**Kōmiti Whakahaere ā-Ture**  
**Regulatory Committee**  

**OPEN MINUTE ITEM ATTACHMENTS**

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**Note:** The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
To: Regulatory Committee

From: Orakei Local Board (Troy Churton on behalf of)

28 July 2020

- Local Boards may provide input into RMA consent application notification decisions and substantive grant decisions. Certain types of application trigger requirement for input. This input is made under protocol and RMA process.
- Where Local Board input and recommendations differ from Council/contracted processing planners, protocol is to refer the file to a Duty Commissioner.
- At that time of referral to a Duty Commissioner, OLB (and some other Boards) exercises its right to invoke Section 15(2) LGAC Act.
- For certain types of application, with considerable community effect, OLB asserts it must have a protocol opportunity to elect to express its views and preferences to the Duty Commissioner in writing and/or in person while the Commissioner has the file.
- There is no extra cost to Council in enabling that opportunity.

Section 15 Local Government Auckland Council Act 2009

15 Decision-making responsibilities of governing body
(1) The governing body is responsible and democratically accountable for—
(a) the decision making of the Auckland Council in relation to any regulatory responsibility, duty, or power conferred on, or applying to, the Council under this Act or any other enactment (for example, the responsibilities, duties, or powers conferred on, or applying to, a local authority under the Resource Management Act 1991, the Health Act 1956, the Building Act 2004, and the Civil Defence Emergency Management Act 2002); and
(b) the decision making of the Auckland Council in relation to—
(i) transport networks and infrastructure; and
(ii) any non-regulatory activities of the Auckland Council that are allocated to the governing body in accordance with section 17; and
(c) the decision making of the Auckland Council in relation to the establishment and maintenance of capacity to provide, or ensure the provision of, services and facilities (including local activities) by the Auckland Council; and

(c) the decision making of the Auckland Council in relation to the governance of its council-controlled organisations;

(cb) [Repeated]

(d) the decision making of the Auckland Council in relation to compliance with section 101 of the Local Government Act 2002 (which relates to the financial management of a local authority); and

(e) the agreement reached with each local board (as set out in each local board agreement) in respect of local activities for the local board areas.

(2) Before making a decision described in subsection (1)(a) to (d), the governing body must—

(a) comply with any requirements of this Act; and

(b) comply with any requirements of the Local Government Act 2002 and any other enactment; and

(c) consider any views and preferences expressed by a local board, if the decision affects or may affect the responsibilities or operation of the local board or the well-being of communities within its local board area.
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1. Summary of key findings

The Auckland Council has a responsibility to manage stormwater and control flooding. Under the 2010 amendment to the Local Government Act 2002, the Auckland Council is responsible for stormwater management and flood protection and control.

As part of a wider regulatory framework, the Auckland Council Stormwater Bylaw 2015 (Bylaw) fulfils its regulatory responsibilities and is part of a suite of tools that are available to help manage stormwater and land drainage which includes the Auckland Regionwide Stormwater Network Discharge Consent and the Auckland Council’s Stormwater Code of Practice.

The establishment of the Bylaw drew on the evidence and experience of implementing the legacy city and district council stormwater bylaws, which it replaced. Having a single bylaw has enabled a consistent approach to regulate aspects of the stormwater network across the region.

A review of the Bylaw is now required five years after its first adoption.

Stormwater problems still exist

Stormwater problems addressed in the Bylaw in 2015 still exist. This includes damage to the stormwater network owned by the Auckland Council, flooding, contaminant discharges, management of connections and the operation and maintenance of private stormwater systems.

A bylaw is still the best way to address stormwater problems

The Bylaw is an important tool to minimise risk to the operation of the stormwater network. It provides a holistic set of rules, fills a regulatory gap, compliments other regulations and legislation, contribute to Māori outcomes, aspirations and priorities. The Bylaw also covers similar matters to other stormwater bylaws around New Zealand.

The Bylaw is an effective and appropriate regulatory tool to address matters on implementation and to integrate the processes that are necessary to achieve effective land drainage and stormwater management.

The Bylaw could, however, be improved

The Bylaw provides consistent expectations and sets a framework for how the regional stormwater network should be managed, including the operation of private stormwater systems.

Notwithstanding this, it could be enhanced through new rules or by clarifying existing rules to help improve its effectiveness and efficiency. This includes:

- improved interaction with the Auckland Regionwide Stormwater Network Discharge Consent and protection of the stormwater network
- investigating an approval mechanism for private stormwater management device design
- improving inspection mechanisms for private stormwater systems
- improving Bylaw administrative matters such as cost recovery and Bylaw language style
- investigating the role of the Bylaw to respond to drought conditions.
The Bylaw does not have any implications under the New Zealand Bill of Rights Act 1990

It is considered that the current Stormwater Bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990 – any limits to rights or freedoms are proportionate and justifiable. Potential amendments that have been identified are unlikely to change this conclusion. However, this will be subject to legal review.

It is recommended that an options report be developed to respond to these findings.

It is recommended that an options report be developed to respond to the findings in this report, including whether the Bylaw should be confirmed, amended, revoked or replaced, and what improvements should be made.
2. Introduction

2.1 Purpose of this report is to review Auckland’s stormwater bylaw

The purpose of this report is to present findings from the review of the Te Kaunihora o Tamaki Makaurau Ture-ā-rohe Wai Āwhā 2015 – Auckland Council Stormwater Bylaw 2015 (Bylaw).

Auckland Council (Council) has a statutory responsibility under the Local Government Act 2002 (LGA) to complete a statutory findings review the Bylaw by 30 July 2020.¹ To complete the statutory findings review, the Council must determine whether a bylaw is still appropriate, well drafted and meets the requirements of the New Zealand Bill of Rights Act 1990.²

Following the statutory findings review, the Council can propose the Bylaw be confirmed, amended, revoked or replaced using the special public consultation procedure.³

2.2 The scope of the review focusses on Bylaw matters

The scope of the review includes:

- assessment of the relevance, effectiveness, and efficiency of the current Bylaw
- review and analysis of any new stormwater issues that may have emerged since 2015.

Matters outside the scope of the Bylaw review are:

- specific wording recommendations for new or alterations to existing bylaw clauses
- issues managed through other statutes e.g., Auckland Unitary Plan or common law
- issues which relate to the implementation of wider Auckland Council processes
- stormwater design issues captured by Auckland Council technical guidance documents
- issues addressed by other bylaws.

2.3 The review analyses key questions

The review asked the following key questions to meet the Council’s statutory requirements under section 160(1) of the Local Government Act 2002:

- Is there still a problem?
- Has the Bylaw helped address the problem?
- Could the Bylaw be improved?
- Does the Bylaw have any implications under the New Zealand Bill of Rights Act 1990?

2.4 The review used a research and engagement methodology

Various research and engagement methods were used to answer the key questions:

- interactive workshops with Council staff including:
  - Healthy Waters staff involved in the planning, design, construction, and operation of the region’s public stormwater network

¹ Local Government Act 2002, section 158
² Local Government Act 2002, sections 160(1) and (2)
³ Local Government Act 2002, section 190(3)
o Auckland Transport and their design, planning and operations staff for stormwater management from road carriageways
o Auckland Council Regulatory Services including Regulatory Compliance and Regulatory Engineering staff
o Auckland Council Engineering and Technical Services unit working on the Stormwater Code of Practice
  • engagement with Māori at a facilitated hui⁴ where participants were given an opportunity to discuss stormwater issues directly impacting their communities
  • engagement with the public through the Council `People’s Panel’ online survey
  • analysis of the Healthy Waters Bylaw internal implementation review in 2017 (noting this information has not solely been relied on to inform this review report)
  • discussion with Watercare about their review of the Water Supply and Wastewater Network Bylaw 2015
  • analysis of relevant council databases related to requests for service and approvals for vested Council assets.

2.5 There are limitations to the information collected

There are limitations to the data and information collected through this review. These include:
  • limited work volume data on the Bylaw implementation and the scale of stormwater problems such as flooding and nuisance events specifically dealt with under the Bylaw
  • limited data in terms of Bylaw enforcement action and recording.

Subsequently, this means most of the findings in the report are based on the anecdotal evidence of various Council officers, their experience of current stormwater problems and corresponding implementation of the Bylaw to date.

3. The Bylaw helps regulate stormwater in Auckland

3.1 Stormwater problems in 2015 related to inconsistent regulation across Auckland

Stormwater problems in 2015 related to the following broad categories:
  • limited regulation regarding the design and vesting of public stormwater assets resulting in poor quality public assets being provided to the Council
  • inconsistent or limited regulation to protect the public stormwater network owned by the Council adversely affecting its operation
  • poor management of watercourses with evidence of blockage and erosion of banks
  • inconsistent private stormwater system maintenance resulting in nuisance flooding
  • inappropriate discharges to the stormwater network owned by the Council (e.g. sediment, concrete slurry) adversely affecting its operation.

⁴ Engagement took place through the regular wānanga held between Healthy Waters and mana whenua representatives. The wānanga was facilitated by the Infrastructure and Environmental Services mana whenua coordinator. The hui was facilitated online due to Covid-19 restrictions.
The one of the problems in 2015 related to the form of regulation through multiple bylaws. Prior to 2015, there were gaps in regulation and inconsistencies across Auckland that did not fit with the amalgamated council model because stormwater bylaws were only operative in legacy Rodney and Papakura Districts, and Auckland City\(^5\).

### 3.2 The key outcome sought in 2015 was to introduce a consistent approach to stormwater management

The following outcomes sought in 2015 were to:
- regulate problems associated with stormwater consistently across Auckland
- ensure new vested stormwater assets and connections to the existing stormwater network complied with the Auckland Council Stormwater Code of Practice (SWCoP)
- protect the stormwater network from third party damage
- manage the operation of private stormwater systems, including sites that may have a private stormwater discharge consent
- prevent contaminant discharges to the stormwater network that may affect its operation e.g. blockage.

### 3.3 The Bylaw provided a consistent approach to stormwater management across Auckland

The current Bylaw was adopted by the Auckland Council Governing Body on 30 July 2015 (GB/2015/78) under the Local Government Act 2002 and replaced the operative and draft bylaws from the previous councils.

The purpose of the Bylaw is to regulate land drainage by:
- managing the development and maintenance of the public stormwater network
- protecting the public stormwater network from damage, misuse, or loss
- providing conditions for new connections to the public stormwater network including setting maintenance requirements
- managing discharges into the public stormwater network
- preventing interference with the public stormwater
- managing the public stormwater network to protect the community from nuisance and promote and maintain health and safety
- providing for ground soakage systems that form part of the stormwater network
- ensuring the maintenance and operation of private stormwater systems.

A copy of the current Bylaw is enclosed in Appendix A.

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\(^5\) There were also draft bylaws for the former North Shore and Waitakere City Councils which were not operative at the time of amalgamation in 2010.
3.4 Council’s Healthy Waters and Regulatory Services implement and enforces the Bylaw

Bylaw implementation and enforcement is undertaken by the Council Healthy Waters Department (previously Stormwater Unit) responsible for the public stormwater network, as well as being regulated by departments in the Council’s Regulatory Services directorate.

3.4.1 Policies and procedures were adopted in 2016 to assist implementation

In order to assist with Bylaw implementation, the Council developed the Operating Policy and Procedure Manual – Stormwater Bylaw 2015 (SWB Manual) in 2016 in consultation with various departments such as Building Control, Resource Consents, and Regulatory Compliance.

Roles and responsibilities were formally agreed within the manual including the public stormwater network development, connection, approval processes, and compliance and enforcement procedure.

3.4.2 Compliance is assessed as part of building and resource consents

The Bylaw introduces the need for approval from the Council for activities that may affect the performance of the public stormwater network:

- Engineering Plan Approval for stormwater assets to be vested to the Council and utility build over process for works in the road corridor
- Minor Engineering Plan Approvals for connections to the stormwater network not covered by engineering plan approvals or building consent approvals
- Global works over approvals for works and activities in close proximity to the stormwater network in the road corridor.

In general, if the infrastructure of a private stormwater system is approved as part of a building consent or a resource consent, its compliance is checked when it is completed by either the building control compliance or the resource consent compliance staff. Resource consent conditions can also ensure ongoing monitoring for maintenance including scheduled inspections by Council compliance staff.

Although through the Bylaw the Council can require private owners to provide information to demonstrate their system is well maintained and operational, there is no record on such information obtained by Council under the Bylaw since it has become operative.

3.4.3 The number of Engineering Plan Approvals have increased

Year on year, since 2015 the number of recorded\(^6\) Engineering Plan Approvals the Council received for developing and connecting to stormwater and wastewater infrastructure has gradually increased. This trend which is indicative of the greenfield and brownfield growth the Auckland Region is experiencing and is illustrated in Figure 1 below where the number of approvals has risen nearly threefold since 2015.

\(^6\) Source: Auckland Council SAP data report
3.4.4 Council uses a graduated approach to Bylaw compliance and enforcement

Compliance and enforcement are important to achieve the desired outcomes of the Bylaw and there are a range of compliance tools that can be exercised by the Council, including advice, education, proactive fieldwork and inspections, informal warnings and requests, formal bylaw notices, and prosecution. Currently there is no centralised database to record Bylaw enforcement practice. There have been a number of instances where the Stormwater Bylaw has been utilised for written requests to private landowners, and two cases have escalated to formal Stormwater Bylaw Notices since the Bylaw has been operative.

The Bylaw compliance approach is generally triggered through the request for service (RFS) system. Each step of the procedure described in the process map below:
This process indicates a graduated enforcement approach to ensure compliance, where the intention is for the Council officer to engage with the customer to resolve the particular issue. If not successful, a step by step process leads further compliance actions which ultimately ends with a request for enforcement action through prosecution. Notably although there is a graduated approach to enforcement, due to limitations in the Bylaw created under the LGA there are no intermediary infringement provisions that provides a deterrence to non-compliance. Therefore, non-compliance of a Bylaw notice can only lead to the costly decision to prosecute in the District Court. Bylaw compliance is also further limited by there being no cost recovery clauses for Council staff investigating bylaw breaches.

3.5 Operational feedback has been referred to relevant Council staff

Although not within the scope of this Bylaw review, several issues were raised during the review by the technical specialists and Council regulatory staff relating to the administration of the Bylaw, including the following:

- management of customer complaints and understanding which legal statute to use
- consistency of enforcement with bylaw breaches
- fees related to processing of approvals
- education of staff using the Bylaw
- better recording and capture of data that relates to the implementation of the Bylaw.

These matters have been referred to operational units of the Council for consideration.
4. **Wider regulatory and strategic framework**

4.1 **The Bylaw is part of a wider regulatory and strategic framework for stormwater management in Auckland**

The Bylaw is a regulatory tool that sits alongside other tools to achieve Auckland’s strategic goals outlined as follows:

- The Auckland Plan 2050 sets Auckland’s direction for the next 30 years including a growth and development strategy that highlights Auckland’s infrastructure need to keep up with the pace and scale of growth
- The Māori Plan 2017 identifies Key Directions such as Manaakitanga - Improve Quality of Life; Rangatiratanga – Enhance Leadership & Participation; and Kaitiakitanga – Ensure Sustainable Futures, which the Bylaw can contribute towards through stormwater and infrastructure management.
- The Auckland Unitary Plan sets the objective, policy, and rule framework for how the Auckland region is proposed to be developed over the next 30 years, aligning with the principles of the Auckland Plan
- The Long-Term Plan and Annual Plan set funding and expenditure priorities to support the implementation of core functions and the Auckland Plan such as stormwater upgrades, stormwater contaminant removal, and rehabilitation of streams
- Internally, the Council has operational policies and procedures to follow and a set of core values to work by – serve, collaborate, develop and achieve.

Figure 3 from the Auckland Council Stormwater Asset Management Plan® shows the linkages between the Auckland Plan, and the various strategies and plans which make up Auckland Council stormwater operating practices.

Notably the figure illustrates the link between the Bylaw, the Stormwater Code of Practice (SWCoP) and the recently granted Regionwide Stormwater Network Discharge Consent (NDC). The aim of these three documents is to ensure the existing and future public stormwater network is managed appropriately in terms of network capacity, flooding, erosion, and stormwater contamination. This also includes interaction with private stormwater systems, where management of stormwater effects (e.g. stormwater contaminant treatment, stormwater flow and volume) is undertaken at source, in combination with communal stormwater management devices owned and operated by the Council.

The SWCoP documents the standards required for constructing stormwater assets to be vested to the Council while the Bylaw enables asset approval via the Engineering Plan Approval (EPA) process.

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7 Stormwater Asset Management Plan 2015-2045
The Bylaw also interacts with the legislations listed in Table 1 and more generally with the regional and national policy/regulatory documents listed in Table 2. Details of these information can also be found on the "Additional information" section of the Bylaw.

### Table 1 Legislation and regulations authorising or informing the Stormwater Bylaw

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<th>Legislation</th>
<th>Relationship to Bylaw</th>
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<tr>
<td>Local Government Act 2002</td>
<td>• Empowers local authorities to make bylaws and provides them with enforcement powers, including prosecution</td>
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<td>• Enables the vesting of infrastructure as public assets.</td>
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<tr>
<td>Local Government Act 1974</td>
<td>• Enables Council to take action for drainage purposes via sections 459-462 and 511-515.</td>
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<tr>
<td>Resource Management Act 1991</td>
<td>• Regulation including the issuing of resource consents for the construction of stormwater management infrastructure.</td>
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<td></td>
<td>• Enables Council to hold a resource consent for the regionwide discharge of stormwater from the regional public stormwater network.</td>
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<tr>
<td>Litter Act 1979</td>
<td>• Provides local authorities with powers to appoint litter officers to issue infringement notices with fines for those who litter. Litter is a gross pollutant in stormwater runoff.</td>
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<tr>
<td>Building Act 2004</td>
<td>• Provides building code compliance requirements for the construction of stormwater drainage systems.</td>
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<tr>
<td>Health Act 1956</td>
<td>• Power to abate nuisance.</td>
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<tr>
<td>Regional Policy/Regulatory/Guidance Documents</td>
<td>National Policy</td>
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<tr>
<td>• Auckland Plan</td>
<td>• National Policy Statement for Freshwater Management 2017</td>
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<tr>
<td>• Auckland Unitary Plan</td>
<td>• Tools for Estimating the Effects of Climate Change on Flood Flows: A guide for local government in New Zealand</td>
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<tr>
<td>• Stormwater Code of Practice</td>
<td>• Climate Change Projections for New Zealand: Atmosphere Projections Based on Simulations from the IPCC Fifth Assessment</td>
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<td>• Stormwater Management Devices in the Auckland Region (GD01)</td>
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<td>• Water Sensitive Design for Stormwater (GD04)</td>
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<tr>
<td>• Operating Policy and Procedure Manual – Stormwater Bylaw 2015</td>
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<tr>
<td>• Regionwide Stormwater Network Discharge Consent (NDC)</td>
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### 4.2 Council’s Unitary Plan seeks to manage stormwater at source

The Auckland Unitary Plan became operative in part in November 2016, where the objectives and policies for stormwater management are designed to prevent or minimise the adverse effects of stormwater discharges; they relate to land-use activities that generate stormwater contaminants and increase stormwater runoff. Reducing stormwater contaminants and flows at source, where possible, is considered a more efficient and cost-effective method of reducing adverse effects than communal solutions. This is a matter reinforced through the Council publishing their updated stormwater guidance document (GD01<sup>6</sup>) in 2017.

At source means management of stormwater through multiple smaller publicly and privately owned stormwater management devices rather than communal devices such as treatment ponds or wetlands generally owned and operated by the Council.

The Bylaw helps achieve the Unitary Plan outcomes by requiring the operation and maintenance of private stormwater systems, and the vesting and operation of public stormwater assets, which collectively contribute to the integrated stormwater management objectives and policies.

### 4.3 An interrelationship exists between the Bylaw, Council’s stormwater network discharge consent, and stormwater code of practice

In October 2019, Auckland Council Healthy Waters was granted an Auckland Regionwide Stormwater Network Discharge Consent (NDC) authorising the discharge of stormwater from the existing public stormwater network and from new stormwater networks and connections subject to compliance with the conditions of the consent.

The NDC specifies a range of environmental, cultural, community and engineering related outcomes which are to be met throughout the 35-year duration of the consent. This includes

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management of stormwater runoff generated from green field areas and intensification of existing urban areas (brown field).

One avenue for achieving the outcomes of the NDC is by controlling connections to the stormwater network and the development of new stormwater networks. NDC outcomes, such as stormwater quality treatment, hydrology management for stream protection (stormwater retention and detention) and flood hazard mitigation, are typically achieved through the design and vesting of stormwater infrastructure and connections. This is initially carried out through the land use and subdivision resource consent process (to assess broad NDC and Stormwater Code of Practice requirements) and then formally through the Engineering Plan Approval (EPA) process prior to construction. The Bylaw is the vehicle for the EPA process to assess new connections and stormwater assets.

As was indicated in Figure 3 there is an interrelationship between the NDC, the SWCoP and the Bylaw where new stormwater assets (reticulation, outfalls, treatment/mitigation devices), designed in accordance with the SWCoP, are vested with the Council to assist in achieving the outcomes of the NDC. Currently, reference to the NDC in the Bylaw is limited and requires strengthening to assist with the NDC implementation while also supporting the green field and infill growth requirements for the Auckland Region.

This is a view shared by the technical experts and regulatory staff to ensure that the Bylaw works seamlessly with the NDC through asset vesting and SWCoP compliant connections (enabled through the LGA) and asset design contributing to environmental NDC outcomes (enabled through the RMA).

It is noted that the NDC application was subject to extensive consultation including with mana whenua throughout the region prior to formal consent application lodgement with the Council. The application was also publicly notified and progressed through the Council hearing with an outcome to grant the consent. In the application document and subsequent evidence presented to the hearings panel, the future role of the Bylaw was communicated as a key component to assist with implementation of the NDC. This Bylaw review is an opportunity to provide clarity as to how it operates in combination with the NDC and the SWCoP.

4.4 The Local Government Act 1974 provides additional powers in relation to stormwater and land drainage

Other than prosecution via the District Court, there are limited enforcement powers of the Bylaw and therefore Healthy Waters staff are often utilising the Local Government Act 1974 for stormwater related issues.

Enforcement powers exist in Sections 459-461 of the Local Government Act 1974 where the Council can require owners of land to provide for private drains in certain cases. Similarly, Sections 511-515 of the Local Government Act 1974 provide the Council the power to require the removal of obstructions from drainage channels and watercourses on private properties.

The prescriptive nature of the Local Government Act 1974 sections has been an enabling tool to fill enforcement gaps presented by the Bylaw which is limited to the issuing of bylaw notices, or full prosecution. As was discussed with operational Healthy Waters technical experts, this problem remains in relation to management of stormwater and its effects.
4.5 Stormwater problems relate to flooding, water quality contamination, connections, and private stormwater systems

Land drainage problems such as property flooding, contaminant discharges, management of connections and inconsistent operation of private stormwater systems are still common. This is evidenced by the feedback from technical experts, regulatory staff, mana whenua and those people who took part in the People’s Panel survey.

Technical experts and regulatory staff continue to identify:

- poor quality assets affecting network operation and cost signalling the need for connections and new vested assets to be approved in accordance with the Stormwater Code of Practice
- damage to the public stormwater network by members of the community or by contractors during physical works
- damage and nuisance (e.g. flooding, overland flow, erosion) to neighbouring properties caused by poorly managed private stormwater systems
- poor operation and maintenance of private stormwater systems and private watercourses affecting the performance of the public stormwater network, which significantly affects the outcomes of the NDC.

Through the hui, mana whenua identified:

- damage to taonga from stormwater borne contaminants
- flooding associated with inappropriately zoned land.

These observations are reinforced by the number of Requests for Service (RFS) received by Healthy Waters in the preceding financial years which are generally at or above 6000 requests per year. As indicated in Figure 4 below, there is no apparent clear trend (it is linked to the wet weather patterns observed each year), the data nonetheless indicates the scale of problems remain in terms of stormwater management prompting members of the public to contact the Council for assistance.
In the People’s Panel survey, members of the public reported:

- nuisance, inconvenience, or damage (e.g. from flooding or overland flow) on their property due to a stormwater issue in the last 12 months (reported by 28 per cent of people surveyed)
- when there was an issue with stormwater flowing from a neighbouring property, 82 per cent of people were not able to fully resolve the issue with their neighbour.

5. Has the Bylaw helped address the problem?

Given the data limitations, the review has used inductive reasoning to create conclusions that are ‘probably true’ or ‘likely to be true’ about the Bylaw’s effectiveness. This is discussed further in the following subsections.

5.1 The Bylaw can help mitigate and manage issues and risks

The Bylaw is an important tool to minimise risk to the operation of the public stormwater network by providing a holistic set of rules. This includes the spectrum of risk associated with the construction of new networks, working around existing networks (thereby mitigating damage) and also providing a regulatory tool to manage the risk associated with the operation of private stormwater systems which can feed into the public stormwater network.
5.2 The Bylaw fills a regulatory gap and compliments other regulations and legislation

The Bylaw is part of a suite of regulatory tools that is available to help manage stormwater and land drainage – including the Resource Management Act, Local Government Act and the Building Act. Each piece of legislation embodies some form of stormwater management whether it is:

- effects based (Resource Management Act – flood risk, erosion, water quality)
- empowering Councils to fulfil their delegations (Local Government Act – the ownership, operation and management of drainage and stormwater networks)
- enabling the construction of developments and associated stormwater systems (Building Act – building consents and Code of Compliance certification).

Notwithstanding this, the terms of reference for each piece of legislation is limited resulting in regulatory gaps which are filled for a range of issues by the current Bylaw. One example would be where permitted activity discharges under the Auckland Unitary Plan (and Resource Management Act) does not require consent monitoring on their operation and maintenance. However, small scale activities such as these do still contribute to the ultimate stormwater outcomes and should be maintained appropriately, and the Bylaw plays a part in that regulation.

The Bylaw is also an effective tool to address matters on implementation and to integrate the outcomes (e.g. SWCoP compliance and EPA) that are necessary to achieve effective land drainage and stormwater management in the Region. Hence, the Bylaw is an appropriate tool to address some stormwater management and land drainage matters, such as managing the construction of public stormwater assets, and the operation and maintenance of private stormwater systems that are not regulated by a consent.

5.3 The Bylaw can contribute to Māori outcomes, aspirations, and priorities

It is recognised that the bylaw should align with the Auckland Plan 2050 in providing for the Māori Identity and Wellbeing outcome. The Māori Plan 2017 also outlines a few key directions, and the bylaw purpose of managing land drainage aligns closely with Manaakitanga – Improve Quality of Life. As part of the engagement process throughout the Bylaw review, opportunities to promote Rangatiratanga – Enhance Leadership & Participation is also explored with mana whenua.

The Bylaw is limited in its scope to address effects-based issues associated with stormwater runoff such as stormwater contaminant accumulation in freshwater and marine receiving environments and adverse effects on taonga. There are objectives, policies, and rules in the AUP to address these matters.

As discussed above the Regionwide Stormwater Network Discharge Consent (NDC) will contribute to improvement of a range of environmental outcomes which were endorsed through consultation with mana whenua when the resource consent application was being developed by Healthy Waters.
Indirectly, the implementation of the Bylaw, noting the comments made in Section 4.3 above can contribute to receiving environmental outcomes sought by mana whenua by requiring compliance with the network connection and development standards stipulated in the NDC.

The hui held with mana whenua introduced the Bylaw, its purpose and the review that is being undertaken. Although largely unfamiliar with the Bylaw and its rules, there was general support for its role. The importance of taking action on regulating stormwater systems was highlighted, and the Bylaw does provide for requiring maintenance and operation of private systems. There were also concerns raised about infrastructure being placed on Māori land historically. Through the ongoing engagement between Healthy Waters and the mana whenua groups, there will be further opportunity understand the role of the Bylaw as it is operationalised in conjunction with the NDC.

5.4 Other stormwater bylaws around New Zealand cover similar core issues

A review of a selection of stormwater bylaws across the country from other councils indicate a similar set of core stormwater issues which are managed by the bylaws. These issues are addressed in the current Auckland Stormwater Bylaw 2015 and endorsement by the technical specialist and regulatory staff in workshops indicating the rules need to remain, including:

- stipulation of a code of practice in relation to stormwater network design to ensure fit for purpose vested stormwater assets
- protection of the stormwater network including:
  - controls for connections and the construction of new vested infrastructure
  - controls to prevent damage to the network, whether intentional or unintentional
- prevention of contaminant discharges into the stormwater network that may affect its operation and performance e.g. sediment, concrete
- requirements for the operation and maintenance of private stormwater systems including ground soakage systems.

6. Could the Bylaw be improved?

This section identifies possible improvements to the Bylaw. These suggestions will be assessed as part of an options report in response to the findings in this report.

6.1 Bylaw clauses about the public stormwater network could be clarified

A key aspect of the Bylaw is acknowledgement of its role in protecting the operation of the public stormwater network owned and operated by the Council. This is comprehensively addressed in the current Bylaw purpose and through clauses 10, 11, 12, 13, 15 and 17. Notwithstanding this, several issues were raised by the technical specialists in the workshops that could be clarified:

- requirements for operation of the stormwater network stormwater infrastructure to be kept free from obstructions adversely affecting stormwater conveyance functions

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• burying infrastructure (e.g. manholes) on private land (intentionally or unintentional) making it difficult for the Council to access for inspection and maintenance
• wilful damage to stormwater management devices (public and private) affecting their operational function e.g. stormwater contaminant treatment
• lack of awareness by the community around water sensitive design devices and subsequent damage e.g. stormwater treatment swales alongside roads being damaged by parked cars.

6.2 Bylaw clauses about private stormwater system design and construction could be improved

Private stormwater systems comprise downpipes, catchpits, private pipes and in some cases, on site stormwater management devices such as rain tanks (for harvesting and detention), permeable paving and rain gardens.

Robust design and construction, and ongoing operation and maintenance of private stormwater systems forms an important component of the regional stormwater management system by minimising local hazards to safety through authorised connections to the public stormwater network and minimising overland flow across private property boundaries.

Where applicable the private stormwater systems also contribute to the achievement of receiving environment outcomes such as stormwater volume control (rainwater harvesting and detention) to minimise stream channel erosion, and by providing stormwater runoff treatment.

The technical specialists and regulatory staff raised several new or known issues regarding the construction, operation, and maintenance of private stormwater systems.

Private stormwater systems are managed through the current Bylaw in clauses 14 (ground soakage) and 16 (maintenance and operation of private stormwater systems).

The issue of ongoing private device maintenance to ensure functionality in relation to water quality treatment, stream erosion management (stormwater detention/harvesting) and stormwater attenuation was consistently raised in workshops. Common examples were cited in the workshops by staff of water tanks being disconnected or on-site rain gardens being poorly maintained.

While the extent of this problem may not be fully understood given the lack of data availability as to device type and location, it is an issue which requires some attention. In some cases, existing devices date back to the 1990s and it is likely that greater emphasis will be given to on-site management (privately owned and operated) in the future in-line with the AUP (Policy E10 and E13), implementation of the NDC and international stormwater management guidance.

The design and construction of private stormwater management devices was also discussed in the workshop with the regulatory staff. Here it was noted consent notices/covenants on titles requiring devices (e.g. rain tanks) designed in accordance with a guideline such as GD01 and/or the Building Act have limited effectiveness as a regulatory tool based on the experience of staff. This is due to the Building Act and Code of Compliance being limited to construction in accordance with typical standards, not necessarily in relation to design functionality such as hydrology management (stormwater retention and detention) or water quality treatment.
Equally the current bylaw only addresses the design and construction of vested infrastructure with assessment through the EPA process meaning a gap exists in confirming private device design and construction requirements.

6.3 Bylaw clauses about existing private systems could be improved or clarified

The following issues were raised by the technical specialists and regulatory staff in relation to private stormwater drainage:

- prevention of harmful flooding effects resulting from unregulated impervious areas e.g. sheet flow onto other properties
- concentration of flow onto another person’s property can cause flooding nuisance not regulated by the AUP rules
- responsibility of landowners to keep watercourses free of pest plants, rubbish and debris that may impede surface water flow and cause flooding
- private landowner maintenance works resulting in detrimental effects on downstream property owners (e.g. displacement of flood storage)
- management of stream bank erosion on private property
- restrictions for activities on private properties that may result in damage or cause nuisance (e.g. flooding) to the public stormwater network or private stormwater systems.

Each of these issues generally relates to the management and mitigation of nuisance associated with stormwater runoff either across property boundaries, or in the case of watercourses running through private property, nuisance to upstream or downstream properties.

While the current Bylaw does address these matters, a review of the current clauses is recommended to assess whether the text can be improved or clarified.

For example, sheet flow of stormwater runoff from a paved area across a property boundary is not part of a stormwater system but can result in nuisance flooding. Issues raised related to the ‘restriction of activities on private property’ should be approached with caution in the review to not unduly seek to manage land use activities more appropriately regulated by the AUP. Equally other issues raised such as ‘private landowner maintenance works resulting in detrimental effects on downstream property owners’ appears to be a compliance matter related to how the Bylaw is enforced.

6.4 Other more general improvements to the Bylaw could be made

Several other matters were raised by the technical experts which were generally singular issues or related to existing Bylaw clauses. The extent to which they apply as part of the Bylaw review is to be determined:

- vehicle crossings and open drains:
  - assess vehicle crossover design to prevent nuisance associated with road runoff draining onto adjacent properties
  - investigate Waiheke roadside driveway drain design and implementation which is causing nuisance flooding
• rural drainage:
  o assess the operation and maintenance of open drains and the effects on private properties which is causing flooding/scour problems
  o review flooding issues at rural areas, such as the prevalence of infilling of drainage channels exacerbating local flooding
• definitions:
  o assess the definition of private/public land and alignment of public/private pipe definition with the SWCoP
  o assess the definition of public stormwater system, and whether it includes streams in the context of drainage channels
  o check the definition status of lined concrete channels (stream or stormwater network) and the status of farm drains.
  o improve the consistency of definitions in the Bylaw with the AUP
• climate change:
  o how to manage and acknowledge climate change in the Bylaw including removal or redundant stormwater systems (e.g. retreat) and adaptation
• Water sensitive design:
  o assess whether existing stormwater network Bylaw rules adequately include protection of water sensitive design type devices e.g. swales and rain gardens.

6.5 Bylaw enforcement and cost recovery powers could be clarified

A theme that emerged in the workshops with the technical specialists and regulatory staff was the limited enforcement capability of the Bylaw and limited financial consequences for bylaw offences as a deterrent. The ability to enforce the Bylaw rules were also queried in the mana whenua hui. Aside from the issuing of Bylaw notices, the remaining enforcement tool is prosecution setting quite a high bar for the gathering of evidence and assembling a case to take to the District Court. Since 2015, no prosecutions have been bought before the court for the breach of the Bylaw.

While it is acknowledged scope for enforcement action options (e.g. instant fines, infringement notices) is limited by the prescribed enforcement provisions of the Local Government Act 2002, other financial deterrents such as the ability to cost recover for Council staff time spent on bylaw breaches may be of assistance. Explicit provision for cost recovery is absent from the current clauses in the Bylaw detailing bylaw breaches.

6.6 The Bylaw could be rewritten to easier understand

Several of the technical specialists expressed the view that the Bylaw text was written in a legal language that was difficult to understand and that although this was their subject area, cited this matter would be exacerbated for members of the public. Improvements could include:

• aligning the Bylaw’s structure, layout, and appearance with current best practice drafting to be easier to understand
• use plain English rather than the rule framework that currently exists
• use explanatory notes where applicable
• the use visual aids to communicate issues.
6.7 Auckland is experiencing a drought

The Bylaw review was undertaken at a time when the Auckland region was facing a severe drought resulting in water use restrictions and the encouragement of community water conservation. This brings into light the value of stormwater as a resource that can be stored for non-potable reuse (e.g. toilet flushing, garden use) as a water sensitive design feature. At the time of writing this report, Council’s Plans & Places Department is investigating the issue of whether the AUP or a bylaw is the better tool to manage stormwater harvesting and reuse. Current regulation requiring the storage and harvesting of stormwater runoff is in Chapter E10 of the AUP and is also mandated in development rules for sensitive receiving environments such as the Long Bay catchment.

In these cases, although harvesting is a beneficial by product of water storage, the main outcome sought is in relation to stormwater volume control to assist with minimising stream channel erosion as a response to stormwater runoff generated from impervious surfaces. Further, the current regulatory framework triggers volume control (and harvesting) through new builds or when redevelopment results in resource consent requirement as is the case for the Chapter E10 AUP rules. This means much of the Auckland urban area connected to reticulated water supply is not supplemented by at source stormwater storage and harvesting. Although this issue is not currently addressed within the Bylaw, it relates to water sensitive design aspect of stormwater management and may be a matter for further assessment as part of the options report.

7. Does the Bylaw have any implications under the New Zealand Bill of Rights Act 1990?

Under the Local Government Act 2002, a bylaw review must consider whether a bylaw has any implications under the New Zealand Bill of Rights Act 1990. Legally a bylaw may not be inconsistent with the Act. This requires consideration of:

- whether the Bylaw limits any of the rights or freedoms contained in the Act
- if so, whether this limitation is “demonstrably justifiable in a free and democratic society”.

The current Bylaw does not have any Bill of Rights implications – any limits to rights or freedoms are considered to be proportionate and justifiable. Potential amendments that have been identified are unlikely to change this conclusion. However, this will be subject to legal review.

8. The statutory review finds that the Bylaw is still needed, but could be improved

In terms of the statutory findings bylaw review requirements under section 160(1) of the Local Government Act 2002, the research and engagement contained in this report has found that:

- a bylaw about stormwater remains the most appropriate way to manage activities that may cause nuisance, flooding or affect the operation of the public and private stormwater networks. Preventing or mitigating these problems contributes to the wellbeing of the community and environment and in turn aligns with policy direction in the Auckland Plan and the Auckland Unitary Plan
• the Bylaw is an appropriate form of bylaw but could be improved through the range of improvements that have been identified that may make the Bylaw more effective and efficient

• the Bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990. Any potential limitations are minor and justified to ensure land drainage is appropriately managed.

9. **Recommend developing an options report to respond to the findings**

It is recommended that an options report be prepared to respond to the findings in this report. In particular, the options report should help determine whether the Bylaw should be confirmed, amended, revoked, or replaced, and what improvements should be made.
Appendix A: 2015 Stormwater Bylaw
Stormwater Bylaw 2015
Ture-ā-rohe Wai Āwhā 2015

(as at 30 July 2015)

Made by the Governing Body of Auckland Council
by
Resolution in Council
(GB/2015/78)
on
30 July 2015

Pursuant to sections 145(a) and (b) and 146(b)(iv) of the Local Government Act 2002, the council makes
the following bylaw to manage stormwater.
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1 Title
This bylaw is the Stormwater Bylaw 2015.

2 Commencement
This bylaw comes into force on 1 November 2015.

3 Application
This bylaw applies to Auckland.

Part 1 - Preliminary provisions

4 Purpose
The purpose of this bylaw is to regulate land drainage, including to:
(a) manage the development and maintenance of the public stormwater network, and the land, structures, and infrastructure associated with that network;
(b) protect the public stormwater network, and the land, structures, and infrastructure associated with that network, from damage, misuse or loss;
(c) manage the use of the 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;
(d) ensure that discharges into the public stormwater network do not damage the network or compromise the council’s ability to comply with any applicable network discharge consent;
(e) prevent interference with the public stormwater network, and the land, structures, and infrastructure associated with that network;
(f) manage the public stormwater network, and the land, structures, and infrastructure associated with that network, so as to protect the public from nuisance and promote and maintain public health and safety;
(g) provide measures to manage the ground soakage systems that form part of the stormwater network;
(h) ensure the maintenance and operation of private stormwater systems, the removal or de-commissioning of redundant stormwater systems on private land to prevent damage to the stormwater network, to protect the public from nuisance and promote and maintain public health and safety.

5 Interpretation
(1) In this bylaw, unless the context otherwise requires,—
Annual exceedance probability/AEP has the same meaning as in the Auckland Unitary Plan. A ten per cent AEP flood plain is the area that would be inundated in a storm event of a scale that has a ten per cent or greater probability of occurring in one year.
Explanatory note: The Auckland Unitary Plan states:
Annual exceedance probability - The probability of exceeding a given storm discharge or flood level within a period of one year. For example, a 1 per cent AEP flood plain is the area that would be inundated in a storm event of a scale that has a 1 per cent or greater probability of occurring in one year.
Equivalent average return intervals (ARI) are:
1 per cent AEP = 100 year ARI
Approval means the prior written approval of the council issued under Part 4 of this bylaw and approve has a corresponding meaning.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

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

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

Code of Practice means the latest approved version of the Auckland Council Code of Practice in relation to the public stormwater network made under Part 2 of this bylaw.

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

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

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

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

Floodplain means the area that is expected or predicted to be inundated by water during a one per cent Annual Exceedance Probability rainfall event.

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

Explanatory note: The Auckland Unitary Plan states:

Infrastructure: - The facilities, services and installations that enable a community to function.

Includes activities, structures, facilities and installations for:
- airports
- airport approach surfaces
- water supply and wastewater reticulation (including storage and treatment facilities)
- broadcasting
- defence
- education
- electricity generation, transmission and distribution
- healthcare
- hospitals
- transmission, distribution and storage of gas and liquid fuels
- motorways and roads
- walkways and cycleways
Manager means a person who controls or manages any premises, or any activity or event on any premises, or operates a part of the stormwater network on the premises, regardless of whether that person has a proprietary interest in those premises or that activity or event or that part of the stormwater network.

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

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

Explanatory note: Section 29 of the Health Act 1956.

Without limiting the meaning of the term nuisance, a nuisance shall be deemed to be created in any of the following cases, that is to say:
(a) where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health;
(b) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health;
(c) where any premises, including any accumulation or deposit thereon, are in such a state as to be offensive or likely to be injurious to health;
(d) where any premises are so situated, or are in such a state, as to be offensive or likely to be injurious to health;
(e) [Repealed]
(f) where any building or part of a building is so overcrowded as to be likely to be injurious to the health of the occupants, or does not, as regards air, space, floor space, light, or ventilation, conform with the requirements of this or any other Act, or of any regulation or bylaw under this or any other Act;
(g) where any factory, workshop, shop, office, warehouse, or other place of trade or business is not kept in a clean state, and free from any smell or leakage from any drain or sanitary convenience;
(h) where any chimney, including the funnel of any ship and the chimney of a private dwellinghouse, sends out smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health, or in any manner contrary to any regulation or Act of Parliament.
(n) where the burning of any waste material, rubbish, or refuse in connection with any trade, business, manufacture, or other undertaking produces smoke in such quantity, or of such nature, or in such manner, as to be offensive or likely to be injurious to health;

(o) where any street, road, flight of way, passage, yard, premises, or land is in such a state as to be offensive or likely to be injurious to health;

(p) where any well or other source of water supply, or any cistern or other receptacle for water which is used or is likely to be used for domestic purposes or in the preparation of food, is so placed or constructed, or is in such a condition, as to render the water therein offensive, or liable to contamination, or likely to be injurious to health;

(q) where there exists on any land or premises any condition giving rise or capable of giving rise to the breeding of flies or mosquitoes or suitable for the breeding of other insects, or of mites or ticks, which are capable of causing or transmitting disease.

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

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

Explanatory note: The Auckland Unitary Plan states:
Overland flow path - Low point in terrain, excluding a permanent watercourse, where surface runoff will flow, with an upstream contributing catchment exceeding 4,000m².

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

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

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

Premises means either:

(a) a property or allotment which is held under separate certificate of title or for which a separate certificate of title may be issued and in respect of which a building consent has or may be issued; or

(b) a building that has been defined as an individual unit by a cross lease, unit title or company lease and for which a certificate of title exists; or

(c) an individual unit in a building where units are separately leased; or

(d) land held in private or public ownership.

Private land means any land that is not public land.

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

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

Public stormwater network means:

(a) any stormwater pipe, drain, land drainage work or treatment facility, vested in or under the control of the council; and

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

Redundant system means a system, structure or device that has been replaced by another system, structure or device and is no longer required as part of the stormwater network under any building or resource consent condition or engineering approval related to the site.
Resource consent means a resource consent issued under the Resource Management Act 1991 and operative resource consent means a resource consent that has commenced and has not lapsed or been surrendered.

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

Explanatory note: Section 197 of the Local Government Act 2002: Service connection means a physical connection to a service provided by, or on behalf of, a territorial authority.

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

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

Explanatory note: The Auckland Unitary Plan states:
Stormwater management devices - A device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge.
Includes:
• rain gardens
• porous paving
• infiltration trenches
• sand filters
• green roofs
• wetlands
• ponds
• proprietary devices.

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

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

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

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

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

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

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

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

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

Explanatory note: Section 2 of the Resource Management Act 1991 states:
wetland includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

(2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act.
(3) Explanatory notes have been included for information purposes only. They do not form part of this bylaw, and may be made, amended, or revoked without formal process.

(4) The Interpretation Act 1999 applies to this bylaw.

Part 2 - General

6 Controls specified under the bylaw

(1) Any control specified by the council under clauses 8, 14, 15, or 16 of this bylaw:

(a) must, after giving consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the particular control, be made by a council resolution that is publicly notified; and

(b) may:

(i) prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;

(ii) apply to all activities or to any specified category of activity;

(iii) apply to Auckland or to a specified part of Auckland; and/or

(iv) apply at all times or at any specified time or period of time.

7 Relationship with other legislation

(1) Compliance with the requirements of this bylaw does not remove the need to comply with the requirements of any Act, regulation, or other bylaw.

(2) Unless expressly specified in this bylaw, compliance with the requirements of any Act, regulation, or other bylaw does not remove the need to comply with the requirements of this bylaw.


Explanatory note:
The effect of this clause is to require that works and activities regulated by the Resource Management Act 1991 must first be authorised pursuant to that Act before they may be carried out, notwithstanding that they are authorised by this bylaw. In other words, where necessary, works and activities proposed under this bylaw should first be incorporated in the relevant plan under the Resource Management Act or made the subject of an application for a resource consent.

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

Part 3 - Safe and efficient stormwater network

8 Controls and code of practice

The council may specify controls by guidelines or codes of practice for:

(a) the maintenance and construction of any work that affects the public stormwater network; or

(b) access to the built components of the public stormwater network.
9 Stormwater network development and connections

(1) Unless the council approves otherwise, any vested stormwater asset must comply with the Code of Practice on the date the asset is vested in the council.

(2) A person must obtain approval from the council before:
   
   (a) undertaking work to:
       (i) construct a vested stormwater asset; or
       (ii) alter or modify any part of the public stormwater network; or
   
   (b) making any new service connection to the public stormwater network.

(3) A person must obtain approval from the council and the Auckland Water organisation before making any new service connection for the discharge of stormwater to the wastewater network.

   Explanatory note: A resource consent under the Auckland Unitary Plan and/or a building consent under the Building Act 2004 may also be required.

(4) Any vested stormwater asset referred to in this clause remains the responsibility of the owner of the premises until it is vested in the council.

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

(1) Unless the council approves otherwise, any structure on, over, or within the proximate distances from the public stormwater network specified in the Code of Practice must comply with the Code of Practice with regard to the protection of the public stormwater network.

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

   Explanatory note: The council will apply the New Zealand Transport Agency Bridge Manual that limits the load on infrastructure to that of the soil overburden together with the weight of a HV-HO-72 axle or axle load in assessing if a load is excessive.

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

   Explanatory note: The code of practice prescribes the process of gaining access along with health and safety requirements.
11 Obstructions and diversions of stormwater

(1) Unless the council approves otherwise or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent, no person may stop, obstruct, alter, interfere with, or divert any watercourse, flood plain, overland flow path, drain, or wetland on public land, in a manner likely to:

(a) adversely affect the performance of the watercourse, flood plain, overland flow path, drain or wetland;

(b) adversely alter the velocity of stormwater; or

(c) adversely divert the flow of stormwater.

(2) Unless the council approves otherwise or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent, the owner, occupier, or manager of any premises on private land must ensure that any watercourse, flood plain, overland flow path, drain or wetland on the premises is kept free from obstruction that is likely to:

(a) adversely affect the performance of the watercourse, flood plain, overland flow path, drain or wetland;

(b) adversely alter the velocity of stormwater; or

(c) adversely divert the flow of stormwater.

(3) No person may discharge stormwater from a premises with an impervious area greater than that permitted in the Auckland Unitary Plan or an operative resource consent.

(4) The owner, manager, or occupier of a premises must take reasonable preventative measures to avoid nuisance during a flood event.

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

12 Alterations or damage to public stormwater network

A person must obtain approval from the council before damaging, modifying, or altering the hydraulic performance of the public stormwater network.

13 Alterations or damage to natural stormwater network

(1) No person may 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.

(2) Subclause (1) does not apply to the removal or damage of pest plants.

14 Ground soakage systems

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

(2) The council may specify areas in Auckland on any premises within which stormwater disposal must be by ground soakage, unless site conditions prevent it.

(3) No person may discharge a contaminant into a ground soakage system if the discharge is likely to cause nuisance or adversely affect the operation of the ground soakage.
system, unless the council approves or it is permitted in the Auckland Unitary Plan or expressly authorised by an operative resource consent.

(4) Any new ground soakage system must comply with the requirements of the Code of Practice and any applicable council soakage design manuals.

Explanatory note: The Building Code allows territorial authorities to develop alternative verification methods based on hydrological modelling. The controls specified will not be more stringent than allowed for under the Building Code. Generally as a minimum a soakage system shall be designed to receive stormwater from the site up to a ten per cent AEP storm event unless otherwise approved by the council. (See clause 16)

A building consent is required for construction or alteration of any private stormwater disposal system using ground soakage. Areas for soakage include but are not limited to parts of Elenate, Penrose, Cinehuanga, Mt Eden, Epsom, Mt Roskill and, Mt Albert, Pakuranga, Pukekohe, Wairau, and Mangere Bridge.

15 Discharge of contaminants to the stormwater network

(1) No person may discharge directly or indirectly a contaminant into the public stormwater network if the discharge is likely to cause nuisance or adversely affect the operation of the stormwater network unless the council approves or that person is expressly authorised by an operative resource consent.

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

(2) The council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network:

(a) where on any premises certain sensitive activities, such as machinery washdown and bulk storage, must be carried out;

(b) device maintenance requirements, such as catchpit clearance; and

(c) the installation and use of treatment and mitigation measures or devices.

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

Explanatory note: The purpose of clause 15 is to protect the operation of the public stormwater network, to ensure the council can protect its stormwater assets and comply with any relevant network discharge consents. This is consistent with the council’s position that the stormwater bylaw focuses on managing activities that impact on the stormwater network, while the Resource Management Act 1991 considers effects on the environment. Specifically under the Resource Management Act 1991, a discharge to the public stormwater network is not considered a discharge to the environment; clause 15 enables the council to manage discharges into the public stormwater network.

16 Maintenance and operation of private stormwater systems

(1) Unless the council approves otherwise, the owner and manager of any private stormwater system is responsible for the operation of that system.

(2) The owner and manager of a private stormwater system must ensure that the system:

(a) is maintained in good operating condition; and

(b) does not cause or contribute to nuisance.

(3) The owner, occupier, and manager of a premises on which there is a watercourse, stop bank, or other defence to water, must maintain that watercourse, stop bank, or other defence to water in an operational state which ensures the free flow of water.
(4) Subclause (3) does not apply to any watercourses, stop banks, or other defences against water that are part of the public stormwater network.

(5) The council may specify controls for the disposal of stormwater through soakage, including prescribing an AEP storm event, for sites in a specified area.

Explanatory note: This clause will apply to both new and existing ground soakage systems in a specified area. The controls specified will not be more stringent than the minimum standard required under the Building Code. Generally a minimum a soakage system shall be designed to receive stormwater from the site up to a ten per cent AEP storm event unless otherwise approved by the council.

(6) The owner, occupier, or manager of a premises that has a soakage system as part of a private stormwater system which may cause a nuisance must ensure that the soakage system disposes of the stormwater from the site in accordance with any controls the council specifies.

(7) The owner or manager of a private stormwater management device must, on request by the council:
(a) provide such information as is required to demonstrate that the stormwater management device is operated and maintained to achieve its purpose and not cause nuisance in a storm event up to the standard specified in the control under subclause (5) or by an operative resource consent, and
(b) carry out such works as are required to ensure the stormwater management device meets its purpose.

(8) The owner or manager of a private on-site stormwater management device must:
(a) keep a copy of the operations and maintenance manual (owner’s manual) and as built drawings for the device available; and
(b) produce that copy of the owner’s manual and as built drawings upon request by the council.

17 Removal of redundant system

(1) To prevent damage to the stormwater network, protect the public from nuisance or promote and maintain public health and safety, the council may require the owner of a private stormwater system or any part thereof, including any stormwater management device, culvert, or stormwater detention pond that has become redundant as part of the primary method of stormwater drainage, to remove or de-commission that system or part thereof.

(2) The owner of a redundant part of the stormwater system that has been removed or de-commissioned must ensure that the premises on which the system is located or was previously located is restored to the satisfaction of the council.

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

Part 4 - Approvals, permits and administrative matters

18 Application for approval of the council

(1) An application to obtain the approval of the council under this bylaw must be:
(a) made in the prescribed form; and
(b) accompanied by:

(i) payment of the application and processing fees; and
(ii) such further supporting information as the council requires to process the application.

(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.

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

19 Consideration of application for approval

(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:

(e) any known past operational or compliance issues which may affect, or may in the future affect, the performance of the stormwater network;
(b) the characteristics, features, and nature of the infrastructure, premises, stormwater asset, device, private stormwater system, and public stormwater network;
(c) compliance with the Code of Practice if applicable;
(d) compliance with the Auckland Unitary Plan, and any applicable Acts, Regulations, and other bylaws;
(e) the extent to which the approval will promote:

(i) the achievement of the council’s strategies and policies for the management of stormwater;
(ii) the achievement of any applicable national environmental standards; and
(iii) the outcomes of any applicable national policy statements.

(f) any operational policy, guidance document, or management practice approved by the council;
(g) 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;
(h) the complexity of the issue and the cost required to suitably resolve it; and
(i) any other reasonable considerations the council considers appropriate.

(2) The council may grant an application for approval only if it is satisfied that:

(a) granting the approval will not significantly prejudice the attainment of the bylaw’s purpose; and
(b) at least one of the following applies:

(i) the work, thing, or issue that approval is applied for is in substantial compliance with the bylaw and further compliance is unnecessary; or
The work, thing, or issue provided for, under the approval is as effective as, or more effective than, compliance with the bylaw.

Events have occurred that make compliance with the bylaw unnecessary or inappropriate in the particular case.

20 Conditions of approval

The council may make an approval subject to the following matters:

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

21 Non-compliance with conditions of an approval

Where a person does not comply with the terms and conditions of the approval granted by the council, the council may take one or more of the following steps:

(a) Issue a written warning to the person, which may be considered as evidence of a prior breach of a condition 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
   (iii) withdrawal of the approval.

22 Maintenance and construction requirements

(1) The owner, occupier, or manager of a premises on which work occurs for which the council has given approval under this bylaw must maintain the approved work in a
proper state of condition and repair and must comply with the conditions of approval, guidelines and codes of practice set by the council.

(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.

(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, occupier, or manager of a premises, unless required otherwise by the council.

Part 5 – Enforcement, offences and penalties

23 Enforcement

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

(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.

Explanatory note: Steps taken by the council will be against the person most able to ensure compliance with the bylaw. This is a matter for the council’s discretion.

24 Removal of construction

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.

25 Breaches of the bylaw

(1) A person who fails to comply with this bylaw commits a breach of this bylaw and:

(a) is liable to a penalty under sections 239 and 242 of the Act; and

(b) in the particular circumstances, may also be liable to a penalty under the Resource Management Act 1991, the Health Act 1956, the Land Drainage Act 1908, the Bylaws Act 1910, the Soil Conservation and Rivers Control Act 1941, the Litter Act 1979, or any other applicable Act.

Explanatory note: Breach of the bylaw is an offence under section 239 of the Local Government Act 2002, punishable by a fine of up to $20,000 under section 242 of that Act. Breach of the bylaw may also be an offence punishable under the Resource Management Act 1991, the Health Act 1956, the Land Drainage Act 1908, the Bylaw Act 1910, the Litter Act 1979, and any other applicable Act, depending on the circumstances.

(2) The council may require the owner, occupier or manager of a premises by written notice to remedy any breach of this bylaw.

26 Exceptions

A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the written directions of an authorised officer or in accordance with an approval of the council.
Part 6 - Savings, transitional provisions and revocation

27  Savings and transitional provisions

(1)  This clause applies to:

(a)  Auckland City Council Stormwater Bylaw 2008;

(b)  Papakura District Council Stormwater Bylaw 2008; and

(c)  Chapter 21 (Stormwater drainage) of the Rodney District Council General Bylaw 1998.

(2)  Any resolution or other decision made under the bylaws referred to in subclause (1) remains in force in the area to which it applies until revoked or replaced by an equivalent resolution or decision made by the council under this bylaw.

(3)  Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in subclause (1) continues in force but:

(a)  expires:

(i)  on the expiry date specified in that approval; or

(ii)  if no expiry date is specified in that approval, 12 months from the date that this bylaw comes into force; and

(c)  can be renewed only by application made and determined under this bylaw.

(4)  Any application for a consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in subclause (1) that was filed before the day on which this bylaw commences but is not yet determined must be dealt with by the council under the former bylaw as if this bylaw had not been made.

28  Revocations

(1)  The following bylaws are revoked:

(a)  Auckland City Council Stormwater Bylaw 2008;

(b)  Papakura District Council Stormwater Bylaw 2008; and

(c)  Chapter 21 (Stormwater drainage) of the Rodney District Council General Bylaw 1998.
Additional information to Stormwater Bylaw 2015

This document is for information purposes only and does not form part of this bylaw. It contains matters made pursuant to this bylaw, and information to help users understand, use and maintain this bylaw. The document may be updated at any time.

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### Section 1: History of bylaw

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<tr>
<td>Make</td>
<td>Stormwater Bylaw 2015</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>Revoke</td>
<td>Auckland City Council Stormwater Bylaw 2008</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>Appointment of Hearing Panel for the proposed Stormwater Bylaw 2014 (part of report CP2014/08995)</td>
<td>Regulatory and Bylaws Committee resolution of 20 May 2014</td>
<td>RBC/2014/21</td>
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<td>Background Report for the Hearing of Submissions on the proposed Stormwater Bylaw 2014 (report dated 31 October 2014)</td>
<td>Submissions report to the Stormwater Bylaw hearings panel for its hearings meeting on 10 November 2015</td>
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<tr>
<td>Resolution making the bylaw and revoking the legacy stormwater bylaws</td>
<td>Governing Body resolution of 30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<th>Function, duty or power to be delegated</th>
<th>Delegated authority</th>
<th>Date of delegation decision</th>
<th>Decision reference</th>
<th>Commencement of delegation</th>
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<td>6</td>
<td>Any control specified by the council under clauses 8, 14, 15, or 16 of this bylaw.</td>
<td>Regional Strategy and Policy Committee</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
<td>1 November 2015</td>
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<td>8</td>
<td>The council may specify controls by guidelines or codes of practice for: (a) the maintenance and construction of any work that affects the public stormwater network; or (b) access to the built components of the public stormwater network.</td>
<td>Regional Strategy and Policy Committee</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>14(1) and (2)</td>
<td>(1) The council may specify controls for stormwater disposal that occurs by way of ground soaking by guidelines or codes of practice. (2) The council may specify areas in Auckland on any premises within which stormwater disposal must be by ground soaking, unless site conditions prevent it.</td>
<td>Regional Strategy and Policy Committee</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>15(2)</td>
<td>The council may specify controls for the following matters in relation to the discharge of stormwater to the public stormwater network: (a) where on any premises certain sensitive activities, such as machinery wash-down and bulk storage, must be carried out; (b) device maintenance requirements, such as catchpit clearance; and (c) the installation and use of treatment and mitigation measures.</td>
<td>Regional Strategy and Policy Committee</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>Item</td>
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<td>16(5)</td>
<td>The council may specify controls for the disposal of stormwater through soakage, including prescribing an AEP storm event, for sites in a specified area.</td>
<td>Regional Strategy and Policy Committee</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<td>All other clauses in the bylaw</td>
<td>Tier 3 manager – Infrastructure and Environmental Services department</td>
<td>30 July 2015</td>
<td>Resolution number GB/2015/78</td>
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<th>Legislative provision</th>
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<tr>
<td>Local Government Act 1974</td>
<td>451 - agreement required before doing work that affects Council drainage works. 459(1)(f) - the council may require owners of land in certain cases to provide private drains which in the opinion of the council are necessary or expedient for the efficient drainage of the premises and every part thereof. (also provision for drains which service multiple properties) 462 - The council may by resolution passed at a meeting of which at least 14 days' public notice has been given, declare any specified private drain in the district to be a public drain. This would allow the council to declare private streams to become public drains 467 - cannot connect private drain with public or private drain or covered watercourse without consent 468 - removal of tree roots obstructing private drains 509 - for public drainage requirements to be constructed, 510 - inspection of dams etc. 511 - removal of obstructions from drainage channels and watercourses and from a margin no greater than 3m. Schedule 14 - provides for vehicular access along watercourses and drains for cleaning/cleaning/maintenance work etc. 511 - provides for vehicular access along watercourses and drains for cleaning/cleaning/maintenance work etc.</td>
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<tr>
<td>Subpart 2 of Local Government Act 2002</td>
<td>162 - Injunctions restraining commission of offences and breaches of bylaws 163 - Removal of works in breach of bylaws 164 - Seizure of property not on private land 165 - Seizure of property from private land 166 - Power to dispose of property seized and impounded 171 - General power of entry 172 - Power of entry for enforcement purposes 175 - Power to recover for damage by wilful or negligent behaviour 176 - Costs of remedying damage arising from breach of bylaw 178 - Enforcement officers may require certain information</td>
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<td>Subpart 3— of Local Government Act 2002</td>
<td>183 - Removal of fire hazards 185 - Occupier may act if owner of premises makes default 186 - Local authority may execute works if owner or occupier defaults 187 - Recovery of cost of works by local authority 188 - Liability for payments in respect of private land</td>
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<td>Health Act 1958</td>
<td>34 Power to abate nuisance without notice</td>
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<td>Land Drainage Act 1908</td>
<td>23 - may make drains from private lands and attribute costs between benefiting parishes. 25 - watercourses not to be allowed to become nuisance. Board is liable for damage. 26 - prohibits interfering with drains (including private drainage to watercourses). Costs can be recovered, works required and a fine of not more than $60 27 - requires the removal of trees where it affects or is likely to affect any public drain. Cost recovery provisions also. 62 - removal of obstructions 63 - the council required to act within 28 days notice from a customer of weeds and obstructions Part 4 - provides for drainage across multiple properties</td>
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<td>Soil and Conservation and Rivers Control Act 1941</td>
<td>134 - provides for pest animal management and afforestation. 154 - every person who wilfully destroys or damages any watercourse or defence against water, any plantation or work under the control of the Minister or of any Board, commits an offence and is liable to a fine not exceeding $10,000.</td>
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<tr>
<td>Miscellaneous legislation</td>
<td>Infrastructure (Amendments Relating to Utilities Access) Act 2010 - access by utility providers Land Transport Act 1998 - drainage into the public system Land Transport Management Act 2003 - the Transport agency may determine what part of a road is a drain</td>
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North Shore Boroughs (Auckland) Water Conservation Act 1944 provides for the creation of bylaws that secure or maintain the purity of the water in the lake.
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<th>Infringement fee</th>
<th>Other penalty</th>
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<tr>
<td>Clause 24(1)(a)</td>
<td>A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Act</td>
<td>Under sections 239 and 242 of the Act person who is convicted of an offence against a bylaw made under the Act is liable to a fine not exceeding $20,000.</td>
<td>nil</td>
<td></td>
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<tr>
<td>Clause 24(1)(b)</td>
<td>A person who commits a breach of this bylaw that is also an offence under any other Act may also be liable to the penalty under those Acts. Such Acts may include: Resource Management Act 1991; Land Drainage Act 1908; Litter Act 1979; Health Act 1956; Hazardous Substances New Organisms Act 1996; Local Government Act 1974.</td>
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Section 8: Monitoring and review

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<th>Performance indicator</th>
<th>Measured by</th>
<th>Target</th>
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