

Invercargill City Council

# Stormwater Bylaw

Draft for consultation

2022

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## *Draft for Consultation*

### **Explanatory Note:**

*This explanatory note does not form part of this bylaw, but is intended to provide a general understanding of the provisions contained in this bylaw.*

*The objective of this bylaw is to help manage stormwater within Invercargill city as to protect people, property and the environment by minimising the impact of flooding, erosion and contamination of the stormwater network.*

*This bylaw is in addition to controls on stormwater imposed by the Invercargill City Council and Environment Southland under the Resource Management Act 1991, the Southland Water and Land Plan, the Building Act 2004, or any other Act, Regulation or Bylaw.*

## **1. Title**

1.1 This bylaw is the Invercargill City Council Stormwater Bylaw 2022.

## **2. Commencement**

2.1 This bylaw comes into force on **01 July 2022**

## **3. Purposes**

3.1 The purposes of this bylaw are to:

- a) Protect the public stormwater system and the land, structures, and infrastructure associated with Invercargill's public stormwater network from damage, misuse or loss.
- b) Manage the development and maintenance of Invercargill's public stormwater network and the land, structures and infrastructure associated with the network, so as to protect the public from nuisance and promote and maintain public health and safety.
- c) Ensure that discharges into the Invercargill City Councils public stormwater network are appropriately managed at source, and do not damage the network or compromise the Councils ability to comply with any applicable stormwater discharge consents and the Councils water quality targets for the receiving environments.

## **4. Definitions and Interpretations:**

4.1 In this bylaw, unless the context otherwise requires:

- a) **Approve, Approval** or **Approved** means the prior written approval by the Council, either by resolution of the Council or by an Officer of the Council authorised for that purpose.
- b) **Best Practicable Option** has the same meaning as in the Resource Management Act 1991

- c) **Contaminant** is as defined by the Resource Management Act 1991 and means any substance (including gases, odorous compounds, liquids, solids and micro-organisms) or heat, that either by itself or in a combination with the same, similar or other substances, energy, or heat:
  - i) When discharged into water, changes or is likely to change the physical, chemical or biological condition of water; or,
  - ii) When discharged onto or into land or into air, changes or is likely to change the physical, chemical or biological condition of the land or air onto or into which it is discharged.
  
- d) **Control** means a prohibition, restriction or control relating to the stormwater management specified in any guideline or Code of Practice confirmed by a Council resolution after giving consideration to the views and preferences of persons likely to be affected by, or have an interest in, the matter.
  
- e) **Council** means the Invercargill City Council or any Committee, Sub-Committee, or any Elected Member of Council or any other officer or other person authorised to exercise the authority of the council.
  
- f) **Discharge** means the direct or indirect discharge of stormwater, groundwater or any other substance into the Invercargill City Councils public stormwater or drainage network.
  
- g) **Development** in relation to any land, means the altering of the stormwater runoff characteristics of that land including by stormwater drainage works, building work, subdivisions or change of use or ground cover.
  
- h) **Environment** has the same meaning as under the Resource Management Act 1991
  
- i) **Hazardous Land and Activities (HAIL)** have the same meanings as in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
  
- j) **Hazardous Substances** means a substance that is hazardous for the purposes of the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001.
  
- k) **Industrial or Trade Premises** has the same meaning as in the Resource Management Act 1991.
  
- l) **Manager** means a person who controls or manages any premises, or any activity or event of any premises, or operates a part of the stormwater network on the premises, regardless of whether that person is the owner of those premises or that part of the stormwater network.

- m) **Material** includes, but is not limited to:
- i) Hazardous materials;
  - ii) Contaminants ;
  - iii) Building material;
  - iv) Structures and equipment;
  - v) Fill material, including sand or soil;
  - vi) Vegetation;
  - vii) Collected debris; and
  - viii) Litter.
- n) **Nuisance** has the same meaning as in section 29 of the Health Act 1956 and in the context of this bylaw includes:
- i) A person, thing, or circumstance causing distress or annoyance or unreasonable interference with peace, comfort , or convenience of another person;
  - ii) Danger to life;
  - iii) Danger to public health;
  - iv) Flooding of any building floor or sub-floor, or public roadway;
  - v) Damage to property;
  - vi) An effect on the efficient operation of the Councils public stormwater and drainage network;
  - vii) Erosion or subsidence of land;
  - viii) Long or short term adverse effects on the environment;
  - ix) Adverse loss of riparian vegetation;
  - x) Wastewater overflow to land or water; and
  - xi) Anything that causes a breach of a Consent condition in which Council would then be liable for.
- o) **Owner** means the person who owns the premises from which the stormwater originates or on which the stormwater is located.
- p) **Private Stormwater Network** 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, ponds, stormwater treatment devices and any other stormwater management device or redundant stormwater system.
- q) **Public Stormwater Network** means any component of the stormwater network vested in, or under the control of, the Council, whether or not any of the network passes through private land.
- r) **Redundant System** means a system, structure or device that has been replaced by another system, structure or device and is no longer required as part of the stormwater network under any building consent or resource consent condition or engineering approval related to the site.

- s) **Regulated Stormwater** means any stormwater which:
- i) Contains contaminants;
  - ii) Discharges from and industrial or trade premises;
  - iii) Discharges from a premises that is a known HAIL site;
  - iv) Discharges from a premises with a roof type, or spouting, or pipes that are constructed with a regulated material as set out by clause 6.1(e) of this bylaw; and
  - v) Is required by a control to obtain an approval.
- t) **Service Connection** has the same meaning as in the Local Government Act 2002.
- u) **Southland Water and Land Plan (SWLP)** means the Southland Regional Councils (Environment Southland) Operative Water and Land Plan for the Southland region.
- v) **Stormwater** means any surface water run-off subsequent to precipitation or as defined by the most current version of the Southland Water and Land Plan.
- w) **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:
- i) Rains gardens;
  - ii) Infiltration trenches;
  - iii) Sand filters;
  - iv) Green roofs;
  - v) Wetlands;
  - vi) Ponds;
  - vii) Rain water tanks; and
  - viii) Propriety devices.
- x) **Stormwater Management Plan** means a Council-approved plan which identifies actual or potential risks relating to the discharge of contaminants from a specific site or operation, and contains the management strategies implemented or proposed to mitigate against these risks. The plan identifies the mechanisms required to reduce the potential or actual discharge of contaminants from the proposed site or activity to the Councils public stormwater network and meet limits set in this bylaw, the Southern Water and Land Plan or any relevant National Policy Statement for Freshwater.

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

4.2 References to any legislative provision include any legislative provision that amends or replaces it.

4.3 References to any regional plan (including any schedule in a regional plan) include any amendment or replacement to it.

## 5. Use, Construction or Alteration of the Stormwater and Drainage Network

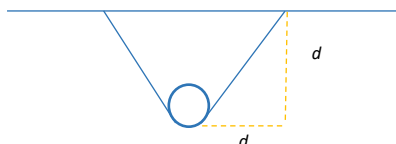
### 5.1 Application to Connect

- a) No person other than an authorised officer and agents of Council may carry out work to connect to the public stormwater network or otherwise interfere with any part of that network unless the connection or work is permitted in writing by Council, in which case all conditions of this bylaw must be met.
- b) Unless otherwise approved by Council, every application for approval to discharge to the public stormwater system or to carry out any work affecting the public stormwater system must be in writing and include all the information required by Council together with payment of the required fee.
- c) Council approval is required even if a pipe has already been laid up to the point of connection or proposed point of connection to the public stormwater network.
- d) Following receipt of any application for works affecting the public stormwater network or to discharge stormwater to the public stormwater network Council may after considering the proposal and site specific information, either approve the application subject to any conditions for the protection of the public stormwater network or decline the application. Council will notify the applicant in writing of its decision and if an application is declined, Council will give reasons for its decision.

### 5.2 Approval for Work Affecting the Stormwater Network

A person must obtain written approval from the Council before:

- a) Erecting any structure on, over or within a distance of the depth of the pipe from the edge of the pipe of any public stormwater network before undertaking these works;



- b) Undertaking an excavation or work that is likely to result in damage to the public stormwater network;
- c) Remove any existing cover material or placing any additional material over the public stormwater network that could result in damage or changes in the intended hydrology of the public stormwater network;
- d) Covering or removing any stormwater inlet, outlet, treatment device, manhole or service opening; or
- e) Causing a temporarily or permanently sustained excessive load on the public stormwater network that is likely to result in damage or cause nuisance to the network.

### **5.3 Discharges to the Public Stormwater Network**

From the date of commencement of this bylaw, no person may discharge, directly or indirectly, regulated stormwater into the public stormwater network without prior approval.

### **5.4 Private Stormwater Network**

The Owner or Manager of a private stormwater system must ensure that the system:

- a) Complies with any relevant control confirmed by Council prior to installation of the system;
- b) Is maintained in good operating condition with records of maintenance schedules kept onsite; and
- c) Does not cause or contribute nuisance to the public stormwater network.

### **5.5 Erosion and Sediment Control Plan**

When undertaking a site development:

- a) The site developer must provide Council with an Erosion and Sediment Control Plan for the site. The design and performance criteria of the plan shall be in accordance with the most current version of the Environment Canterbury Erosion and Sediment Control Guidelines.
- b) The Erosion and Sediment Control Plan will provide the controls and methods the site developer will use to ensure that no sediments or sediment laden water leaves the site or causes nuisance to the roading or public stormwater network.
- c) The Erosion and Sediment Control Plan will nominate the person(s) responsible for ensuring that the controls and methods of the Erosion and Sediment Control plan are implemented and adhered to the entirety of the site development project.
- d) No onsite works are to commence until the Erosion and Sediment Control Plan has been approved by Council.

## **6. Pollution Prevention**

### **6.1 Regulated Activities**

No person may, without approval:

- a) Discharge any contaminant from the site and into a private or public stormwater network;
- b) Obstruct or cover any part of the public stormwater network in a manner that is likely to cause nuisance or affect any other property owner or manager of a site;
- c) Obstruct any drain, watercourse or overland flow path in any way;

- d) Allow nuisance to occur during a flood event as a result of a property owners or managers actions or activities;
- e) Construct a new roof or spouting or replace an existing roof or spouting using a material that is likely to cause undue nuisance on the public stormwater network and / or prevent Council from reaching their limit setting targets for the receiving environments.
  - i) Prohibited materials include but are not limited to copper, lead, asbestos or other materials that contain contaminants of concern.

## 6.2 Prohibited Activities

No person may:

- a) Allow any material, hazardous substances, sewage or trade waste to enter either directly or indirectly to the public stormwater network;

***Explanatory Note:** Without limiting the scope of this rule, but to expel any doubt of the meaning, this rule includes but is not limited to swimming or spa pool water, detergents “eco-friendly or otherwise”, pesticides, herbicides, paints, solvents, groundwater from the dewatering of sites without treatment and hydrocarbons.*

- b) Allow any material, hazardous substances, sewage or trade waste to be stored in a location where there is potential to enter and cause Nuisance to the public stormwater system.
- c) Obstruct any stormwater network, in a manner that adversely affects or may affect the efficiency and / or safety of the public stormwater network;
- d) Remove vegetation from or damage vegetation in any wetland on a premises that a person owns, manages or occupies, 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 issued by Environment Southland.

## 6.3 Stormwater Management Plans

- a) Where a site has been identified as having a high risk of potential contamination, a HAIL site or situated on land identified under Environment Southlands Selected Land Use register the sites owner or manager may be required to prepare a Stormwater Management Plan and submit it to Council for approval. The plan must include:
  - i) A suitably scaled drawing or aerial imagery showing the site layout, boundaries, relevant buildings, outdoor spaces and their uses and all private stormwater and waste water drainage including the point of connection to the public networks;
  - ii) A site assessment identifying all of the actual and potential sources of contamination. If onsite soils are contaminated, the assessment shall be undertaken by a suitably qualified and experienced practitioner;



**(Explanatory Note:** *Contaminants should include but not be limited to any type of hazardous chemicals, heavy metals, detergents, sediments, roof types, waste oils, nutrients and biological contamination.*)

- iii) Methods in place to prevent the contaminants from entering the public stormwater network;
  - iv) A description of the maintenance procedures in place, the maintenance schedule and the person(s) responsible for ensuring the maintenance is carried out;
  - v) If construction works are required to be carried out, a description of the works to be completed and the construction methodology; and
  - vi) Spill prevention and spill response procedures.
- b) If the owner or manager has prepared an alternative plan that addresses the matters as set out in clause 6.3 (a), the alternative plan may be accepted in place of a Stormwater Management Plan at Councils discretion.
- c) Within 90 days of being requested to do so, the owner / manager of the site must submit a Stormwater Management Plan to Council for review and approval.
- d) Once the Stormwater Management Plan has been approved by Council, the owner / manager of the site must comply with all of the terms and requirements, including timeframes of the Stormwater Management Plan.
- e) The owner / manager of the site must review the Stormwater Management Plan every five years and provide a copy of the renewed Stormwater Management Plan to Council for approval.
- f) Council reserves the right to require that any Stormwater Management Plan be updated, altered or renewed at any time.

#### **6.4 Treatment or Works to be Undertaken**

In the event that potential or actual contamination is identified as coming from a site or action Council may require:

- a) The owner or manager of the site to implement management options, stormwater treatment or works in order to prevent the discharge of contamination or any substances that may cause a nuisance from the site and into the public stormwater network.
- b) The owner or manager of the site to enact any of the management options, treatment or works to be completed in a time frame stipulated by Council with the expectation that the works shall be undertaken and / or maintained at the owner or managers expense.

#### **6.5 Monitoring Discharges**

Council reserves the right for a suitably authorised officer to inspect both private and public stormwater networks to ensure compliance with clauses 6.3 and 6.4 of this bylaw.

## **7. Offences, Breaches, Fees, Penalties and Dispensing Powers**

### **7.1 Offences and Breaches**

Every person breaches this bylaw and commits an offence who:

- a) Does anything in which this bylaw explicitly prohibits;
- b) Does, or allows anything to be done, which is contrary to this bylaw or any part of it;
- c) Fails to do, or allows anything to remain undone, which is required to be done by that person within the timeframe and manner required by this bylaw or any part of it;
- d) Fails to comply with any notice given to that person under this bylaw or any part of it; and
- e) Obstructs or hinders a Council officer or other Council appointed person in performing any duty or in exercising any power under this bylaw.

### **7.2 Fees**

Council may in accordance with section 150 of the Local Government Act 2002 prescribe fees or charges payable for any certificate, license, approval, permit, consent form or inspection made by Council under this bylaw.

### **7.3 Notices**

Council may give notice to any person in breach of this bylaw to carry out any remedial action in order to comply with the bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

### **7.4 Penalties**

- a) Subject to anything to the contrary, every person who commits an offence against this bylaw shall be subject to the penalties set out in section 242(4) of the Local Government Act 2002.
- b) Under section 163 of the Local Government Act 2002 Council or an authorised agent appointed by it, may remove or alter in work that is or has been constructed in breach of this bylaw.
- c) Council may recover the costs of removing or altering the work or thing that is in breach of this bylaw from the person who committed the breach, including ICC staff time. This does not relieve that person of liability for the breach.
- d) Under section 162 of the Local Government Act 2002 Council may apply to the District Court for the grant of an injunction restraining a person from committing a breach of this bylaw.

- e) Council may seize and impound property materially involved in the commission of an offence, under and in accordance with section(s) 164 and 165 of the Local Government Act 2002.
- f) Council will return and may dispose of property seized and impounded in accordance with section(s) 167 and 168 of the Local Government Act 2002.