

Waikato District Council

Stormwater Bylaw 2021

Waikato District Council, in exercise of its powers under the Local Government Act 2002 Land Drainage Act 1908 and the Health Act 1956 and any subsequent amendments to the Acts and all other relevant powers, makes the following bylaw.

1. SHORT TITLE, COMMENCEMENT AND APPLICATION

- 1.1. The bylaw shall be known as the “Waikato District Council Stormwater Bylaw 2021”.
- 1.2. The bylaw shall apply to the Waikato District.
- 1.3. The bylaw shall come into force on 01 October 2021.

2. SCOPE

- 2.1. This bylaw shall apply to the any land, building, work, property or catchment under the control of the Waikato District Council and to both public and private stormwater systems and watercourses.

3. PURPOSE

- 3.1. The purposes of this bylaw are to enable Waikato District Council to:
 - (a) Manage the entry of contaminants into the stormwater system to support the protection and restoration of the health and wellbeing of the receiving environment e.g. Waikato River and coastal areas.
 - (b) Manage the land, structure or infrastructure associated with stormwater drainage within its control.
 - (c) Meet any compliance requirements of any discharge consents relating to stormwater.
 - (d) Protect and regulate against damage, misuse, or loss of the land, structures, or infrastructure related to stormwater drainage.
 - (e) Prevent the unauthorised use of the land, structures or infrastructure related to stormwater drainage.
 - (f) Ensure watercourses, that form part of Waikato District Council’s stormwater systems, remain clear and unobstructed.
 - (g) Protect, promote, and maintain public health and safety.
 - (h) Protect the public from nuisance materials.

4. COMPLIANCE WITH OTHER ACTS AND REGULATIONS, BYLAWS AND CODES

- 4.1. This Bylaw has been developed in accordance with all relevant legislation, Council policy relating to Stormwater and guidance.
- 4.2. Compliance with the requirements of this bylaw does not remove the need to comply with the requirements of any Act, regulation other bylaw and codes.

5. DEFINITIONS

5.1. In this bylaw except where inconsistent with the context:

Approval	Means approved in writing by the Council, either by resolution of the Council or by any Authorised Officer of the Council.
Authorised Officer	Means any person authorised by the Council to carry out general or specific duties arising from any of the provisions of this bylaw, unless stated otherwise.
Council	Means the Waikato District Council or any person authorised to act on its behalf.
Council Policy	Means any Waikato District Council Policy either directly or indirectly related to Stormwater.
Ecological device	Includes devices such as fish ramps and any constructed fish protection structures designed to preserve aquatic habitat or passage.
High Risk Facility	Means a facility identified as a high-risk facility: <ol style="list-style-type: none"> I. In the list attached to this Bylaw as Schedule One; II. Through consent conditions due to the potential source of stormwater contaminants (routine and non-routine); or III. Waikato Regional Councils' development and stormwater management guidelines.
Nuisance material	Means anything that is not stormwater, including but not limited to substances that; <ol style="list-style-type: none"> (a) Pose a danger to life (b) Pose a danger to public health (c) Cause flooding of any building floor or sub-floor, or public roadway (d) Cause damage to property (e) Cause a negative effect on the efficient operation of a stormwater system (f) Cause damage to any part of a stormwater system (g) Cause erosion or subsidence of land (h) Cause long or short-term adverse effects on the environment (i) Cause adverse loss of riparian vegetation (j) Cause wastewater overflow to land or water (k) And includes anything that causes a breach of any condition of any stormwater discharge consent for which Council is responsible.
Occupier	The person or legal entity having the legal right to occupy, and use all or part of the premises, and includes a tenant, lessee, licensee, manager or foreperson or any other person acting in the general management of the premises.
Open Drain	Means any system that collects and transports stormwater or groundwater through a series of open channels or ditches, including culverts and pipes in areas of vehicle or road crossings.

On-lot Devices	Means stormwater management devices and/or facilities that are situated on private property and which are privately owned and maintained.
Overland Flow Path	Means the route along which stormwater flows. A subset of an overland flow path is called “secondary flow path”. These routes carry water which cannot flow through the primary stormwater system (usually piped) because the water flow has exceeded the capacity of that network.
Stormwater	Means surface water runoff that enters or may enter the stormwater system as a result of a rain event; or: <ol style="list-style-type: none"> (a) Ground water that enters into the stormwater system; and (b) Contains any substance where the type and concentration of the substance is consistent with the contributing catchments land use(s) and that of the receiving environment.
Stormwater System	Includes any land, structure or infrastructure associated with stormwater drainage, including: <ol style="list-style-type: none"> (a) Private Stormwater System - Means all privately owned components of a stormwater system, including pipes, gutters, downpipes, catchpits, soakage systems, and Stormwater Management Devices that are located on private property, up to the point of discharge into the public stormwater system or a watercourse. (b) Public Stormwater System - Means all components of the stormwater system owned by any Council or government organisation (including NZTA), including drains, kerbs and channels, catchpits, pipes, manholes and lateral connections and Stormwater Management Devices that carry away stormwater, whether or not any part of the system passes through private property.
Stormwater Management Device	Means a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge, including, but not limited to: <ul style="list-style-type: none"> • rain gardens • infiltration trenches • sand filters • green roofs • wetlands • swales • ponds • rain water tanks • propriety devices
Trade Waste Management Plan	Means a plan for the management of the operations on the Premises from which Trade Waste comes, and may include provision for flow and quality monitoring, sampling, and testing, cleaner production, waste minimisation, discharge, contingency management procedures, or any relevant industry Code of Practice (<i>Refer current Waikato District Trade Waste and Wastewater Bylaw</i>).
Watercourse	Means a channel that conveys water whether or not it passes through private property and includes channels where, due to seasonal variations, water does not permanently flow.

Wastewater System Includes all wastewater conveyance and treatment systems (pipes, fittings, manholes, pumps, pump stations; and any land, buildings, treatment works) which are under the control of the Council for the purpose of providing a wastewater service.

6. STORMWATER SYSTEMS REQUIREMENTS

6.1. Connecting to the Stormwater system

- (a) No person may, without written approval from the Council, connect into the Public Stormwater System;
- (b) Any Person wishing to connect to, disconnect from, or work on the Stormwater System, must apply to the Council for Approval and provide any information required by Council.
- (c) Prior to providing any approval Council may require demonstration:
 - i. From the owner or occupier of a site that a discharge of stormwater to the network will comply with any current Resource Consents within the Waikato District and /or catchment and may impose conditions.
 - ii. That the connection complies with the requirements of any integrated Catchment Plan.

6.2. Protection of Stormwater System

- (a) A person must not, without specific prior approval of Council, discharge or allow to be discharged into the Public Stormwater System, any material, chemical, (including pool water, chlorine and detergents), rubbish, litter, sediment, concrete, cement slurry, sewage, effluent, solvents, fungicide, insecticide, and green waste or other substance that becomes or is likely to become a Nuisance material.
- (b) Any person undertaking earthworks must take all practicable steps to store, handle, transport and use materials in such a way that prevents any Nuisance Material from entering the Stormwater System.
- (c) Any person undertaking earthworks must ensure that controls are in place to prevent Nuisance material entering the Stormwater System.

Advisory Note 1: for further information on sediment control refer to Council's "A Guide to Sediment Control on Building Sites".

- (d) Any person who knows of the entry or imminent entry of Nuisance Material to the Stormwater System must immediately:
 - i. Take all practicable steps to stop the imminent entry or further entry of any Nuisance Material to the Stormwater System; and
 - ii. Inform Council as soon as practicable.
- (e) Any owner, occupier, or manager of a Trade Waste identified High-Risk Facility must install and maintain an appropriate private stormwater interception system to eliminate as far as practicable and otherwise minimise the risk of Nuisance Material entering the public stormwater system.

- (f) Any owner, occupier or manager of a Trade Waste identified High-Risk Facility must develop, maintain, and keep available for inspection a Trade Waste Management Plan (as part of any management plan required by the Waikato District Trade Waste and Wastewater Bylaw 2016) which eliminates as far as is practicable and otherwise minimises any risk of a breach of this Bylaw. Council may require the Trade Waste Management Plan to be submitted for approval.
- (g) The owner, occupier, and all persons on the site of a Trade Waste identified High-Risk Facility must comply with the requirements of the Trade Waste Management Plan.

Advisory Note 2: where Nuisance Materials are not managed to the satisfaction of Council, Council may require the owner/occupier to divert the Nuisance Material to wastewater and apply for a Trade Waste consent in accordance with the Waikato District Trade Waste and Wastewater Bylaw 2016.

Advisory Note 3: For the avoidance of doubt, swimming or spa pool water arising from emptying or backwashing may not be discharged into the Stormwater network. Disposal of such water is to the wastewater network as provided for in the Waikato District Trade Waste and Wastewater Bylaw 2016 or may be discharged to land in a controlled manner in such a way that it can soak into a vegetated area and cannot reach a reticulated public Stormwater network or Watercourse.

6.3. Damage to the Public Stormwater System

- (a) No person shall cause, or allow to be caused, any damage to, or destroy any:
 - i. Dam
 - ii. Weir
 - iii. Stormwater Management device
 - iv. Swale
 - v. Overland flow path identified in a land use consent notice, other documents of Council or illustrated in integrated catchment management plans.
 - vi. Stopbank
 - vii. Headworks
 - viii. Building
 - ix. Treatment device
 - x. Drainage reserve land
 - xi. Ecological device
 - xii. Erosion and scour control structures
 - xiii. Stormwater inlet and outlet structures
 - xiv. Stormwater pipes; or
 - xv. Any other installation connected with the stormwater system and under control of the Council.
- (b) No person shall modify, interfere with, or remove any of the items listed in Clause 6.3(a) without the prior approval of Council.
- (c) Every person excavating or working around the Public Stormwater System must take any necessary precautions to ensure that the excavation or work is carried out in a manner that does not damage and/or compromise the integrity of the Stormwater System.

- (d) No person shall cause a temporary or permanently sustained excessive load on the public stormwater network that is likely to result in damage to the network.
- (e) Any person who becomes aware of damage to a stormwater system must report it to the Council immediately.

6.4. Building works in proximity to the Stormwater System

- (a) Any person intending to carry out any building works within five meters of the Public Stormwater System must:
 - i. make an application to Council to build adjacent to Public Stormwater System;
 - ii. not proceed with any works until such time as Approval is granted;
 - iii. upon Approval being granted, notify Council at least 10 working days before undertaking the building works within 5 metres of the Public Stormwater System.
- (b) Any building works carried out within five meters of the Stormwater System must comply with the requirements of the Regional Technical Infrastructure Specification.

6.5. Obstructions and Capacity of the stormwater system

- (a) A person must not, without the prior approval of the Council:
 - i. Do anything that directly or indirectly obstructs, alters, or impedes the natural flow of the Stormwater System.
 - ii. Obstruct or hinder any part of Public or Private Stormwater System in a manner that is likely to cause a nuisance to the public.
 - iii. Erect any structure or stop bank, grow any vegetation, deposit any waste, or carry out any activity that is likely to cause an adverse impact to the Public Stormwater System during a storm event.
 - iv. Obstruct or alter any overland flow paths identified in a land use consent notice, or other documents of council with any material or structures such as earth bunds, buildings, fences, retaining walls and rock gardens.
 - v. Pump or divert water into any watercourse or Public Stormwater System.
 - vi. Cause water to flow into a watercourse or Public Stormwater System from outside the catchment area where, in the opinion of any Authorised Officer, the water will overload the capacity or will otherwise interfere with the proper functioning of the watercourse or Public Stormwater System.
- (b) A person must not, without the prior approval of Council:
 - i. Stop, modify, divert or deepen any open drain; or
 - ii. Divert any open drain or otherwise cause stormwater to flow into the wastewater system.

Advisory Note 4: Obstructions to the flow of water include but are not limited to earth bunds, buildings, fences, retaining walls, rock gardens, earth, stone, timber, trees, plants, weeds and growths of all kinds that will impede the free flow of water.

6.6. Private Stormwater Systems Requirements

- (a) Where it is identified that a Private Stormwater System is not operating effectively, Council may issue a Notice to fix under the Building Act 2004 to require an owner or occupier of a property to fix the Private Stormwater Systems, including Stormwater Management Devices, at the owner's cost, to meet original design specifications.
- (b) An owner or occupier must ensure that a Stormwater Management Device in a Private Stormwater System is adequately maintained to perform the intended function/design, including:
 - i. the removal of any obstruction or material that impedes or is likely to impede the free flow or draining of water; and
 - ii. the repair or replacement of any part of the Stormwater Management Device that prevents or impedes the full functioning of the device.
- (c) An owner or occupier of a property must take all reasonable steps to ensure that a Stormwater Management Device in a Private Stormwater System does not allow Nuisance Material to enter the Public Stormwater System.
- (d) If the owner or occupier of a property does not maintain or fix any Private Stormwater System, Council reserves the right to enter the property to carry out maintenance or fix the system and recover any costs in accordance with section 186 of the Local Government Act 2002.
- (e) No owner or occupier may remove a Private Stormwater System or do anything which reduces its effectiveness without written approval from the Council.
- (f) No person shall allow Stormwater to enter the Wastewater System without prior approval from Council.
- (g) The owner, occupier, or manager of a property that has a soakage system as part of a Private Stormwater System must ensure that the soakage system disposes of the stormwater from the site in accordance with original design specifications at the owner's cost.
- (h) Owners or occupiers are responsible for:
 - i. ensuring the maintenance of any watercourse on their property, including the removal of any obstruction that impedes or is likely to impede the free flow of water; and
 - ii. the provision of any treatment system required to treat stormwater runoff (for example, maintaining a minimum grass height of 150mm for a rain garden designed for the purpose of stormwater treatment)

7. ACCESS

- 7.1. In accordance with section 171 of the Local Government Act 2002, an Authorised Officer may enter any property (including any High-Risk Facility) with at least 24 hours' notice and inspect any Stormwater System for the purposes of routine inspection; monitoring or post breach monitoring.

- 7.2. In accordance with section 172 of the Local Government Act 2002, an Authorised Officer may enter any property for the purposes of detecting a breach of this Bylaw if the Authorised Officer has reasonable grounds for suspecting that a breach has occurred or is occurring on the land. The Authorised Officer must give a minimum of 24 hours' notice unless the giving of notice would defeat the purpose of entry.
- 7.3. In accordance with section 173 of the Local Government Act 2002, in the event of a sudden emergency causing or likely to cause damage to property or the environment or where there is danger to any works or adjoining property, an Authorised Officer may enter occupied land or buildings without the giving of any notice.

8. FEES & CHARGES

- 8.1. In accordance with Sections 150 of the Local Government Act 2002, Council may charge a fee for any inspection or re-inspection or remedial work carried out under this Bylaw. Inspection and re-inspection fees will be set by Council.

9. BREACHES

- 9.1. It is a breach of this Bylaw to:
- (a) Fail to comply with any requirement of this Bylaw;
 - (b) Fail to comply with any notice issued by an Authorised Officer pursuant to this Bylaw;
 - (c) Obstruct an Authorised Officer in the performance of their function under this Bylaw.
- 9.2. Any serious or imminent breaches of any storm water discharge consent will be reported to Waikato Regional Council and the Environment Protection Authority for further enforcement.
- 9.3. A person is not in breach of this Bylaw if that person proves that the act or omission was necessary to:
- (a) Save or protect life or health or prevent injury; or
 - (b) Comply with Council's obligations under the Health Act 1956; or
 - (c) Prevent serious damage to property; or
 - (d) Avoid actual or likely damage to the environment; and
 - i. The person's conduct was reasonable in the circumstances; and
 - ii. The effects of the act or omission were adequately remedied or mitigated by the person after the breach occurred.
- 9.4. Where a person does not comply with the terms and conditions of an Approval granted by the Council in accordance with this Bylaw, without limiting Council's enforcement options, the Council will take a staged approach through 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) Undertake a review the Approval, which may result in:
 - i. amendment of the Approval; or
 - ii. suspension of the Approval;

- (c) Following continued non-compliance and after the above steps have been taken, Council may withdraw the Approval, depending on the seriousness and impacts of that non-compliance.

10. OFFENCES AND PENALTIES

- 10.1. A person who fails to comply with the requirements of this Bylaw commits a breach of this Bylaw and is liable to a penalty under the Local Government Act 2002

11. GENERAL

- 11.1 Any notice, order or other document which is required by this Bylaw to be served or given or sent to any person shall be deemed to have been duly served given or sent if delivered to such person or left at his or her residence or workplace or posted to such person at his or her last known address.
- 11.2 Any resolution of the Council may be amended, rescinded or reinstated by a further resolution of the Council.

This Bylaw was made pursuant to a resolution passed by the Waikato District Council on **XX September 2021.**

THE COMMON SEAL of WAIKATO DISTRICT COUNCIL was hereto affixed in the presence of:

Schedule One

Waikato District Council Stormwater Bylaw

Stormwater High Risk Facilities Register

Approved By:	Date Adopted:
Date in Force	
Data Amended:	Amendments recorded:

The following is a list of high risk facilities:

Activity	Reason for High Risk Classification
Mechanical workshops and service stations	These sites use and handle large volumes of oils and other petroleum products. Spillages of these substances are not uncommon, hence the greater risk of stormwater discharges to the environment.
Printers	Relatively large quantities of dyes and paints are handled at these sites. The risk of spillages is relatively high.
Spray painting facilities	Paints can not only be spilt at these sites but can enter stormwater as a consequence of drift from spray painting operations.
Meat, fish and shellfish processing industries	Wastes from these industries can typically have a high BOD. This can cause significant adverse effects.
Dairy products processing	Wastes from these industries can typically have a high Biological Oxygen Demand (BOD). This can cause significant adverse effects.
Waste management sites (transfer stations, compost sites, landfills etc.)	Litter, hazardous substances and high BOD wastes can all enter stormwater systems from these sites.
Truck wash facilities	The activity of truck washing can generate hazardous contaminants from trucks as well as sediments and wastes from spillages on site.
Unenclosed manufacturing and bulk storage of fertiliser	Fertilisers can give rise to high levels of nutrient in stormwater discharges. Where fertilisers are manufactured or stored in such a way that fertilisers can enter stormwater the risk of adverse effects is unacceptably high.
Textile fibre and textile processing industries where dyeing and washing of fabric occurs	Large quantities of dye and high BOD wastes (from wool scourers for instance) are handled on these site. The risk of spillages that could enter stormwater is high.
Tanneries and leather finishing	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages that could enter stormwater is high.

Footwear manufacture	Large quantities of dye and high BOD wastes are handled on these sites. The risk of spillages that could enter stormwater is higher.
Manufacture of paper and paper products	Hazardous substances such as chlorine based bleaches and dyes are regularly handled on these sites. The risk of spillages etc. entering stormwater can be high.
Manufacture or processing of chemicals, and of petroleum, coal, rubber and plastic products	The risk of spillages associated with hazardous substances used in these industries can be high.
Manufacture of clay, glass, plaster, masonry, asbestos and related mineral products	The risk of spillages associated with hazardous substances used in these industries can be high.
Manufacture of fabricated metal products, machinery and equipment	The risk of spillages associated with hazardous substances used in these industries can be high.
Electroplaters, Foundries, galvanizers and metal surfacing	The risk of spillages associated with hazardous substances used in these industries can be high.
Concrete batching plants and, asphalt manufacturing plants	The risk of spillages associated with hazardous substances used in these industries can be high.
Stock saleyards	High BOD run-off can be associated with these sites.
Bakeries	Outside washing of trays, dishes and pans can result in high BOD, fats, greases and detergents entering stormwater systems.
Car wash and valet services	High oil, solvent and solid discharges can occur from these activities.
Commercial laundries (excluding self-service laundrettes and Laundromats)	The risk of spillages associated with detergents, alkalis and salts used in this industry can be high.
Furniture/wood manufacturing and refinishing industries	Some of these industries work outside extensively, usually with no stormwater treatment, Contaminants such as sawdust, glues and alkali stripper solution in the stormwater coming out of these sites can include high solids, BOD and high pH.
Timber preservation, treatment and storage sites where chemically treated timber is sorted	A range of hazardous substances are used on these sites (e.g. Copper Chrome, Arsenic, Boron and copper-quinoline compounds). In addition, timber treatment chemicals have been shown to be able to leach from treated wood in storage.
Stockpiled tyres	Large quantities of tyres when ignited can produce hazardous air emissions and toxic effluent run-off which have adverse health and environmental implications.