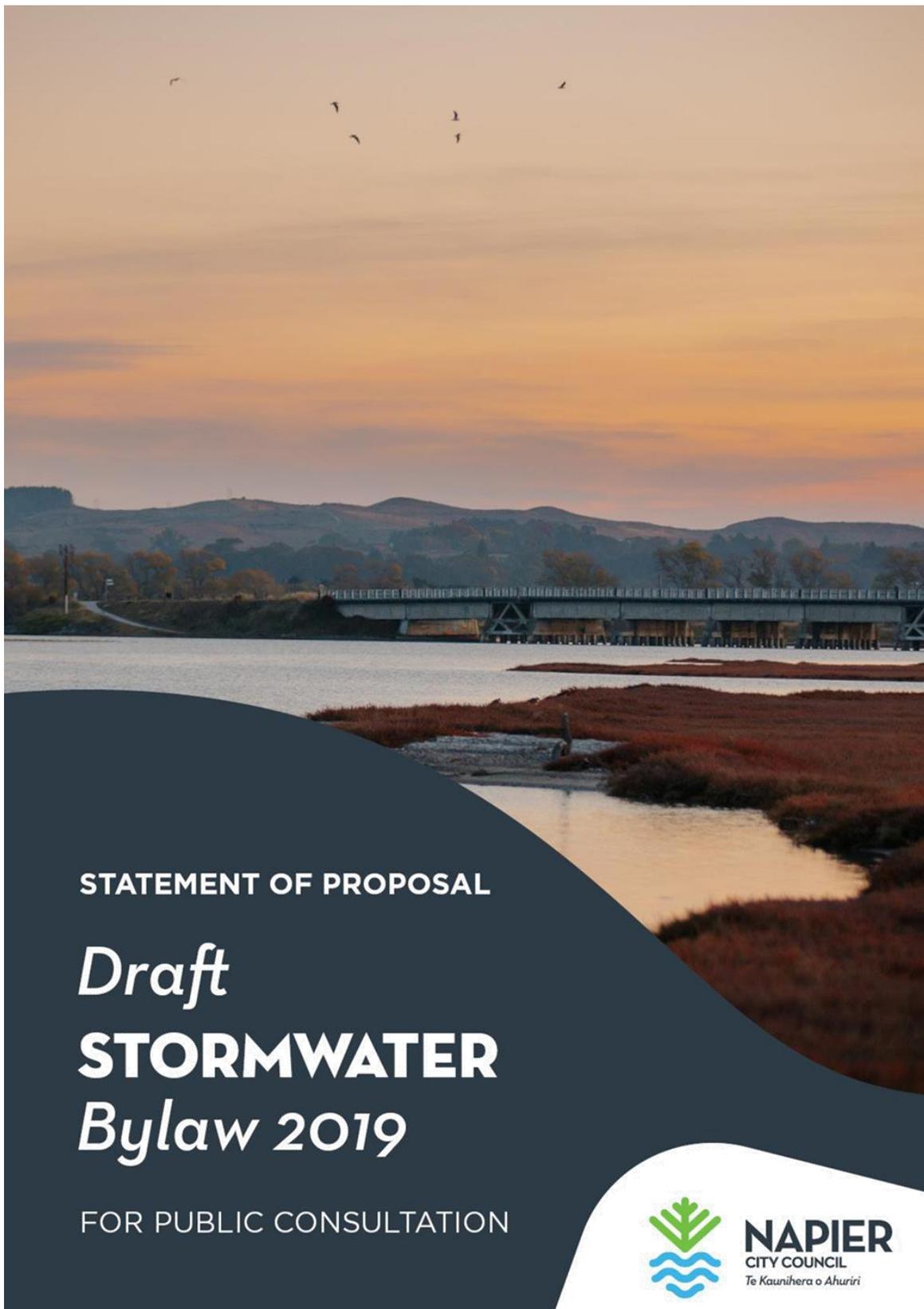
The foregoing bylaw was duly made by the Napier City Council at an Ordinary Meeting of the Council held on 12th day of December 2012

Sealed with the Common Seal
Of the Napier City Council
In the presence of:

Barbara Arnold Mayor

N. Taylor Chief Executive

12-12-2012 Date



STATEMENT OF PROPOSAL

Draft
STORMWATER
Bylaw 2019

FOR PUBLIC CONSULTATION



Proposal

Napier City Council proposes to revoke its existing Stormwater Bylaw 2012 and adopt a new Stormwater Bylaw 2019.

This statement of proposal is prepared under Sections 83, 83AA and 86 of the Local Government Act 2002. This document contains:

- A summary of the information contained in the statement of proposal;
- A copy of the draft bylaw

Summary of Information

Napier City Council is proposing to change its approach to protecting and managing the stormwater network to ensure requirements are clear and enforceable. The Council wants to hear what ratepayers and stakeholders think of the revised approach.

The Bylaw has been revised to:

- Make it clear that certain activities that damage or pose a threat to the stormwater network are prohibited and will need to be managed through an approval with Council;
- require all new connections to the public stormwater network to have an approval from the Council;
- Require discharges of certain types of stormwater to the public stormwater network require an approval (even if there is already a connection in place);
- Clarify obligations in relation to private stormwater systems;
- Outline the process for obtaining an approval where one is required under the Bylaw, and the matters Council may take into account, and make the subject of conditions;
- Detail the implications of failing to comply with the conditions of an approval, or with the Bylaw itself.

Before making any final decisions on the proposed Bylaw, the Council wishes to hear from you. You can make a submission by going online at www.sayitnapier.nz or visiting the Napier City Council Customer Service Centre.

Background Information

There is a rising awareness of the importance of water quality in New Zealand, and Napier City Council has a commitment to maintaining or improving water quality in the District.

Discharges from the public stormwater network are regulated by discharge consents issued by Hawkes Bay Regional Council to Napier City Council. These consents contain a number of conditions aimed at protecting the receiving environment. Additional requirements are expected

to arise over the next 10 years as a result of the introduction of the TANK Plan Change to the Hawkes Bay Regional Resource Management Plan, and the related implementation plan. In order to ensure its ability to meet its Resource Management Act obligations, Napier City Council needs to know what is being discharged to the network, and to be able to appropriately manage and control discharges to the network.

The current Stormwater Bylaw goes a significant way to providing the Council with control over discharges to the public network. However, a review identified a number of gaps and ways the Bylaw could be clarified to ensure its requirements are clear and that the process for obtaining approval to discharge to the network is transparent.

Problems to be addressed by the Bylaw

There are three main issues that need to be addressed by the Stormwater Bylaw.

Protection of the Public Stormwater Network

The public stormwater network is susceptible to physical damage or obstruction, for instance as a result of building works which damage the network or from waste materials being disposed to the network or washed into the network in a storm event. It is important that the network be protected from such damage by having in place clear rules for working in close proximity to the network and the ability for Council to control any such work and enforce those rules if necessary.

Managing the use of the Public Stormwater Network

It is important that Council knows what is being discharged to its system, so it can ensure the network itself, or its ability to comply with regional consent or plan requirements is not compromised. The key times for Council involvement in stormwater management are when new connections are made to the stormwater network, or when the type of discharge to the network through an existing connection changes. There needs to be a clear system for Council to be fully informed about the type of connection and discharge, and appropriate mechanisms to ensure discharges do not contain contaminants or that might otherwise undermine the efficiency of the network.

Managing the use of Private Stormwater Systems

The proper functioning of the public stormwater network requires private stormwater systems, including any management devices for improving water quality, to be operated and maintained to ensure their design purpose is achieved, especially during storm events. Council reserves the right to monitor, inspect and request works be carried out by the owner, occupier or manager of private stormwater systems to ensure they do not cause a nuisance or adversely impact on the public stormwater network.

Options to address these Issues

1. Status Quo

The Stormwater Bylaw 2012 contains provisions protecting the stormwater network primarily in relation to construction activities, by reference to requirements of the Napier City Council District Plan, and the associated Code of Practice for Subdivision and Land Development. The District Plan and the Code of Practice is currently subject to review. A key objective of this review is to tighten provisions relating to stormwater management. It is considered that the current approach of the bylaw that focuses on construction activities only, does not capture all possible risks to the stormwater network. A review of the bylaw, alongside a review of the District Plan and Code of Practice, provides an opportunity to align Council's main regulatory tools for managing stormwater.

2. Amend the Bylaw

The revised Bylaw aims to ensure the issues outlined above are comprehensively addressed in a clear way, such that readers know what they can and cannot do, whether they require an approval from Council, and if so, the process and matters that might be taken into account. While there is the option under the revised Bylaw to include controls in an external document such as a Code of Practice, it is made clear that any such document will need to go through a public process and be the subject of a Council resolution. This provides an appropriate balance between public input and flexibility to ensure accordance with best practice over the 10 year life of the Bylaw.

3. Public Education

An important part of stormwater management is public awareness and education, and Napier City Council is continuing its efforts to ensure site owners are aware of their obligations and best practice. Having a bylaw which clearly sets out obligations, prohibitions and means of obtaining approval to access the stormwater network will assist Council officers in ensuring site owners understand their role in achieving good water quality in the District.

4. Reliance on existing statutory powers

Legislation such as the Local Government Act 2002 and 1974 provide certain controls, such as that is an offence to connect a private drain to a public drain without the written authority of the Council. However some powers in legislation need to be 'activated' by inclusion in a bylaw, such as Local Government Act 2002, Section 163 which gives Council the power to remove or alter works in breach of a bylaw if authorised by the bylaw to do so. As a whole, revocation of the bylaw, and relying on legislative requirements and public education only, is not considered a viable option. It would not provide comprehensive and easily understood protection of the network or allow Council to manage discharges to the network to protect the environment and ensure compliance with its regulatory requirements. It is considered sufficient to rely on legislation in relation to enforcement which prescribes set processes, rather than to specify or restrict enforcement options under the Bylaw.

Preferred Option

Of the options above, Council considers a combination of options 2, 3 and 4 provide the most appropriate way to address issues around stormwater management in the District. This involves amending the Bylaw as outlined above, while relying on legislation for enforcing the Bylaw. Council's approach to public education will be assisted by, and continue in parallel with administration of the Bylaw.

Statutory Requirements

Under the Local Government Act 2002, Napier City Council must have determined that a bylaw is the most appropriate way of addressing the perceived problem. This occurred at a Council meeting held on September 3, 2019 where Council adopted a resolution that confirmed the draft bylaw is the most appropriate way of addressing the perceived problem, as set out in the purpose of the bylaw.

Council must then determine whether the proposed bylaw 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 Council has determined that the draft Bylaw is the most appropriate form of bylaw and is satisfied that no issues arise under the Bill of Rights. However, a final determination of these matters under the Local Government Act 2002, Section 155(2), will be made following the hearing of submissions, prior to adopting the final version of the Stormwater 2019 Bylaw.

The Council is using the special consultative procedure as amended by the Local Government act 2002, Section 86, in relation to the making of the Bylaw and revoking of the 2012 Bylaw. The process for making and hearing of submissions on the draft Bylaw is set out above.

Napier City Council Stormwater Bylaw 2019

Draft for Consultation

Title

1. This bylaw is the Stormwater Bylaw 2019.

Commencement

2. This bylaw comes into force on [TBC].

Purposes

3. The purposes of this bylaw are to:
 - a) Protect the public stormwater system, and the land, structures, and infrastructure associated with that network from damage, misuse or loss.
 - b) Manage the development, maintenance and use of the public stormwater network, and the land, structures, and infrastructure associated with that network, and provide for the conditions on which connections to the public stormwater network may be made or maintained.
 - c) Ensure that discharges into the public stormwater network are appropriately managed, and do not damage the network or compromise the Council's ability to comply with any applicable network discharge consent and Council's water quality targets.

Definitions

4. In this bylaw, unless the context otherwise requires;

Approval means a written approval issued by Council in accordance with the process set out in clauses 9 – 11 below, or an equivalent approval issued by Council prior to this bylaw commencing.

Contaminant has the same meaning as in the Resource Management Act 1991

Control means a prohibition, restriction or control relating to stormwater management specified in any guideline or Code of Practice confirmed by a Council resolution after giving consideration to the views and preferences of persons likely to be affected by, or have an interest in, the matter.

Council means the Napier City Council or any authorised officer.

Industrial or trade premises has the same meaning as in the Resource Management Act 1991.

Manager means a person who controls or manages any premises, or any activity or event on any premises, or operates a part of the stormwater network on the premises,

regardless of whether that person is the owner of those premises or that part of the stormwater network.

Nuisance has the same meaning as in section 29 of the Health Act 1956 and in the context of this bylaw includes:

- (a) danger to life;
- (b) danger to public health;
- (c) flooding of any building floor or sub-floor, or public road;
- (d) damage to property;
- (e) damage to the stormwater network;
- (f) erosion or subsidence of land;
- (g) adverse effects on the environment;
- (h) adverse loss of riparian vegetation;
- (i) anything that causes a breach or potential breach of any stormwater discharge consent condition binding the Council (including an accumulation of chemicals causing a breach).

Owner means the person who owns premises from which stormwater originates or on which stormwater is located.

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

Public Stormwater Network means any component of the stormwater network vested in, or under the control of, the Council, whether or not any part of the network passes through private land.

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

Regulated Stormwater means any stormwater which:

- (a) Contains contaminants;
- (b) Discharges from industrial or trade premises;
- (c) Is required by a Control to obtain an Approval.

Service connection has the same meaning as in the Local Government Act 2002.

Stormwater means surface water run-off resulting from rainfall.

Stormwater management device means a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. Including, but not limited to:

- rain gardens
- porous paving
- infiltration trenches
- sand filters
- green roofs
- wetlands
- ponds
- rain water tanks
- propriety devices.

Stormwater network includes any land, structure or infrastructure associated with stormwater drainage, including but not limited to:

- (a) open drains and watercourses, overland flow paths, drainage reserves, inlet structures, pipes and other conduits, manholes, chambers, traps, outlet structures, pumping stations, attenuation and treatment structures, and devices;
- (b) the public stormwater network; and
- (c) private stormwater systems.

Environmental management plan means a plan, howsoever named, which relates to a specific site and/or activity being carried out on the site and addresses the specific stormwater management approach for that site and/or activity.

***Explanatory Note:** This definition encompasses 'pollution prevention plans', 'urban site specific stormwater management plans', 'operation and maintenance plans' and other documents meeting the purpose described in the definition.*

- 4.2 Unless the context requires another meaning, a term or expression that is defined in the Council's Introductory Bylaw 2014 and used but not defined in this bylaw has the meaning given by the Introductory Bylaw 2014.
- 4.3 Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw or the Introductory Bylaw 2014 has the meaning given by the Act.

Protection of Stormwater Network

5. No person shall:
 - a) cause or allow to be caused, any damage to the stormwater network;
 - b) allow any material, chemical (including chlorine and detergents), rubbish, litter, or other substance that causes or is likely to cause a nuisance, directly into the public stormwater network;

***Explanatory Note:** Without limiting the scope of this rule, but for the avoidance of doubt, swimming or spa pool water arising from emptying or backwashing may not*

be discharged into the stormwater network. Disposal of such water is to the wastewater network as provided for in the Wastewater Drainage Bylaw.

- c) deposit or permit any material, chemical (including chlorine and detergents), rubbish, litter, or other substance likely to cause a nuisance on entering the public stormwater network, to be located so that it is likely to enter the public stormwater network in any storm event;
- d) obstruct any stormwater network, in a manner that adversely affects or may affect the efficiency and/or safety of the public stormwater network;
- e) remove vegetation from or damage vegetation in any wetland on a premises that the person owns, occupies, or manages, if the removal or damage is likely to adversely affect the ability of the wetland to contribute to the performance of the stormwater network, unless the Council approves or that person is expressly authorised by an operative resource consent.

5.2 Every person excavating or working around the stormwater network must take due care to ensure the excavation or work does not damage and/or compromise the integrity of the stormwater network.

5.3 Any person who knows of damage to the stormwater network must report it to the Council immediately.

Approvals for works affecting Stormwater Network

6.1 A person must obtain an Approval before:

- a) Erecting any structure on, over, or within the distance from the public stormwater network specified in any relevant Control;
- b) undertaking any excavation or work that is likely to result in damage to the public stormwater network;
- c) removing any existing cover material or placing any additional material over the public stormwater network that is likely to result in damage to the public stormwater network;
- d) covering any stormwater inlet, outlet, treatment device, service opening or manhole in a way that is likely to restrict access to the public stormwater network or detrimentally affect the performance of the public stormwater network; or
- e) causing a temporarily or permanently sustained excessive load on the public stormwater network that is likely to result in damage to the network.

Connections to Public Stormwater Network

7.1 No person may, without an Approval:

- a) make any new service connection to the public stormwater network; or

- b) alter or modify any part of the public stormwater network or the hydraulic performance of the public stormwater network.

Discharges to Public Stormwater Network

- 8.1 No person may discharge, directly or indirectly, Regulated Stormwater, into the public stormwater network without an Approval.

Private Stormwater Systems

- 9.1 The owner, occupier and manager of a private stormwater system must ensure that the system:
 - a) Complies with any relevant Control;
 - b) is maintained in good operating condition; and
 - c) does not cause or contribute to nuisance.
- 9.2 The owner, occupier, or manager of a premises that has a soakage system as part of a private stormwater system must ensure that the soakage system disposes of the stormwater from the site in accordance with any Control.
- 9.3 The owner, occupier or manager of a private stormwater management device must, on request by the Council:
 - a) provide such information as is required to demonstrate that the stormwater management device is operated and maintained to achieve its purpose and not cause nuisance in a storm event; and
 - b) carry out such works as are required to ensure the stormwater management device meets its purpose.
- 9.4 The owner, occupier or manager of a private on-site stormwater management device must:
 - a) keep a copy of the operations and maintenance manual (owner's manual) and as built drawings for the device available; and
 - b) produce that copy of the owner's manual and as built drawings upon request by the Council.
- 9.5 The owner of a redundant system must remove or de-commission a redundant system if required by the Council to do so and within the time specified by Council.
- 9.6 The owner of a redundant system that has been removed or de-commissioned must ensure that the premises on which the system is located or was previously located is restored to the satisfaction of the Council.

Applications for Approval

- 10.1 An application to obtain the approval of the Council under this bylaw must be:
- a) made in the prescribed form; and
 - b) accompanied by:
 - (i) payment of the application and processing fees; and
 - (ii) a proposed environmental management plan, if required by Council;
 - (iii) such further supporting information as the Council requires to process the application.
- 10.2 Having received and considered an application for approval, the Council may at its discretion:
- a) grant the application subject to such conditions as the Council considers fit; or
 - b) decline the application.

Consideration of application for Approval

- 11.1 When considering an application for Approval, and the conditions to which the Approval will be subject should the application be granted, the Council may take into account any of the following:
- a) Consistency with the purposes of the bylaw;
 - b) any known past operational or compliance issues which may affect, or may in the future affect, the performance of the stormwater network;
 - c) the characteristics, features, and nature of the infrastructure, premises, stormwater asset, device, private stormwater system, and public stormwater network;
 - d) consistency with any catchment management plan and/or integrated management plan for the catchment;
 - e) compliance with any relevant Control;
 - f) the extent to which the Approval will impact on Council's compliance with any network discharge consent;
 - g) any operational policy, guidance document, or management practice approved by the Council;
 - h) any potential cumulative harmful effect which may arise over time or in combination with other effects due to approvals granted by the Council in the affected sub-catchment;
 - i) the complexity of the issue and the cost required to suitably resolve it;

- j) whether any other approvals are held in relation to the activity requiring Approval, such as resource consents; and
- k) any other reasonable considerations the Council considers appropriate.

Conditions of Approval

12.1 The Council may make an Approval subject to conditions addressing the following matters:

- a) Implementation of, and ongoing compliance with, an environmental management plan which has been prepared to the satisfaction of Council;
- b) the location, design and specifications, of the work or activity;
- c) construction and maintenance requirements for the work or activity;
- d) the specific approved point(s) of service connection into which the stormwater must be discharged;
- e) the average and maximum volume of the discharge of stormwater, the average and maximum rate of the discharge of stormwater, and the duration of any maximum volume or rate of the discharge of stormwater;
- f) the provision of appropriate screens, filters, silt traps, or other partial or preliminary pre-treatment process, equipment, or storage facilities designed to regulate the quality, quantity, and rate of discharge or other characteristics of stormwater prior to the point of discharge to the public stormwater network;
- g) the frequency with which any equipment required by the approval must be maintained and cleaned;
- h) the design, location, and specification of, and any material alteration to, the private stormwater system;
- i) the provision of a bond or insurance in favour of the Council where failure to comply with the approval could result in damage to the public stormwater network or the Council being in breach of any statutory obligation;
- j) recording the presence of any on-site stormwater management device as an encumbrance on the certificate of title for the premise; and
- k) any other reasonable conditions the Council considers appropriate.

Maintenance and construction requirements

13.1 The owner, occupier or manager of a premises on which work occurs for which the Council has given Approval must comply with all conditions of the Approval.

- 13.2 The Council may inspect the work at suitable intervals and notify the owner, occupier or manager of a premises if maintenance must be carried out. Maintenance must be carried out within the advised timeframe and to the standard specified by the Council.
- 13.3 The costs associated with the inspection by the Council and maintenance required by the Council under this clause must be borne by the owner or manager of a premises, unless required otherwise by the Council.

Non-compliance with conditions of an Approval

- 14.1 Where a person does not comply with the terms and conditions of the Approval granted by the Council, including compliance with an environmental management plan for the site, without limiting Council's enforcement options, the Council may take one or more of the following steps:
 - a) Issue a written warning to the person, which may be considered as evidence of a prior breach of a condition of the approval during any subsequent review of the Approval;
 - b) Review the Approval, which may result in:
 - i) amendment of the Approval; or
 - ii) suspension of the Approval; or
 - c) withdrawal of the Approval.

Enforcement

- 15.1 It is a breach of this bylaw to fail to comply with any requirement of this bylaw.
- 15.2 Owners, occupiers, and managers of premises on private land are jointly and individually responsible for compliance with this bylaw in respect of those premises.
- 15.3 The Council may require the owner, occupier or manager of a premises by written notice to remedy any breach of this bylaw.
- 15.4 The Council may, pursuant to section 163 of the Local Government Act 2002:
 - a) remove or alter a work or thing that has been constructed in breach of this bylaw; and;
 - b) recover any costs of removal or alteration from the person who committed the breach.