



NOTICE OF MEETING

Notice is hereby given of an Extraordinary Meeting of the Infrastructural Services Committee to be held in the Council Chamber, First Floor Civic Administration Building, 101 Esk Street, Invercargill on Tuesday 5 April 2022 at the conclusion of the Infrastructural Services Committee Meeting

Cr I R Pottinger (Chair)
Cr A H Crackett (Deputy Chair)
His Worship the Mayor, Sir T R Shadbolt
Cr R L Abbott
Cr R R Amundsen
Cr A J Arnold
Cr W S Clark
Cr P W Kett
Cr G D Lewis
Cr M Lush
Cr D J Ludlow
Cr N D Skelt
Cr L F Soper
Ms E Cook – Māngai – Waihōpai
Mrs P Coote – Kaikaunihera Māori – Awarua

CLARE HADLEY
CHIEF EXECUTIVE

Extraordinary Meeting - Infrastructural Services Committee

05 April 2022

Agenda Topic

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1.	Apologies	
2.	Declaration of Interest	
1.	Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
2.	Elected members are reminded to update their register of interests as soon as practicable, including amending the register at this meeting if necessary.	
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HEARINGS FOR THE STORMWATER BYLAW CONSULTATION

To:	Infrastructural Services Committee
Meeting Date:	Tuesday 5 April 2022
From:	Jeremy Rees, Manager – Engineering Services and Rhiannon Suter, Manager – Strategy and Policy
Approved:	Erin Moogan - Group Manager - Infrastructure Services
Approved Date:	Thursday 31 March 2022
Open Agenda:	Yes

Purpose and Summary

Council is consulting on introducing a Stormwater Bylaw to improve the water quality being discharged from its stormwater networks into the receiving bodies. The submissions from the consultation are to be received and heard.

Recommendations

That the Committee:

1. Receive the report "Hearings for the Stormwater Bylaw Consultation."
2. Receive the submissions made on the consultation (Agenda items 4 and 5) and note the summary of submissions (A3832343).
3. Hear from submitters who wish to be heard:
 - a. 4.00 – 4.10pm – Megan Justice (for Sue Hill) – HWR Group (via Zoom)
 - b. 4.10 – 4.20pm – Peter Wilson - Federated Farmers (via Zoom)
 - c. 4.20 – 4.30pm – Rebecca Blyth – Te Ao Marama
 - d. 4.30 – 4.40pm – Noel J Peterson (via Zoom)
 - e. 4.40 – 4.50pm – Vicky Henry
 - f. 4.50 – 5.00pm – Philip Brown – 4sight Consulting (via Zoom)
4. Note the next stage of the process, which will be deliberations on 3 May, to consider the information received and deliberate on final recommendations to Council ahead of any final adoption of the Stormwater Bylaw.

Background

At the 1 February 2022 Infrastructural Services Committee meeting the consultation document for the Draft Stormwater Bylaw for consultation was adopted. Consultation took place

between 4 February and 7 March 2022. Residents of Invercargill and interested parties were invited to submit online, via email or could alternatively post their submission to Council. Consultation information and drop boxes were also in place at the Civic Administration Building, Invercargill Public Library, Splash Palace and Bluff Service Centre. During the period of consultation, the submission form could be found on Council's website and a letter detailing the consultation and how to submit was sent directly to all Hazardous Activities and Industries List (HAIL) sites within the Invercargill District. An email with the hyperlinks and invitations for the webinar was sent out to interested parties and to our standard distribution email list.

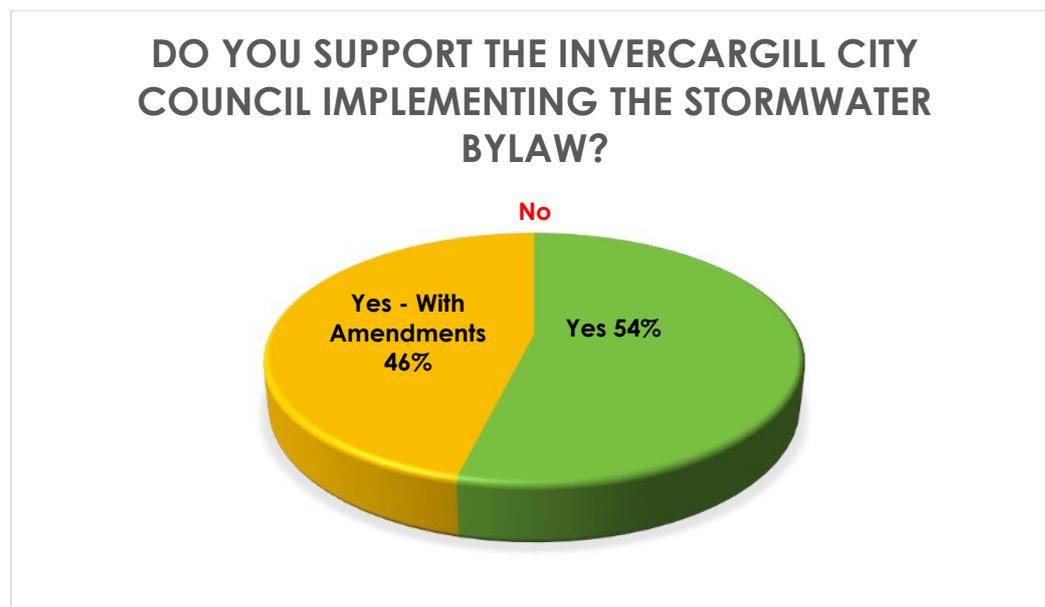
A Public Zoom Webinar was held online, targeted towards consultants, contractors and industry. There were 19 attendees at this webinar. Council also held a Facebook live event for the public. Between 1740 and 2,310 people were reached through various social media posts. 1580 people were reached for the Facebook live event, with 24 watching at the peak and 342 engagements. Comments can be found in the attached social media report.

As a result of the targeted letters to HAIL sites, social media posts, email distribution lists, Webinars and Facebook events, officers are satisfied the consultation was advertised widely and targeted towards the wider public and interested parties.

13 submissions were received.

Consultation

The submission questionnaire simply asked if submitters "Do you support the Invercargill City Council implementing the Stormwater Bylaw?" They were given the Choices of answering Yes, Yes with amendments or No. Of the 13 responses seven answered 'Yes' and six answered 'Yes – with amendments.' There were no submitters who replied with a 'No.'



Feedback on the Proposed Stormwater Bylaw

Summarised feedback on points raised by specific submissions can be found in the summary of submissions table. Each submitter's full submission can be found in the attachments. Submitters were broken down into two different groups, private residents or businesses / organisations. Of the 13 submissions received, seven were private residents and six from businesses / organisations. The themes of the feedback from these groups is summarised below.

Full analysis and advice will be provided at the time of deliberations.

Business or Organisation Submitters

The feedback was balanced from this group of submitters. Many of the businesses or organisations submitted that whilst in support, or not opposed to the stormwater bylaw, they wish for amendments to be made to the draft that was being consulted on. Some were concerned about the bylaw coming in to effect on 1 July 2022 and their ability to meet this timeframe. There was also some concern raised about the speed that businesses could work with Council consents and contractors to complete any site works needed to remediate their sites if required. Some submitters have requested greater clarification on a number of factors so the bylaw is clearer about when it would or would not apply. For example, some have requested a wording change from site works to earthworks for when an Erosion and Sediment Control Plan would be required. Clarification has also been sought on the definitions of hazardous substances, contaminant or when incidental or diffuse discharges from agriculture activities where there was no deliberate intent or action to specifically discharge them.

A few submitters made reference to Environment Southland's, "Southland Land and Water Regional Plan." There are questions around the linkages between the two and if there maybe be duplication of function between the two. One submitter stated that they do not think there is a need for a stormwater bylaw as the trade waste bylaw that Council currently has could be extended. Some submitters noted with the lack of a stated limit for the discharge of sediment, it implies there is an unachievable zero tolerance. Some submitters requested the bylaw only be applicable for future connections and not applied retroactively.

A consultant representing several fuel companies raised the point there are industry Guidelines titled, "Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand," published by the Ministry for the Environment in 1998. The point was made that these should be the guidelines used for fuel companies and the bylaw should not apply to them.

Te Ao Marama Inc has noted the work they have underway developing cultural monitoring methodology and programmes, and would like to explore the possibility of how these could support the mahi that the Council is doing within the stormwater sphere. They encouraged that sufficient funding and staff are allocated to support the bylaw and are interested in working with Council to support the implementation of the bylaw.

Environment Southland submitted in support of the bylaw. They want to ensure Council allocates sufficient resources to ensure sufficient monitoring, compliance and remedial actions are taken when necessary.

Private Resident Submitters

By and large, there was widespread support from the private resident submitters. Many of the submitters stated they support the bylaw and used phrases like, "Water is the molecule of life. Without water we die. Without good quality water we can become sick and maybe that's a fate worse than dying. Every attempt to safeguard its quality is justified." Others said they found it easy to understand and reinforced other comments about the need to improve the water quality of Invercargill and support the educational stance that Council intends to utilise, if the bylaw is implemented. One submitter suggested a number of minor grammatical amendments to make the documents more readable. There were two submitters who thought the bylaw could be extended further and create a proactive environment where Council could complete further works themselves and/or support residents and businesses to take voluntary measures to improve the water quality and provide incentives to do this.

Schedule of Hearings

Stormwater Bylaw Hearing Timetable					
Hearing Time	In Person or via Zoom	Hearing Slot	Submission Number	Speaker	City/Town
4.00pm	Zoom	001	011	Megan Justice (on behalf of Sue Hill)- HWR Group	Invercargill
4.10pm	Zoom	002	004	Peter Wilson – Federated Farmers	Invercargill
4.20pm	In Person	003	006	Rebecca Blyth – Te Ao Marama	Invercargill
4.30pm	Zoom	004	013	Noel J Peterson	Bluff
4.40pm	In Person	005	010	Vicky Henry	Invercargill
4.50pm	Zoom	006	008	Philip Brown – 4Sight Consulting	Auckland (on behalf of Fuel Companies)

Next Steps

Following hearings, the Infrastructure Services Committee will deliberate on their decision on the Stormwater Bylaw on 3 May 2022.

The intention is that Bylaw will be brought to Council for adoption on 24 May 2022 and will then be advertised and come into force on 1 July 2022.

Attachments

1. Submissions (agenda items 4 and 5)
2. Summary of submissions (A3832343)

Summary of Submissions for the Stormwater Bylaw

Submission Number	Name	Private Resident or Organisation	To be Heard	Do You Support the Proposed Stormwater Bylaw?	Submission Summary	Officer Comments
1	Alistair Calvert	Resident	No	Yes	Worded well and easy to understand.	Noted –Thank you
2	Paul Cotter	Resident	No	Yes	Water is the molecule of life. Without water we die. Without good quality water we can become sick and maybe that's a fate worse than dying. Every attempt to safeguard its quality is justified.	Noted –Thank you
3	Maurice Rodway	Resident	No	Yes	Stormwater quality needs to be improved so that receiving water bodies are not contaminated.	Noted –Thank you
4		Bonisch Consultants Ltd	No	Yes – With Amendments	We note that the definition of contaminant within the bylaw is currently broad and open to interpretation. The definition is expanded upon through an explanatory note within clause 6.3 however it is not discussed at which level contaminant concentrations within a discharge would trigger it being defined as regulated stormwater. This may result in normal discharges from residential sites being classed as regulated stormwater. This is because stormwater runoff	If residential properties are causing a more than minor effect on the quality of the councils stormwater discharge through the use of regulated materials or activities, then action will need to be taken whether this be in the form of an erosion and sediment control plan or treatment devices. Sediment guidelines will be introduced to the stormwater bylaw guidance document following the submission period to provide the public with understanding on how discharge quality will be judged. This will be

4		Bonisch Consultants Ltd	No	Yes – With Amendments	<p>inherently includes suspended solids / sediments in varying concentrations that for residential sites can be below ANZECC water quality guidelines after mixing.</p> <p>This document reviewed the contaminant load model for the Auckland Region and in turn recommended target design effluent quality requirements for stormwater runoff. In addition, it identified high contaminant generating activities in the urban context which should be targeted for treatment</p> <p>5.1- Parking areas, and associated access ways that are exposed to rainfall and carry more than 50 vehicles per day;</p> <p>5.2 - Building roofing, spouting and external walls cladding and architectural features using materials with an:</p> <p>5.3 - Exposed surface or surface coating of metallic zinc or any alloy containing greater than 10% zinc;</p> <p>5.4 - Exposed surface or surface coating of metallic copper or any alloy containing greater than 10% copper; or</p> <p>5.5 - Exposed treated timber surface or any roof material with a copper-containing or zinc-containing algaecide;</p> <p>5.6 - High use roads being:</p>	<p>available to Councillors at the time of deliberation.</p> <p>In line with other TA's Stormwater Bylaws, Council will not be introducing limit setting for any contaminants to the stormwater bylaw itself, but it will be referencing technical documents with regards to recommended limits in its guidance document which will be provided at the time of deliberations.</p> <p>Sections 5.1 – 5.8 relate to specific limits that could be used to judge whether or not stormwater is of an acceptable quality. Council will judge regulated stormwater as 'stormwater coming from any site in Invercargill that has a detrimental effect on the quality of the discharge in the public stormwater network. All sites that provide a discharge that do not fit within this meaning will be expected to undertake work to prevent contaminants from entering the stormwater network whether that be through better site management / housekeeping practices or stormwater treatment devices.</p> <p>Council will certainly use the technical documents provided to help provide a consistent regulatory approach towards stormwater management in Invercargill.</p>
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					<p>5.7 - A motorway, state highway, regional primary arterial and or district secondary arterial road; or</p> <p>5.8 - A road that carries more than 10,000 vehicles per day.</p>	
5	Graham Jones	Resident	No	Yes – With Amendments	Graham has made a number of minor grammatical suggestions to the bylaw that does not materially change the intent or application, rather is makes the document easier to read and understand.	Council acknowledges Graham's review and suggestions. These suggestions will used and incorporated in the amended draft bylaw, post consultation.
6	Dean Whaanga & Rebecca Blyth	Te Ao Marama Inc	Yes	Yes – With Amendments	<p>1. Ngā Rūnanga are currently developing cultural monitoring methodology and programmes and would like to explore the possibility of how these could support the mahi that the Council is doing within the stormwater sphere.</p> <p>2. Ngā Rūnanga strongly encourage the Council to allocate funding and staff resource alongside the bylaw to enable monitoring, education and remediation directions to be implemented proactively.</p> <p>3. Ngā Rūnanga would like the opportunity to work though risk prioritisation and implementation plan and are confident this could be part of the ongoing work between Te Ao Marama and Council, identifying risk and providing hauora over time.</p>	<p>1. As partners in the cultural monitoring programme, Council welcomes open discussion of how the mahi undertaken as part of the cultural monitoring programme could help shape future works.</p> <p>2. Council is looking to increase the FTE of the compliance team and invest significantly in education to help the residents and businesses of the Invercargill District understand how some of their current activities may be affecting the quality of our waterways and what actions they could take to reduce these.</p> <p>3. While not part of the Bylaw, Council welcomes the chance to continue to work with TAMI in this area and will work with to determine the risk prioritisation and implementation.</p>

7	Peter Wilson	Federated Farmers Southland	Yes	Yes – With Amendments	<p>1. Federated Farmers believes there is no specific need for a new bylaw that thinks it could be better to extend the scope of the trade waste bylaw.</p> <p>2. The Bylaw is not clear on how agricultural activities will be treated, and introduces considerable uncertainty given that agricultural activities create diffuse discharges, which can infiltrate into the stormwater system. The infiltration can be as a result of overland flow into a drain or wetland that is part of the stormwater system, or directly into cracked pipes. It cannot have been the intention of the rule to capture this type of discharge, which is normal for agricultural practice.</p> <p>3. These discharges also have a more nuanced regulatory regime under the Southland regional water and land plan.</p> <p>4. Federated Farmers proposes explanatory notes in 6.1 and 6.2 that outlines how incidental or diffuse discharges from agricultural activities where there was no deliberate intent or action to specifically discharge them via</p>	<p>1. It was determined that incorporating the stormwater issues within the Trade Waste Bylaw was not a reasonable and practicable option. The Trade Waste Bylaw regulates the discharge of Trade Waste to the Invercargill City Council sewerage system from a Trade Premise in the course of any trade or industrial operation. It doesn't allow for the disposal of stormwater except in circumstance where it cannot be practically separated. The Trade Waste Bylaw Scope establishes waste minimisation programmes for Trade Waste producers, has a cost recovery/equalisation component and addresses resource allocation for the Invercargill City Council Sewerage system. In contrast, the proposed Stormwater Bylaw would be applicable to all properties that discharge Stormwater to the Invercargill City Council Stormwater system and would have an environmental focus.</p> <p>2. There will be dedicated communications with farming properties as part of the communications plan for the Bylaw.</p> <p>3. The pSWLP deals with direct discharges to receiving waters, this bylaw relates to concentrated effects of multiple properties through a Territorial Authorities (TA's) reticulated network, the pSWLP does not regulate what is allowed into the Council's reticulated stormwater network. That is a matter for Council to determine to ensure it is able to comply with the provisions of the pSWLP and Resource Consent conditions.</p>
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7	Peter Wilson	Federated Farmers Southland	Yes	Yes – With Amendments	the stormwater system are handled. For the purposes of this additional clause, agricultural activities are those lawfully established under either the district and/or regional plan or other laws.	<p>4. It is not recommended to add additional clauses to the bylaw to allow for the degradation of stormwater in its network. These lawful activities established in the pSWLP and District Plan are for discharges directly to land or water, not to a TA's reticulated network. Council cannot allow discharges to its reticulated network from any site that may affect its ability to meet conditions under its stormwater discharge consent.</p>
8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>This submission focuses on the issues the Fuel Companies perceive may inappropriately restrict their existing and future operations. The red text below shows where the submitter suggests changes.</p> <p>1. Discharges from petroleum industry sites are addressed in the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998, the Guidelines). In Southland, the partially operative Southland Land and Water Regional Plan (SLWP) Rule 15(a)(ii)(3) provides a permitted activity pathway for stormwater that contains oil and grease, subject to that stormwater being passed through an oil interceptor system prior to discharge. The Guidelines recognise that the maximum levels of contaminants allowable in discharges are 15 and 100 milligrams per litre (mg/L) for total petroleum hydrocarbons (TPH) and total suspended solids (TSS) respectively (when</p>	<p>1. The guidance document will consider and align with the MfE technical limits. If the stormwater discharge quality from refuelling stations in Invercargill currently meet these standards, then it is expected that you will meet the expectations of the Council under the bylaw. Drawing parallels between untreated stormwater from roads and carparks to treated petroleum sites is not a clear comparison as it would be expected that stormwater that has been passed through a treatment device would provide a higher quality discharge.</p> <p>As long as sites of petroleum based activities continue to meet these expectations as set out under your internal guidelines, there should be no reason as to why they would not meet the quality expectations of Council.</p>

8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>averaged over the design storm event) and that operating within these limits will ensure minimal adverse toxic effects. The Guidelines draw parallels to roads and highlight that monitoring has demonstrated that discharges from such sites are no worse (and often better) than discharges from roads and high turnover car parks.</p> <p>2. The relationship between the Bylaw and the relevant regional plans is unclear, resulting in the likelihood of unnecessary duplication of function between the two, with corresponding inefficiencies for all parties.</p> <p>3. The Bylaw may be interpreted as requiring retrospective approvals for existing sites lawfully discharging 'regulated stormwater'</p> <p>4. The Bylaw does not recognise the role of the Guidelines in ensuring stormwater discharges from petroleum industry sites are of an acceptable quality.</p>	<p>2. The Regional Plan is a regulatory document set out by Environment Southland as a way to regulate discharges directly from landowners to the regions receiving waters. This proposed bylaw is dealing with discharges to the Invercargill City Council's reticulated stormwater network prior to discharging to Invercargill's receiving waters. Council holds a stormwater discharge consent that requires Council to provide a certain quality of discharge to the cities receiving waters, due to the concentrated nature of contaminants from urbanisation. Council cannot allow the regional plan to drive the rules set in its stormwater bylaw. An introductory comment will be added to the Bylaw to clarify these matters.</p> <p>3. The bylaw is to encompass all activities that are providing contaminated stormwater to the Council's reticulated network. This will mean that some activities will require retrospective approvals.</p> <p>4. The bylaw provides one set of standards and guidelines which enable each sector to then make their own assessment about alignment with their industry guidance and</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>5. The current drafting of the Bylaw has the potential to inadvertently prohibit discharges from industrial and commercial sites in the district, including Guideline compliant Fuel Company sites, with no alternative pathway for obtaining approval.</p> <p>6. The requirement to undertake an assessment of contaminated soils as part of a Stormwater Management Plan (SMP) under the Bylaw extends beyond the management of stormwater to the management of legacy contaminated land with limited potential for discharges to the public stormwater network.</p> <p>7. The Bylaw sets an unachievable zero-tolerance threshold for the discharge of sediment.</p> <p>8. The Fuel Companies seek to ensure that the Bylaw appropriately recognises that roads are a key source of stormwater</p>	<p>ensure they are meeting the requirements of both.</p> <p>5. The bylaw does not intend to inadvertently prohibit industrial and commercial sites from discharging non-regulated stormwater. The intention of the bylaw is to prevent the discharge of contaminated stormwater that could adversely affect the quality and health of our receiving waters.</p> <p>6. Council is concerned with the risk of contaminants originating from the soil of unsealed sites that are thought to contain contaminants of concern. Identifying what sites have the potential to cause nuisance to the network through soil testing is an important aspect of this bylaw.</p> <p>7. An unachievable zero-tolerance threshold was not the intention of the bylaw, it is agreed it may need some extra detail around allowable limits for sediments in stormwater run-off. It has been proposed that the industry standard limit of 100 mg/l of T.S.S be added to the bylaws guidance document.</p> <p>8. Council already has responsibilities to manage the quality of water discharged from its network. Further information on the</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>contaminants. This is not reflected in the issues and options paper prepared to inform the Bylaw, which focuses on industrial and commercial facilities, including carparks and refuelling stations, but does not address the management of runoff from roads.</p> <p>9. It is suggested Council includes reference to regional plan or a regional discharge consent.</p> <p>10. The current drafting of the Bylaw will mean that any existing or new discharges of 'regulated stormwater' into the network are non-compliant, effective of the date of its commencement. Noting the Bylaw's broad definition of 'regulated stormwater', this clause is likely to immediately render many sites non-compliant and require them to obtain retrospective bylaw approval. It is requested amendments be made to 5.3 to state it's only for new connections.</p> <p>11. The Fuel Companies seek that clause 6.1 in the bylaw is amended to recognise that discharges from petroleum industry sites in accordance with the MfE Guidelines will be considered acceptable in terms of quality. This is consistent with the intent of permitted activity discharge rules in the Regional Plans which require</p>	<p>implementation process at the time of deliberations.</p> <p>9. Refer to answer 2 above.</p> <p>10. The intention of the bylaw is to capture existing discharges as well as new ones that could adversely affect the quality of stormwater received by the Council's reticulated network. While there will be no transitional clause stated in the bylaw, there will be an appropriate transitional period to allow all sites to become compliant with the bylaw in a reasonable and workable timeframe. Further information on the enforcement approach will be provided at the time of deliberations.</p> <p>11. Council recognises that guidelines in place for petroleum based sites provide an acceptable quality of stormwater discharge provided that the oil and grit interceptors are properly maintained and used in accordance with their engineering guidelines. However it is not recommended that an amendment be made to the bylaw for a specific industry. Practical rules for the implementation of the bylaw will be discussed in the guidance document.</p> <p>12. . It is recommended that the change to the preamble for Section 6.2 be accepted.</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>oil-water separators to manage hydrocarbons.</p> <p>12. In addition, other changes to clause 6.1 are proposed to avoid duplication of powers, and 6.1(a) to recognise that the bylaw is in place to control inputs to the public network and that the private network is the responsibility of the site owner.</p> <p>13. Clause 6.2 of the Bylaw prohibits the discharge of any 'material' or 'hazardous substance' into the stormwater network, without exception. Given the broad definition of these terms in the Bylaw, notably the definition of 'material' (which includes hazardous materials and contaminants) and that 'hazardous substance' is captured under the definition of contaminant, a loop is created that effectively renders clause 6.1 redundant. In addition, it is inappropriate to explicitly refer to hydrocarbons in the explanatory note given that trace elements of hydrocarbons will be present in stormwater from trafficked surfaces around the district, and the reference may be interpreted as prohibiting the same with a range of unintended consequences.</p> <p>14. A minor amendment to 6(b) is also sought to clarify that the risk of inputs into</p>	<p>Refer to answer 2 from this submission above. Secondly, The bylaw will not speak to specific industries, but if stormwater is treated onsite through an appropriate treatment device then it will be able to discharge to the public stormwater network.</p> <p>13 It is recommended that the change to the preamble for Section 6.2 be accepted.. This additions helpsto appropriately differentiate the meanings between sections 6.1 and 6.2.</p> <p>It is recommended that the explanatory note remains as it currently is in the draft bylaw. It provides clarity to the interpretation of section 6.2 (a).</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>the system is attributed to a range of factors, not just location.</p> <p>15. To achieve the apparent intent of the Bylaw, the following amendments are sought:</p> <p><u>6.2 “Prohibited Activities</u></p> <p><u>Except for discharges provided for as a regulated activity under Clause 6.1 no person may:</u></p> <p>a) Allow any <u>contaminants material, hazardous substances,</u> sewage or trade waste to enter either directly or indirectly to the public stormwater network;</p> <p><i>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 <u>hydrocarbons.</u></i></p> <p>b) No person shall allow any material, hazardous substances, sewage or trade waste to be stored in <u>such a location manner where they are likely there is potential</u> to enter and cause Nuisance to the public stormwater system.”</p>	<p>14. We agree with this submission and will propose to amend this in the revised draft bylaw.</p> <p>15. Refer below.</p> <p>6.2 Refer above to section(s) 12 and 13 of this submission.</p> <p>6.2 a) - It is recommended that the proposed change to add contaminant is accepted, but it is recommended that material and hazardous substances remain.</p> <p>6.2 b) - It is recommended that section 6.2 (b) be accepted. The rewrite better outlines the objective of 6.2 (b)</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>16. Agrees with the requirement to submit a <i>SMP</i>. However, the requirement to undertake an assessment of contaminated soils within the <i>SMP</i> is opposed as it conflates stormwater discharges with legacy contaminated land matters.</p> <p>17. Contaminated soils are the result of historic discharges or losses of hazardous substances. In contrast, stormwater discharges containing hazardous substances will typically arise from operations involving the storage and use of hazardous substances from impervious surfaces (for instance forecourts at service stations, refer to paragraph 7). Discharges from unsealed surfaces would typically not be directed to the public stormwater network. The potential exception is when soil disturbance occurs on potentially contaminated land on a site with an existing connection to the public stormwater network. However, any such works will be considered against the provisions of the NES for Contaminated Soils and the relevant regional plan provisions. The Bylaw should not duplicate these controls. The following amendments to clause 6.3 are proposed, which necessitates a</p>	<p>16. Refer to answer 5. Council is concerned with the risk of contaminants originating from the soil of unsealed sites from industries that are known to contain contaminants of concern. Identifying what sites have the potential to cause nuisance to the network and detrimentally effect the quality of our discharge to the receiving waters is an important aspect of this bylaw.</p> <p>17. These changes are not supported. The Selected Land Use Register is a tool that Council uses to help identify both current and historical sites with sources of potential contamination. Invercargill City Council will work closely with Environment Southland to ensure that enforcement activities are appropriately aligned.</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>corresponding amendment to the definition of Regulated Stormwater.</p> <p>6.3 Stormwater Management Plans</p> <p>a) Where a site has been identified as having a high risk of potential contaminations in discharges, 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:</p> <p>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;</p> <p>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;</p> <p>b) Regulated stormwater means any stormwater <u>discharged to the public stormwater network</u> which:</p> <p>i) Contains contaminants;</p>	<p>It is recommended that section 6.3 a) ii) is kept in the bylaw, as this gives us tools to help identify sources of potential contamination to the stormwater network.</p> <p>Section 6.3 b) This is a reasonable proposed change and it is recommended it be added.</p> <p>Section 6.3 b) iii) will need to remain relating to points as mentioned above.</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>ii) Discharges from and industrial or trade premises;</p> <p>iii) Discharges from a premises that is a known HAIL site;</p> <p>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</p> <p>v) Is required by a control to obtain an approval <u>under this bylaw</u>.</p> <p>18. Requests clause 5.5 be clarified to say a ESCP is submitted when earthworks are undertaken when earthworks that materially alter the stormwater discharge to the network are proposed.</p> <p>19. A zero-tolerance threshold for the release of sediment during earthworks is not supported as it does not recognise that even good practice management will not prohibit any discharge of</p>	<p>Section 6.3 b) v) is a reasonable proposed change, it is recommended it be added.</p> <p>18. Partially support this request. While there will need to be work done to allow for a workable limit to sediment discharge, asking for ESCP's once it materially changes seems like it will cause a lot of reactionary applications once it appears sediment will be entering the system, where Council wants contractors and site occupants to be proactive in accessing ESCP's.</p> <p>Council will recommend a change as follows: Section 5.5 to state "When undertaking earthworks that are likely to materially alter the stormwater discharge to the public stormwater network an ESCP will be required.</p> <p>19. It is recommended that changes suggested by the submitter to section 5.5 of the bylaw be implemented with the addition of "that may or would materially alter...".</p>
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8	Phil Brown	4Sight Consulting – Representing Fuel Companies	Yes	Yes – With Amendments	<p>sediment. This point is reflected in the Environment Canterbury Erosion and Sediment Control Guidelines, which address 'acceptable' levels of sediment. The following amendments to clause 5.5 are proposed:</p> <p><u>5.5 Erosion and Sediment Control Plan</u></p> <p>When undertaking <u>earthworks that materially alter the stormwater discharge to the public stormwater network as a site development</u>,</p> <p>a) <i>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.</i></p> <p>b) <i>The Erosion and Sediment Control Plan will provide the controls and methods the site developer will use to ensure that no sediments and sediment laden water leaves are appropriately managed prior to discharge from the site or causes nuisance to the roading or public stormwater network.</i></p> <p>c) <i>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</i></p>	<p>Section 5.5 b) The submitter is right in this change, as the bylaw currently sits there is an unachievable zero tolerance for sediment in stormwater. It was never the intention of the bylaw to implement a zero tolerance threshold and as such it is recommended that in line with other TA's Stormwater Bylaws, Council will not be introducing limit setting for any contaminants to the stormwater bylaw itself, but it will be referencing technical documents with regards to recommended limits in its guidance document which will be provided at the time of deliberations.</p> <p>Section 5.5 c) This is a reasonable proposed change and it is recommended that this change is added to the proposed bylaw.</p> <p>Section 5.5 d) This is a reasonable proposed change and it is recommended that this change is added to the proposed bylaw.</p>
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					<p>are implemented and adhered to <i>for</i> the entirety of the <i>earthworks site development project</i>.</p> <p>d) No onsite <i>earth</i>works are to commence until the Erosion and Sediment Control Plan has been approved by Council.</p>	
9	Lucy Hicks	Environment Southland	No	Yes	<p>1. Environment Southland supports the Proposed Stormwater Bylaw 2022 as a significant step towards protecting and improving water quality in the lower reaches of the Oreti catchment.</p> <p>2. As the consenting authority for the discharge to surface water bodies from Invercargill City Council's reticulated stormwater system, Environment Southland is also interested in ensuring compliance with the conditions of that consent. The conditions require that contaminants are managed below appropriate levels with remedial actions being taken in case of exceedance. The allocation of sufficient resources for implementation and enforcement will be crucial for the Bylaw to achieve the desired results.</p> <p>3. It is suggested that special attention is paid to monitoring reticulated stormwater systems which discharge to the Coastal Marine Area, where stringent controls through the discharge consent requirements do not currently apply.</p>	<p>1. Noted – Thanks</p> <p>2. Council has included an increase in FTE for stormwater monitoring and compliance and a budget for education for the residents of the Invercargill in the 22/23 Annual Plan.</p> <p>3. Council treats all discharges from its reticulated network under the same stringent controls as seen in the freshwater discharge permit.</p>

10	Vicky Henry	Resident	Yes	Yes	<p>1. Section 5.5 a) refers to Environment Canterbury Erosion and Sediment Control Guidelines. Hopefully this is an error as this particular council is not one I would hold up as an environmental protection champion, the opposite could be said.</p> <p>2. Acknowledges bylaws need to take a control/punitive stance and this one does that. Believes there is opportunity to encourage positive actions such as using stormwater management devices that not only reduce stormwater runoff and contaminant loads prior to discharge. Suggests lower consent fees and rates reduction for the use of these devices and communicate this well.</p> <p>3. Rain gardens, infiltration trenches, sand filters, green roofs, wetlands, and swales (not in bylaw) have the ability to not only reduce runoff and contaminant load but to also improve the quality of the water. These should be actively encouraged over and above those that merely reduce the runoff volume. Equally, where these exist already, in particular wetlands, these should be actively protected. It is well documented that wetlands are</p>	<p>1.1 Christchurch soils are heavy in clays, much the same as Invercargill. ECan's erosion and sediment controls are more in line with Invercargill's compared to the likes of Auckland or Wellington.</p> <p>1.2 The ECan sediment and erosion control website is extremely easy to use and is easy to understand the step by step process towards what type of controls should be in use on any particular site. The Bylaw also aligns with the Environment Southland guidance on this issue.</p> <p>2. Council encourages the use of stormwater management devices to reduce both runoff volumes and contamination loads prior to discharge. Education will be a key device in ensuring that all site owners and managers are complying with the rules set under the bylaw. Lower consent fees and rates reductions for those implementing treatment devices is something council can look at in the future.</p> <p>3. Council recommends that site developers and property owners undertake onsite treatment to reduce both contaminant loads and runoff volume, the stormwater bylaw is not the correct medium to undertake this type of education work. Council agrees that wetlands need to be protected, however the Council does not currently discharge stormwater to any wetland areas. Encouraging good land management practice, including riparian planting and the protection of wetlands, is primarily an area of focus of Environment</p>
10	Vicky Henry	Resident	Yes	Yes		

10	Vicky Henry	Resident	Yes	Yes	<p>significant carbon soaks, and have the potential to assist with mitigating climate change. Along with stormwater filtration and mitigation, they are home to diverse native wildlife. We have lost 90% of our wetlands in NZ, those that remain must be protected.</p> <p>4. Council can demonstrate leadership by investing in stormwater management devices that improve the quality of the stormwater they are discharging through use of rain gardens, infiltration trenches, sand filters, green roofs, wetlands, ponds, swales and rain water tanks in council properties.</p> <p>Council can invest in drain filters and drain nets to stop physical items entering the storm water network. These are in use in the city of Kwinana Australia (pop approx. 43,000) and is being trialled in Western Sydney.</p> <p>5. Council can encourage riparian planting. The use of native trees, shrubs and sedges to shade urban waterways will also go a long way to improving water quality. This can be done in conjunction with flood protection measures without compromising safety.</p>	<p>Southland.4. Council has a works programme that is used to install treatment in stormwater catchments where possible, this can be either through propriety devices or engineered solutions. Examples of this are: The 'Jellyfish' stormwater treatment device at the Clyde Street Bridge on the Otepunui Stream, the Beatrice Street retention pond, and the rain gardens being installed in Don and Esk Street renewals. Council has trialled a net-capture device like the one described in the submitters comments. Unlike many other cities who have direct discharge sumps, the Council's kerbside sumps contain siphons, meaning larger gross contaminants such as bottles and cans are unable to make their way into the stormwater network. As for smaller gross pollutants such as cigarette butts, we found that they just made their way through the holes in the nets</p> <p>5. Encouraging good land management practice, including riparian planting, is primarily an area of focus of Environment Southland.</p>
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10	Vicky Henry	Resident	Yes	Yes	<p>Riparian planting has innumerable positive benefits; water filtration, moderated water temperature, land stabilisation, minimised flood damage, reduced sediment loss, reduced drainage damage from weeds and silt, erosion control and biodiversity. A focus on riparian planting along our urban waterways would create a network of biodiversity corridors. And as many public walkways are beside waterways this leads to improved recreational and cultural values. Lots of upsides, no downsides</p>	
11	Sue Hill	HWR Group	Yes	Yes – With Amendments	<p>1. Clause 5.3 requires all "regulated discharges" to the public stormwater network to obtain approval prior to the commencement of this bylaw. Regulated discharges are generally from industrial or HAIL sites, amongst other things. This clause will therefore require a large number of premises to obtain approval for stormwater discharges, and these discharges are already being undertaken at these sites. This approval process will be a significant undertaking for site owners, and the Council, and several questions arise as a result, particularly given the draft date for the bylaw commencement is 1 July 2022. HWRG's questions on this clause are set out below:</p> <p>1.1 Has the Council identified the sites that will be affected by this clause, and will landowners be advised?</p>	<p>1.1 All landowners will receive communications as part of the education process.</p>

11	Sue Hill	HWR Group	Yes	Yes – With Amendments	<p>1.2 What is the process for obtaining the necessary approvals prior to the commencement of this bylaw?</p> <p>1.3 There are likely to be situations where on-site stormwater management systems need to be upgraded in order to obtain the necessary approval from Council. In these situations, there will likely be no ability for these premises to cease the discharging of stormwater in the event that approval is not obtained by 1 July 2022. Will temporary approvals be issued in the event that stormwater systems need to be upgraded?</p> <p>1.4 Will any changes to stormwater infrastructure require building consents, and if so, does the Council have the capacity to process these consents within the nominated timeframes? If building consents are required, it is highly unlikely that the landowners could have the stormwater upgrade works designed within the proposed timeframes.</p>	<p>1.2 The approval process will be outlined in a guiding document that is released after we will know the final look of the bylaw. Council will implement a transition period once the bylaw is implemented to provide businesses a realistic timeframe in which to have their remedial work completed and further information will be provided on this as part of the deliberations.</p> <p>1.3 Council will provide a reasonable transition period to ensure that all sites are compliant with the bylaw.</p> <p>1.4 Many of the sites requiring significant upgrades to meet the discharge targets will need to apply for building consents. It is expected that following the ceasing of the transition period imposed by the council, all sites will be compliant with the bylaw.</p> <p>2. The wording of section 5.5 will be recommended to be changed to earthworks to help with better understanding of the intention of the section in the Council hearing stage.</p>
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11	Sue Hill	HWR Group	Yes	Yes – With Amendments	<p>2. Clause 5.5 requires the implementation of an erosion and sediment control plan when any site development takes place. The term 'site development' is not defined in the bylaw, and therefore, the requirement for an erosion and sediment control plan would apply to any works at a site, even those that do not require earthworks or changes to the stormwater management. If this clause relates to the defined term 'Development' this should be made expressly clear in Clause 5.5.</p> <p>3. Clause 6.1 relates to pollution prevention. HWRG supports this clause, however, subclause (e) is uncertain. It is considered that a list of prohibited materials should be appended to this Bylaw, and that this list is kept updated. Also, the building consent applications process should ensure that this clause is adhered to, in order to prevent people inadvertently erecting structures with prohibited roof or spouting.</p> <p>4. Clause 6.2 Sets out the prohibited activities. HWRG notes that in some cases, accidental discharges will occur, and these may be the result of something outside of the land owner's control. How will accidental discharges be managed under this bylaw?</p>	<p>3. The building consents team have been informed of proposed bylaw and what that changes will mean for the building consent process. It is not recommended to include a list of all prohibited substances would be too exhaustive and may open up council to legal liabilities if a certain hazardous substance was omitted by mistake.</p> <p>4. Accidental discharges will be investigated on a case by case basis. In the first instance council will seek to educate site occupants rather than infringe or prosecute. However if the spill is the result of a repeat offender, egregious in its volume and /or content or was the result of extreme negligence, then Council may look towards enforcement options.</p> <p>5. This will be covered by the guiding document, but if a business or site is located in a commercial / industrial zone or HAIL site,</p>
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					5. Clause 6.3 states that some sites may be required to prepare a Stormwater Management Plan. This will be a very onerous undertaking for land owners, so more parameters are required about when this clause would be triggered, and why?	then it should expect that it will need to submit a SMP.
12	Kathy Obers	Resident	No	Yes	I like the clear communication explaining the difference between stormwater and wastewater and how we can protect our environment from harmful discharges. The Questions and Answers section contained valuable information and i think we should all take the opportunity to read it. I like the educational stance the council is taking on this Bylaw.	Noted – Thanks
13	Noel J Peterson	Resident	No	Yes	Overall the proposed bylaw seems to me a good step forward to care for and manage storm water. Personally I would like to see further effort / development to upgrade public stormwater system planning and actions using the tools as noted in the bylaw as shown here: 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) Rain gardens; ii) Infiltration trenches; iii) Sand filters; iv) Green roofs; v) Wetlands; vi) Ponds; vii) Rain water tanks; and	Council has a capital upgrades programme and the use of stormwater treatment devices is considered every time one of these projects is undertaken.

					viii) Propriety devices. In particular propriety devices to trap contaminants at source before they enter our waterways.	
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Tuesday 5 April 2022 - Stormwater Bylaw Hearings Timetable					
Hearing Time		Hearing Slot	Submission Number	Speaker	City/Town
4:00 PM	Zoom	001	11	Megan Justice (on behalf of Sue Hill) - HWR	
4:10 PM	Zoom	002	7	Peter Wilson - Federated Farmers	
4:20 PM		003	6	Rebecca Blyth - Te Ao Marama	
4:30 PM	Zoom	004	13	Noel J Peterson	Bluff
4:40 PM		005	10	Vicky Henry	
4:50 PM	Zoom	006	8	Philip Brown - 4sight Consulting	Auckland

Submission for Stormwater Bylaw

Submission Number 11

Name Sue Hill

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

Yes

Are you submitting as a private resident or business?

HWR

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - However with amendments that I will detail in the text field

What is your feedback on our proposed Stormwater Bylaw?

Comment on the Proposed Stormwater Bylaw – HWR Group

Generally, this is a well drafted bylaw that provides clarity and certainty to users of the Council's reticulated stormwater system. However, HWRG considers that there are some clauses where the bylaw could be improved, and there remain a few questions on some aspects of the bylaw that we wish to clarify.

Clause 5.3

Clause 5.3 requires all "regulated discharges" to the public stormwater network to obtain approval prior to the commencement of this bylaw. Regulated discharges are generally from industrial or HAIL sites, amongst other things. This clause will therefore require a large number of premises to obtain approval for stormwater discharges, and these discharges are already being undertaken at these sites. This approval process will be a significant undertaking for site owners, and the Council, and several questions arise as a result, particularly given the draft date for the bylaw commencement is 1 July 2022. HWRG's questions on this clause are set out below:

- Has the Council identified the sites that will be affected by this clause, and will landowners be advised?
- What is the process for obtaining the necessary approvals prior to the commencement of this bylaw?
- There are likely to be situations where on-site stormwater management systems need to be upgraded in order to obtain the necessary approval from ICC. In these situations, there will likely be no ability for these premises to cease the discharging of stormwater in the event that approval is not obtained by 1 July 2022. Will temporary approvals be issued in the event that stormwater systems need to be upgraded?
- Will any changes to stormwater infrastructure require building consents, and if so, does the Council have the capacity to process these consents within the nominated timeframes? If building

consents are required, it is highly unlikely that the landowners could have the stormwater upgrade works designed within the proposed timeframes.

Clause 5.5

Clause 5.5 requires the implementation of an erosion and sediment control plan when any site development takes place. The term 'site development' is not defined in the bylaw, and therefore, the requirement for an erosion and sediment control plan would apply to any works at a site, even those that do not require earthworks or changes to the stormwater management. If this clause relates to the defined term 'Development' this should be made expressly clear in Clause 5.5.

Clause 6.1

Clause 6.1 relates to pollution prevention. HWRG supports this clause, however, subclause (e) is uncertain. It is considered that a list of prohibited materials should be appended to this Bylaw, and that this list is kept updated. Also, the building consent applications process should ensure that this clause is adhered to, in order to prevent people inadvertently erecting structures with prohibited roof or spouting materials.

Clause 6.2

Clause 6. Sets out the prohibited activities. HWRG notes that in some cases, accidental discharges will occur, and these may be the result of something outside of the land owners control. How will accidental discharges be managed under this bylaw?

Clause 6.3

Clause 6.3 states that some sites may be required to prepare a Stormwater Management Plan. This will be a very onerous undertaking for land owners, so more parameters are required about when this clause would be triggered, and why.

Should you have any queries or comment, please don't hesitate to contact the undersigned.

SUBMISSION

TELEPHONE 0800 327 646 | WEBSITE WWW.FEDFARM.ORG.NZ



SUBMISSION TO INVERCARGILL CITY COUNCIL ON STORMWATER BYLAW

By email only: Invercargill City Council
policy@icc.govt.nz

Name of submitter: Federated Farmers of New Zealand Inc

Contact person: Peter Wilson
Senior Regional Policy Advisor

Address for service: [REDACTED]
PO Box 5242
Dunedin 9058

This is a submission on the Stormwater Bylaw ("**the Bylaw**").

Excepts as otherwise specifically commented on within this submission, Federated Farmers of New Zealand ("**FFNZ**") supports the provisions as notified.

FFNZ wishes to be heard in support of its submission.

PETER WILSON
SENIOR REGIONAL POLICY ADVISOR

Federated Farmers of New Zealand Inc
60-66 Tennyson Street
PO Box 5242
Dunedin 9058
[REDACTED]

1. INTRODUCTION

- 1.1. FFNZ welcomes the opportunity to submit on the Review
- 1.2. FFNZ is a primary sector organisation with a long and proud history of representing the needs and interests of New Zealand farmers involved in a range of rural businesses. FFNZ is a pan sector organisation that works with farmers to ensure practical workable outcomes.
- 1.3. FFNZ aims to add value to its members' farming businesses. Its key strategic outcomes include the need for New Zealand to provide an economic and social environment within which:
 - a. FFNZ's members may operate their businesses in a fair and flexible commercial environment;
 - b. FFNZ's members, their families and their staff have access to services essential to the needs of the rural community; and
 - c. FFNZ's members adopt responsible management and environmental practices.
- 1.4. FFNZ represents members within rural areas of Invercargill City.

2. GENERAL COMMENTS

- 2.1. FFNZ notes that the purpose of the bylaw is primary to control discharges to stormwater from industrial and commercial sectors, presumably to ensure that these discharges are either treated onsite or discharged to the wastewater network.
- 2.2. In reviewing the bylaw, Federated Farmers notes that there does not appear to be a specific need for a whole new bylaw, and it might have been better to extend the scope of the trade waste bylaw to include the stormwater system, rather than introducing a similar but separate bylaw for stormwater alone.
- 2.3. The Bylaw is not clear on how agricultural activities will be treated, and introduces considerable uncertainty given that agricultural activities create diffuse discharges, which can infiltrate into the stormwater system. The infiltration can be as a result of overland flow into a drain or wetland that is part of the stormwater system, or directly into cracked pipes. It cannot have been the intention of the rule to capture this type of discharge, which is normal for agricultural practice.
- 2.4. These discharges also have a more nuanced regulatory regime under the Southland regional water and land plan.
- 2.5. Federated Farmers proposes explanatory notes in 6.1 and 6.2 that outlines how incidental or diffuse discharges from agricultural activities where there was no deliberate intent or action to specifically discharge them via the stormwater system are handled. For the purposes of this additional clause, agricultural activities are those lawfully established under either the district and/or regional plan or other laws.
- 2.6. Federated Farmers wishes to speak to this submission at any hearing convened.

PETER WILSON
SENIOR REGIONAL POLICY ADVISOR

Federated Farmers of New Zealand Inc
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Provision	Support or oppose	Decision sought	Reasons
Section 6.1	Oppose in part	<p>Add an explanatory note at the end of the section as follows:</p> <p>Explanatory Note: <u>This excludes discharges of an agricultural nature that would be reasonably expected to arise in the course of normal farming practice and which enter the stormwater system without intent¹.</u></p> <p><u>Footnote 1 – ‘normal farming practice is that lawfully established under the Invercargill City District Plan, Southland Regional Water and Land Plan, the Building</u></p>	<p>These changes limit the scope of the regulated activities to exclude discharges that would reasonably arise in the course of normal agricultural practice, lawfully established under district or regional plans, and which enter the stormwater system without intent. Practical examples of the above would be discharges of material or contaminants that would occur during a flood, or discharges that might infiltrate via a cracked or poorly maintained pipe.</p>

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 Dunedin 9058



Provision	Support or oppose	Decision sought	Reasons
		<u>Act 2004, or any other Act, Regulation or bylaw'</u>	
Section 6.2 Explanatory note	Oppose in part	<p>Add wording to the explanatory note to outline the types of agricultural activities that may be excluded from the scope of the rule.</p> <p>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,</p>	<p>These changes limit the scope of the prohibited activities to exclude discharges that would reasonably arise in the course of normal agricultural practice, lawfully established under district or regional plans, and which enter the stormwater system without intent. Practical examples of the above would be discharges of material or contaminants that would occur during a flood, or discharges that might infiltrate via a cracked or poorly maintained pipe.</p>

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Provision	Support or oppose	Decision sought	Reasons
		<p>groundwater from the dewatering of sites without treatment and hydrocarbons. <u>It excludes discharges of an agricultural nature that would be reasonably expected to arise in the course of normal farming practice and which enter the stormwater system without intent¹.</u></p> <p><u>Footnote 1 – ‘normal farming practice is that lawfully established under the Invercargill City District Plan, Southland Regional Water and Land Plan, the Building Act 2004, or any</u></p>	

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Extraordinary Infrastructural Services - Storm Water Bylaw Hearings - Submissions to be Heard

Provision	Support or oppose	Decision sought	Reasons
		<u>other Act, Regulation or bylaw'</u>	

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Submission for Stormwater Bylaw

Submission Number 006
Name Rebecca Blyth
Company Te Ao Marama
City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

Yes

Are you submitting as a private resident or business?

Business

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - However with amendments that I will detail in the text field

What is your feedback on our proposed Stormwater Bylaw?

Introduction

1. This submission has been prepared by Te Ao Marama Incorporated on behalf of Waihōpai Rūnaka and Te Rūnanga o Awarua (from herein referred to as ngā Rūnanga).
2. This response is provided without prejudice to legal action Ngāi Tahu and its Papatipu Rūnanga are currently undertaking, or any other claims or allegations made, against the Crown. In particular, nothing in this submission overrides or limits any pleadings in the Ngāi Tahu wai māori case^[1] or the judicial review of various decisions made by the Minister of Conservation in the administration of the Conservation Act 1987.^[2]
3. The Invercargill City Council is requesting feedback on two bylaws:
 - a. The Speed Review and Traffic and Roding Bylaw;
 - b. The Stormwater Bylaw

Papatipu Rūnanga

4. Te Rūnanga o Ngāi Tahu Act, 1996 (the TRoNT Act) and the Ngāi Tahu Claims Settlement Act, 1998 (the Settlement Act) recognise the status of Papatipu Rūnanga as kaitiaki and mana whenua of the natural resources within their takiwā boundaries, in conjunction with Te Rūnanga o Ngāi Tahu as the iwi authority.
5. The consultation matters relate to lands and waters within the takiwā boundaries of ngā Rūnanga.

^[1] *Tau & Ors v Attorney-General*, HC Christchurch CIV 2020-409-534.
^[2] CIV 2020-409-000-521 and CIV 2021-485-342.

6. Specifically, the takiwā of each Papatipu Rūnanga is described in the Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001 as follows:

Te Rūnanga o Awarua

The takiwā of Te Rūnanga o Awarua centres on Awarua and extends to the coasts and estuaries adjoining Waihopai sharing an interest in the lakes and mountains between Whakatipu-Waitai and Tawhititarere with other Murihiku Rūnanga and those located from Waihemo southwards.

Waihopai Rūnaka

The takiwā of Waihopai Rūnaka centres on Waihopai and extends northwards to Te Matau sharing an interest in the lakes and mountains to the western coast with other Murihiku Rūnanga and those located from Waihemo southwards.

Te Rūnanga o Ōraka-Aparima

The takiwā of Te Rūnanga o Ōraka Aparima centres on Ōraka and extends from Waimatuku to Tawhititarere sharing an interest in the lakes and mountains from Whakatipu-Waitai to Tawhititarere with other Murihiku Rūnanga and those located from Waihemo southwards.

Te Ao Marama Incorporated

7. Ngāi Tahu ki Murihiku formed an entity known as Te Ao Marama Incorporated in 1996, which is currently made up of representatives from Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima and Waihopai Rūnaka.
8. Te Ao Marama Incorporated is authorised to represent these three Papatipu Rūnanga ki Murihiku in resource management and local government matters.

Ngāi Tahu ki Murihiku Policy

9. The Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 (*Te Tangi a Tauira – the cry of the people*)¹ contains policy relevant to resource management, with reference to Statutory Acknowledgement Areas and other mechanisms included in the Settlement Act, as well as tribal policy contained in the Ngāi Tahu Freshwater Policy Statement 1997.

Reasons for submission

10. Ngā Rūnanga are seeking a long term, ki uta ki tai, approach to resource management in Murihiku that is based on a genuine Treaty partnership, recognising and providing for the rights, interests and values of mana whenua.

¹ Ngāi Tahu ki Murihiku 2008.

11. An objective of Ngā Rūnanga is to see waterbodies restored to a state of hauora wherever degradation is present.

INVERCARGILL CITY PROPOSED STORMWATER BYLAW

1. Ngā Rūnanga strongly support the proposed Stormwater Bylaw and the purposes of that bylaw. The bylaw will enable the Council to proactively address activities and sites that are impacting not only the Council's stormwater network, but water quality in general.
2. While the health and state of all inner-city waterways are acknowledged as degraded, there are known areas of specific concern to ngā Rūnanga within the stormwater network, including along the:
 - Otepunī Stream,
 - the Waihōpai arm,
 - Kingswell Creek,
 - Clifton Channel
 - the Waikiwi
 - the Awarua Plains
 - and Bluff Harbour
3. For Ngā Rūnanga degradation of the waterways and land negatively impacts on the mana of Ngāi Tahu, individual whānau, their hapū and iwi, including collective cultural identity and cultural practices, such as mātauranga and mahinga kai.
4. Ngā Rūnanga are currently developing cultural monitoring methodology and programmes and would like to explore the possibility of how these could support the mahi that the Council is doing within the stormwater sphere.
5. Ngā Rūnanga strongly encourage the Council to allocate funding and staff resource alongside the bylaw to enable monitoring, education and remediation directions to be implemented proactively.
6. Ngā Rūnanga would like the opportunity to work through risk prioritisation and implementation plan and are confident this could be part of the ongoing work between Te Ao Marama and ICC, identifying risk and providing hauora over time.
7. Ngā Rūnanga wish to thank Invercargill City Council for the opportunity to submit on the proposed Stormwater Bylaw.
8. We do wish to be heard in relation to our submission

Submission for Stormwater Bylaw

Submission Number 13

Name Noel. J. Peterson

City/Town Bluff

Do you wish to speak to the Mayor and Councillors about your submission?

Yes

Are you submitting as a private resident or business?

Private resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - I support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

Overall the proposed bylaw seems to me a good step forward to care for and manage storm water. Personally I would like to see further effort / development to upgrade public stormwater system planning and actions using the tools as noted in the bylaw as shown here: 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. In particular propriety devices to trap contaminants at source before they enter our waterways.

Note: "Rains Gardens" as mentioned in the bylaw should perhaps be termed Rain Gardens?

Submission on Invercargill City Council Proposed Stormwater Bylaw

Vicky Henry, 6 March 2022

In general I support the proposed Stormwater Bylaw.

It is excellent to see more being done in this space to protect the quality of our water from further deteriorating. Aside from the below observation, I think this is a well put together bylaw but there are some opportunities missed.

5.5 a). This section refers to *Environment Canterbury Erosion and Sediment Control Guidelines*. Hopefully this is an error as this particular council is not one I would hold up as an environmental protection champion, the opposite could be said.

Opportunities

Typically Council documents have a fairly control/punitive slant, as the aim is to hold to account those that transgress against the bylaw. While this aspect is covered, I think there is ample opportunity with this bylaw to encourage positive actions.

Encourage the use of stormwater management devices that not only reduce stormwater runoff volume & flow, but also reduce contaminant loads prior to discharge. This can be done through lower consent fees and rates reduction for the use of these devices, and active encouragement of their use through the various communications Council use – Consent information & documentation, website and other social media.

Of those listed in the bylaw; rain gardens, infiltration trenches, sand filters, green roofs, wetlands, and swales (not in bylaw) have the ability to not only reduce runoff and contaminant load but to also improve the quality of the water. These should be actively encouraged over and above those that merely reduce the runoff volume.

Equally, where these exist already, in particular wetlands, these should be actively protected. It is well documented that wetlands are significant carbon soaks, and have the potential to assist with mitigating climate change. Along with stormwater filtration and mitigation, they are home to diverse native wildlife. We have lost 90% of our wetlands in NZ, those that remain must be protected.

Leadership through doing as I do

Council can demonstrate leadership by investing in stormwater management devices that improve the quality of the stormwater they are discharging through use of rain gardens, infiltration trenches, sand filters, green roofs, wetlands, ponds, swales and rain water tanks in council properties.

Council can invest in drain filters and drain nets to stop physical items entering the storm water network. These are in use in the city of Kwinana Australia (pop approx. 43,000) and is being trialled in Western Sydney. The Mayor of Kwinana Ms Adams is quoted below in an ABC News story, 9 June 2019.

Ms Adams said the drain socks meant the city now spent less money manually clearing rubbish out of its creek system. "I think some of the best ideas come from just the easiest and most simple concepts," she said...

...Ms Adams said the litter collected was disposed of and the green matter was recycled. "We have a team that comes in to clean the drains and we pick the sock up, dry [the rubbish], sort it and then mulch it.

"It's a whole recycling process of the debris captured by these nets. "Last winter, the maintenance crew took away 370 kilograms of debris and rubbish...."

This has the potential to remove significant volumes of plastic and other physical waste going down our drains and into our seas.

Council can encourage riparian planting. The use of native trees, shrubs and sedges to shade urban waterways will also go a long way to improving water quality. This can be done in conjunction with flood protection measures without compromising safety.

Riparian planting has innumerable positive benefits; water filtration, moderated water temperature, land stabilisation, minimised flood damage, reduced sediment loss, reduced drainage damage from weeds and silt, erosion control and biodiversity. A focus on riparian planting along our urban waterways would create a network of biodiversity corridors. And as many public walkways are beside waterways this leads to improved recreational and cultural values. Lots of upsides, no downsides.

Council can also partner with local organisations (Sea Society, Save New River Forum) to educate local schools on how to improve water quality through stormwater protection.

There is such an opportunity to encourage positive behaviour that leads to water quality improvements and an enhanced environment.

It would be a true joy to see ICC being leaders in this space.

Thank you
Vicky

Submission for Stormwater Bylaw

Submission Number 008
Name Phil Brown
Company 4Sight Consulting, on behalf of Z Energy Limited, BP Oil NZ Limited
And Mobil Oil NZ Limited
City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

Yes

Are you submitting as a private resident or business?

Business

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

No - I do not support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

INTRODUCTION

1. Invercargill City Council (*Council or ICC*) is seeking feedback on its draft Stormwater Bylaw 2022 (*the Bylaw*).
2. The Fuel Companies receive, store, and distribute refined petroleum products around New Zealand. In Invercargill, the Fuel Companies' have bulk petroleum storage facilities, retail outlets, and are suppliers of petroleum products to individually owned retail outlets and commercial clients.
3. This submission focuses on the issues the Fuel Companies perceive may inappropriately restrict their existing and future operations.
4. The Fuel Companies wish to be heard in relation to this submission and would be pleased to discuss these matters further with Council in advance of the hearing.
5. A complete list of the specific amendments sought by the Fuel Companies to the Bylaw is provided in **Appendix A**.

BACKGROUND TO MANAGEMENT OF STORMWATER DISCHARGES BY THE FUEL COMPANIES

6. Discharges from petroleum industry sites are addressed in the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (Ministry for the Environment, 1998, *the Guidelines*). The Guidelines provide specific measures to ensure water discharges from

petroleum industry sites do not cause significant adverse effects on the environment. They were prepared by a working group comprising industry, central, and regional government and continue to be widely recognised as good practice. This is demonstrated by their widespread recognition in RMA plans and bylaws around the country, either through direct reference or via provisions which reflect the important role of oil water separators in managing risk associated with the storage and use of petroleum products. In Southland, the partially operative Southland Land and Water Regional Plan (*SLWP*) Rule 15(a)(ii)(3) provides a permitted activity pathway for stormwater that contains oil and grease, subject to that stormwater being passed through an oil interceptor system prior to discharge. Rules 11 and 12 of the operative Regional Water Plan provide similar permitted pathways for discharges to surface water and land. Copies of these three rules are attached at **Appendix B**.

7. Discharges from service station forecourts are a Category 2 discharge under the Guidelines. This reflects that there is potential for water to contain oil contaminants and that these require appropriate treatment prior to discharge. The Guidelines require that these areas be directed by appropriate surface grading into grated sumps/gutters/rain gardens leading to drainage systems or treatment devices prior to discharge. If not within the forecourt, tank fill points must be similarly treated.

8. The Guidelines set out detailed criteria for sizing of treatment devices based on rainfall and require that separators have the capacity to contain a 2,500-litre spill of hydrocarbons, which is the maximum credible spill. Devices which use gravity separation are recognised as the most practicable option to remove oil from water and achieve the desired discharge quality. Appendix 2 of the Guidelines explain the methodology and results of the trial of an American Petroleum Institute (*API*) separator. That exercise confirmed that the API could retain a 2,500-litre spill with the outlet valve in the open position while also achieving a discharge quality of less than 15 milligrams per litre of total petroleum hydrocarbons. A SPEL separator has been similarly tested and subsequently certified by the former Auckland Regional Council as being compliant with the Guidelines. Both SPEL and API are now widely used around the country.

9. The Guidelines recognise that the maximum levels of contaminants allowable in discharges are 15 and 100 milligrams per litre (*mg/L*) for total petroleum hydrocarbons (*TPH*) and total suspended solids (*TSS*) respectively (when averaged over the design storm event) and that operating within these limits will ensure minimal adverse toxic effects. The Guidelines draw parallels to roads and highlight that monitoring has demonstrated that discharges from such sites are no worse (and often better) than discharges from roads and high turnover car parks.

10. In terms of effects, the Guidelines refer to modelling work demonstrating that typical oil discharges will have no significant adverse effects on receiving water, except for at the most sensitive sites.

11. Coupled with the physical components at the Fuel Company sites to manage (1) stormwater runoff quality and (2) the risk to receiving environments from accidental spills, are procedural documents specifying maintenance frequency for site stormwater systems and oil and water separator devices. Typically, these procedures document matters such as oil and water separator inspection and cleanout frequency as well as spill response procedures and requirements for clean out and disposal in the event of a spill.

12. In summary, the Guidelines are embedded in the Fuel Companies' operations and are widely accepted as good practice for management of sites which store and use petroleum hydrocarbons. Their implementation represents appropriate management of the risk specific to the storage and use of petroleum at Fuel Company site. In particular, they require:

- i) Segregation of fuel transfer activities from balance site areas using site contouring, bunding and dedicated drainage systems;
- ii) The operation and maintenance of oil and water separators designed to treat TPH and TSS entrained in stormwater runoff to a maximum discharge standard of 15mg/L and 100mg/L respectively during the design storm event while also providing for spill containment up to 2,500L; and
- iii) Site practice and procedures documenting matters such as maintenance inspection and clean out frequency for the oil and water separators and steps that should be taken in the event of an accidental spill.

13. The appropriateness of these measures has been reinforced by extensive technical inputs, including the following:

- URS, 2008 – Stormwater and Sediment Monitoring Data from Service Stations and Control Sites in the Auckland Region.
- PDP, 2013 – Stormwater Treatment Devices Monitoring at Representative Z Service Stations in the Auckland Region.
- Auckland Council, 2016 - Technical Report TR2016/010 - The Management of Hydrocarbons in Stormwater Runoff: A Literature Review
- PDP, 2017 – Performance Monitoring of Stormwater Treatment Devices at Z Moorhouse
- Golder Associates, 2019 – Contaminant Load Profiles on Service Stations and Adjacent Roads in Auckland.

Copies of the technical reports above can be provided upon request.

GENERAL REASONS FOR SUBMISSION

Key Issues

14. The Fuel Companies support the purpose of the Bylaw. However, the Fuel Companies consider that the Bylaw as proposed poses the following key issues:

- i) The relationship between the Bylaw and the relevant regional plans is unclear, resulting in the likelihood of unnecessary duplication of function between the two, with corresponding inefficiencies for all parties.
- ii) The Bylaw may be interpreted as requiring retrospective approvals for existing sites lawfully discharging 'regulated stormwater'.
- iii) The Bylaw does not recognise the role of the Guidelines in ensuring stormwater discharges from petroleum industry sites are of an acceptable quality.
- iv) The current drafting of the Bylaw has the potential to inadvertently prohibit discharges from industrial and commercial sites in the district, including Guideline compliant Fuel Company sites, with no alternative pathway for obtaining approval.

v) The requirement to undertake an assessment of contaminated soils as part of a Stormwater Management Plan (SMP) under the Bylaw extends beyond the management of stormwater to the management of legacy contaminated land with limited potential for discharges to the public stormwater network.

vi) The Bylaw sets an unachievable zero-tolerance threshold for the discharge of sediment.

Other considerations

15. A range of other amendments are sought to better achieve the purpose of the Bylaw while improving clarity for Bylaw users, including the network operator.

16. In addition, the Fuel Companies seek to ensure that the Bylaw appropriately recognises that roads are a key source of stormwater contaminants. This is not reflected in the issues and options paper prepared to inform the Bylaw, which focuses on industrial and commercial facilities, including carparks and refueling stations, but does not address the management of runoff from roads.

SPECIFIC REASONS FOR SUBMISSION

17. The suggested amendments that follow are tracked where deletions are in ~~strikethrough~~ and additions in underline. Please refer to **Appendix A** for a complete list of specific amendments sought by the Fuel Companies to the Bylaw.

Duplication of Functions

18. The Bylaw does not appear to recognise the role of the regional plans (operative and proposed) in controlling discharge quality, and in particular the permitted discharge provisions of the operative and proposed regional plans (see paragraph 6). This is inconsistent with most other stormwater bylaws in the country. In order to avoid duplicating functions, it is recommended that the following is added to the explanatory note at the beginning of the Bylaw.

Explanatory Note:

....

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. However, nothing in this bylaw shall prevent discharges of a quality that is permitted by a rule in a regional plan or provided for by a regional discharge permit.

19. Amendments to 5.3, 6.1 and 6.2 are also proposed in this regard, as set out in Appendix A.

Existing lawful discharges

20. The current drafting of the Bylaw will mean that any existing or new discharges of 'regulated stormwater' into the network are non-compliant, effective of the date of its commencement. Noting the Bylaw's broad definition of 'regulated stormwater', this clause is likely to immediately render many sites non-compliant and require them to obtain retrospective bylaw approval. Not only trade or industrial activities, but also any existing roofs formed of 'regulated materials', will immediately require retrospective bylaw approval as they involve the discharge of regulated stormwater into the network. Such an approach is inconsistent with other stormwater bylaws in the country, which apply controls to new, rather than any existing, connections. In the absence of any transitional clause, this

will result in vast quantities of retrospective approvals being required at the same time. It is assumed that the intent of clause 5.3 is to require approvals for new discharges only, and the following amendment achieves this intent, in conjunction with an additional amendment to preclude duplication of functions, as discussed above.

5.3 Discharges to the Public Stormwater Network

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

Discharges of a quality permitted under the regional plan or provided for by a regional consent will be accepted with Council's input limited to stormwater quantity.

Guideline Compliant Discharges

21. The Fuel Companies seek that clause 6.1 in the bylaw is amended to recognise that discharges from petroleum industry sites in accordance with the MfE Guidelines will be considered acceptable in terms of quality. This is consistent with the intent of permitted activity discharge rules in the Regional Plans which require oil-water separators to manage hydrocarbons.

22. In addition, the Fuel Companies consider that this change will help ensure that the Bylaw does not preclude, and ideally recognises, that the stormwater network will be used to convey a range of non-stormwater discharges, including some which are qualitatively akin to stormwater. The difficulty of sanctioning Guideline compliant non-stormwater discharges has been an ongoing challenge ongoing challenge for the industries, with delays and inefficiencies often associated with obtaining the necessary approvals.

23. The Fuel Companies consider that non-stormwater discharges need to be appropriately provided for, in both a regional plan and bylaw context. The Fuel Companies consider that nothing in the Bylaw does (nor should) preclude non stormwater discharges via the physical network, subject to appropriate sanctions from the regional council in terms of quality, and confirmation from Council as network operator that the quantity can be accommodated and the discharge will not cause nuisance. Council's concerns re differentiation of discharges can be managed by appropriate on-site monitoring and compliance from discharge sites.

24. Changes to clause 6.1 are proposed in line with the above considerations. In addition, other changes to clause 6.1 are proposed to avoid duplication of powers, and 6.1(a) to recognise that the bylaw is in place to control inputs to the public network and that the private network is the responsibility of the site owner.

6.1 Regulated Activities

*No person may, without approval **or unless specifically authorised by a resource consent or a permitted activity under a regional plan**;*

*a) Discharge any contaminant from the site and into ~~a private or~~ the public stormwater network **unless it has first passed through an appropriate stormwater management device, for instance at petroleum industry sites this treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in NZ (MfE, 1998)**;*

.....

Prohibited Discharges

25. Clause 6.2 of the Bylaw prohibits the discharge of any 'material' or 'hazardous substance' into the stormwater network, without exception. Given the broad definition of these terms in the Bylaw,

notably the definition of 'material' (which includes hazardous materials and contaminants) and that 'hazardous substance' is captured under the definition of contaminant, a loop is created that effectively renders clause 6.1 redundant. In addition, it is inappropriate to explicitly refer to hydrocarbons in the explanatory note given that trace elements of hydrocarbons will be present in stormwater from trafficked surfaces around the district, and the reference may be interpreted as prohibiting the same with a range of unintended consequences.

26. A minor amendment to 6(b) is also sought to clarify that the risk of inputs into the system is attributed to a range of factors, not just location.

27. To resolve the above and achieve the apparent intent of the Bylaw, the following amendments are sought:

6.2 Prohibited Activities

Except for discharges provided for as a regulated activity under clause 6.1, no person may:

a) Allow any ~~contaminants 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) No person shall allow any material, hazardous substances, sewage or trade waste to be stored in ~~such a location manner where they are likely there is potential~~ to enter and cause Nuisance to the public stormwater system.

Stormwater Management Plans and Contaminated Soils

28. The requirement to submit a Stormwater Management Plan (SMP) (or equivalent) as part of the Bylaw approval process is accepted. However, the requirement to undertake an assessment of contaminated soils within the SMP is opposed as it conflates stormwater discharges with legacy contaminated land matters.

29. Contaminated soils are the result of historic discharges or losses of hazardous substances. In contrast, stormwater discharges containing hazardous substances will typically arise from operations involving the storage and use of hazardous substances from impervious surfaces (for instance forecourts at service stations, refer to paragraph 7). Discharges from unsealed surfaces would typically not be directed to the public stormwater network. The potential exception is when soil disturbance occurs on potentially contaminated land on a site with an existing connection to the public stormwater network. However, any such works will be considered against the provisions of the NES for Contaminated Soils and the relevant regional plan provisions. The Bylaw should not duplicate these controls. The following amendments to clause 6.3 are proposed, which necessitates a corresponding amendment to the definition of Regulated Stormwater.

6.3 Stormwater Management Plans

a) ~~Where a site has been identified as having a high risk of potential contaminant contaminations in discharges, 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;~~

.....

s) Regulated stormwater means any stormwater discharged to the public stormwater network 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 under this bylaw.

Erosion and Sediment Control Plans

30. The requirement to submit a Erosion and Sediment Control Plan (ESCP) as part of the Bylaw approval process is accepted where earthworks are proposed. However, as Clause 5.5 currently drafted, an ESCP is required when a site development is undertaken. While the term site development is not defined, the term 'development' is defined and means *the altering of the stormwater runoff characteristics of that land including by stormwater drainage works, building work, sub-divisions or change of use or ground cover*. If the defined term 'development' is used to interpret that definition, as one would expect, the Bylaw would appear to require an ESCP when no earthworks are proposed. This could be readily corrected by simplifying the requirement for an ESCP to be submitted when earthworks that materially alter the stormwater discharge to the network are proposed.

31. Similarly, a zero-tolerance threshold for the release of sediment during earthworks is not supported as it does not recognise that even good practice management will not prohibit any discharge of sediment. This point is reflected in the Environment Canterbury Erosion and Sediment Control Guidelines, which address 'acceptable' levels of sediment. The following amendments to clause 5.5 are proposed:

5.5 Erosion and Sediment Control Plan

When undertaking earthworks that materially alter the stormwater discharge to the public stormwater network 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~~ and sediment laden water leaves are appropriately managed prior to discharge from 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 for the entirety of the earthworks site development project.*

d) *No onsite earthworks are to commence until the Erosion and Sediment Control Plan has been approved by Council.*

Minor amendments

32. While not necessarily reasons for opposition to the Bylaw, this submission also recommends minor amendments to improve its overall clarity. The changes sought are set out in **Appendix A** to this submission.

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



Phil Brown
Planner
7 March 2022

APPENDIX A Invercargill City Council Stormwater Bylaw 2022

Invercargill City Council Stormwater Bylaw 2022

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. However, nothing in this bylaw shall override any discharges permitted by a rule in a regional plan or authorised by the need to obtain and comply with any a resource consent required by the Resource Management Act.

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 Council's public stormwater network are appropriately managed at source, and do not damage the network or compromise the Council's ability to comply with any applicable stormwater discharge consents and the Council's 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 includes** 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, sub-divisions 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.

Commented [PB1]: For clarification and for consistency with the RMA definition.

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 discharged to the public stormwater network 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 under this bylaw.
- 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~~Southland 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.

Commented [PB2]: Change required to clarify that approval is required under this bylaw and not under other bylaws or approval processes.

Commented [PB3]: Typo

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

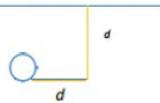
5.1 Application to Connect

- 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 establish a new discharge, directly or indirectly, of regulated stormwater into the public stormwater network without prior approval, or unless specifically authorised by a resource consent or a permitted activity under a regional plan.

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 earthworks that materially alter the stormwater discharge to the public stormwater network 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 and sediment laden water leaves are appropriately managed prior to discharge from 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 for the entirety of the site development earthworks project.
- d) No onsite earthworks 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 or unless specifically authorised by a resource consent or a permitted activity under a regional plan:

- a) Discharge any contaminant from the site and into a private or the public stormwater network unless it has first passed through an appropriate stormwater management device, for instance at petroleum industry sites treatment shall include oil-water separation in accordance with the Environmental Guidelines for Water Discharges for Petroleum Industry Sites in NZ (MfE, 1998);
- 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

~~Except for discharges provided for as a regulated activity under clause 6.1, No person may:~~

- a) Allow any ~~contaminant, 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 such a location manner where there is potential to they are likely 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

~~Where a site has been identified as having a high risk of potential contaminations in discharges, 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 set out in clause 6.3 (a), the alternative plan may be accepted in place of a Stormwater Management Plan at Council's 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 manager's 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.

APPENDIX B

Relevant Regional Provisions

Proposed Southland Regional Land and Water Plan

Rule 15⁶⁰ – Discharge of stormwater

- (a) The discharge of stormwater onto or into land in circumstances where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, is a permitted activity provided the following conditions are met:
- (i) the discharge is not from a reticulated system; and
 - (ii) the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:
 - (1) hazardous substances cannot enter the stormwater system; or
 - (2) there is an interceptor system in place to collect stormwater that may contain hazardous substances and discharge or divert it to a trade waste system; or
 - (3) the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge; and
 - (iii) the discharge does not contain any sewage, contaminants from on-site wastewater systems and mobile toilets, or agricultural effluent;
 - (iv) for discharges to a lake, river, artificial watercourse, modified watercourse or wetland, the discharge does not result in:
 - (1) the production of any conspicuous oil or grease films, scums, foams or floatable or suspended materials; or
 - (2) the rendering of freshwater unsuitable for the consumption by farm animals; or
 - (3) significant adverse effects to aquatic life; or
 - (4) any conspicuous change in the colour or visual clarity of the receiving waters at the downstream edge of the reasonable mixing zone;
 - (v) except for the discharge of stormwater from a roof, road or vehicle parking area, the discharge is not into water within natural state waters; and
 - (vi) for discharges to land, the discharge does not cause flooding, erosion, or land instability to any other person's property.
- (ab) The discharge of stormwater onto or into land where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, that does not meet Rule 15(a)(i) is a discretionary activity provided the following conditions are met:
- (i) the reticulated system is owned by a territorial authority and is operated by them or their agent;
 - (ii) a management plan is provided with the application that sets out, in a manner that reflects the scale and significance of water quality improvements required in the catchment:
 - (1) targets for the reduction in the volume and frequency of wastewater overflows into the stormwater network, and methods to monitor the volume and frequency of those overflow discharges;
 - (2) a monitoring and investigation programme to identify and remedy wastewater cross-connections on private and public land; and
 - (3) methods to improve the quality of the discharge, which may include capital works, bylaws, investigations, education and preventative activities; and
 - (iii) demonstration of funding for implementing the management plan is provided with the application.
- (b) The discharge of stormwater onto or into land in circumstances where contaminants may enter water, or into a lake, river, artificial watercourse, modified watercourse or wetland, that does

⁶⁰ Appeal to Environment Court by (i) Gore District Council & others ENV-2018-CHC-000031
 (ii) Southland Fish and Game Council ENV-2018-CHC-000037
 (iii) Te Runanga o Ngai Tahu & others ENV-2018-CHC-000047
 (iv) Royal Forest and Bird Protections Society of New Zealand Incorporated ENV-2018-CHC-000050

Rule 11 – Discharge of stormwater into surface water

Other relevant sections: Objectives 1- 4, Issues 1, 7, Policies 1, 1A- 7, 11, Rules 1-3, Section 2.3.

The discharge of stormwater into a surface water body or water in an artificial watercourse is a permitted activity provided the following conditions are met:

- (a) the discharge is not from a reticulated system.
- (b) the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:
 - (i) hazardous substances cannot enter the stormwater system; or
 - (ii) there is an interceptor system in place to collect stormwater that may contain hazardous substances and discharge or divert it to a trade waste system; or
 - (iii) the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge.
- (c) the discharge does not contain any sewage, foul water or agricultural effluent;
- (d) the discharge does not result in the production of any conspicuous oil or grease films, scums, foams or floatable or suspended materials;
- (e) except for the discharge of stormwater from a roof, road or vehicle parking area, the discharge is not into water within Natural State Waters.

Explanation

Stormwater has the potential to carry high levels of contaminants into surface water. Contaminants may include sediment, oil and grease, organic material, faecal material and hazardous chemicals. The risk of such contaminants being present is higher when the discharge is from industrial or trade premises or from a reticulated system that collects stormwater from a larger area and a number of properties. For this reason, the rule has specific conditions in relation to these types of discharge. If the conditions attached to the rule cannot be met, the activity will require consent under one of Rules 1, 2 and 3 of this Plan

depending on the receiving water and whether or not the discharge will meet the water quality standards for the relevant surface water body. This will enable Council to ensure that appropriate treatment measures are in place to meet water quality standards. It will also allow the discharges to be monitored.

Under Section 20A of the Act, a resource consent application must be made within six months of a rule becoming operative for a lawfully established activity requiring consent under that rule. Conditions of consents granted for existing stormwater discharges would stipulate that the standards and guidelines specified in Policy 11 were to be met at the end of the phase-in period contained in the policy; alternatively consents may be granted with a shorter consent term to allow reconsideration of the activity and appropriate consent conditions at the end of the phase-in period.

It is unlikely that every stormwater discharge will need to be individually consented in practice. The process will be more efficient if resource users obtain "global" consents that allow them to discharge into surface water, subject to meeting the conditions specified on the consent including requirements to provide the Council with information.

Other stormwater discharges, for example from individual dwellings, are likely to contain far fewer contaminants. It is appropriate that, provided the other conditions can be met, the discharge is permitted.

Discharges from industrial and trade premises are permitted. Raw sewage, foul water and untreated effluent may not be discharged. This can occur, for example, where stormwater enters sewage collection pipes, causing them to overflow.

Stormwater discharge into water within Natural State Waters will require consent under Rules 1, 2 and 3 of the Plan.

Rule 12 - Discharge of stormwater into or onto land

Other relevant sections: Objectives 1-4, 9A-C, Issues 1, 5A, 7, Policies 1, 1A-7, 11, 31A-D, Rules 1-3, Sections 2.3, 2.4

- (a) The discharge of stormwater onto or into land is a permitted activity provided the conditions below are met:
- (i) the discharge is not from a reticulated system;
 - (ii) the discharge does not originate from an industrial or trade premises where hazardous substances are stored or used unless:
 1. hazardous substances cannot enter the stormwater system; or
 2. there is an interceptor system in place to collect stormwater that may contain hazardous substances and discharge or divert to a trade waste system; or
 3. the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge;
 - (iii) the discharge does not contain any sewage, foul water or agricultural effluent;
 - (iv) the discharge does not result in the production of any conspicuous oil or grease films;
 - (v) the discharge does not cause flooding of any other person's property, erosion or land instability;
 - (vi) except for the discharge of stormwater from a roof, road or vehicle parking area, the discharge is not onto land where it may enter water within Natural State Waters.
- (b) The discharge of stormwater onto or into land that cannot meet the above conditions is a discretionary activity.

Explanation

Stormwater run-off to ground will generally have few adverse effects on water quality. The exception is where contaminants such as untreated agricultural effluent, sewage or hazardous substances may be present. The conditions attached to Rule 12(a) should ensure that the risk of such contaminants being present in the discharge is low. The stormwater disposal system needs to be designed so that stormwater does not cause erosion, land instability or flooding of a neighbouring property.

If the conditions attached to the rule cannot be met, the activity will require consent under Rule 12(b). Under Section 20A of the Act, a resource consent application must be made within six months of a rule becoming operative for a lawfully established activity requiring consent under that rule. Conditions of consents granted for existing stormwater discharges would stipulate that the standards and guidelines specified in

Policy 11 were to be met at the end of the phase-in period contained in the policy; alternatively consents may be granted with a shorter consent term to allow reconsideration of the activity and appropriate consent conditions at the end of the phase-in period.

Submission for Stormwater Bylaw

Submission Number 001

Name Alister Calvert

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Private Resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - I support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

Worded well and easy to understand

Submission for Stormwater Bylaw

Submission Number 002

Name Paul Cotter

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Private Resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - I support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

Water is the molecule of life. Without water we die. Without good quality water we can become sick and maybe that's a fate worse than dying.

Every attempt to safeguard its quality is justified.

Submission for Stormwater Bylaw

Submission Number 003

Name Maurice Rodway

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Private Resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - I support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

Stormwater needs to be improved so that receiving water bodies are not contaminated

Submission for Stormwater Bylaw

Submission Number 004

Name Bonisch Consultants Ltd

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Business

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - However with amendments that I will detail in the text field

What is your feedback on our proposed Stormwater Bylaw?

We are writing in support in part of the proposed Invercargill City Council Stormwater Bylaw 2022 with the goal of improving discharges to the receiving environment and targeting discharges that include high contaminant loadings at source.

We note that the definition of contaminant within the bylaw is currently broad and open to interpretation. The definition is expanded upon through an explanatory note within clause 6.3 however it is not discussed at which level contaminant concentrations within a discharge would trigger it being defined as regulated stormwater. This may result in normal discharges from residential sites being classed as regulated stormwater. This is because stormwater runoff inherently includes suspended solids / sediments in varying concentrations that for residential sites can be below ANZECC water quality guidelines after mixing.

We propose that the bylaw includes or refers to other guidance that ensures the definition of regulated stormwater applies to areas and activities of high contaminant generation that produce elevated levels of contamination. This in turn would result in any treatment measures being focused on high contaminant generating activities to effectively reduce contaminant loads in stormwater, while not burdening residential sites and minor developments with additional compliance and treatment costs with resulting minimal improvements in stormwater quality. It appears this approach would be in line with the intention of this bylaw.

This approach has been used in the Auckland Region in Auckland Council, (2013), Auckland Unitary Plan stormwater management provisions: Technical basis of contaminant and volume management requirements, Prepared by Auckland Council. Auckland Council technical report, TR2013/035.

This document reviewed the contaminant load model for the Auckland Region and in turn recommended target design effluent quality requirements for stormwater runoff. In addition, it identified high contaminant generating activities in the urban context which should be targeted for treatment as:

- Parking areas, and associated accessways that are exposed to rainfall and carry more than 50 vehicles per day;

- Building roofing, spouting and external walls cladding and architectural features using materials with an:
- Exposed surface or surface coating of metallic zinc or any alloy containing greater than 10% zinc;
- Exposed surface or surface coating of metallic copper or any alloy containing greater than 10% copper; or
- Exposed treated timber surface or any roof material with a copper-containing or zinc-containing algaecide;
- High use roads being:
- A motorway, state highway, regional primary arterial and or district secondary arterial road; or
- A road that carries more than 10,000 vehicles per day.

It is proposed that Invercargill City Council review their own contaminant load model and look to provide a similar definition, calibrated to the local situation, to allow for practical application and targeted investment in treatment of stormwater within Invercargill.

Yours faithfully

BONISCH CONSULTANTS LIMITED

Submission for Stormwater Bylaw

Submission Number 005

Name Graham Jones

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Private Resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - However with amendments that I will detail in the text field

What is your feedback on our proposed Stormwater Bylaw?

I generally support the draft bylaw provided that the following points are considered:

Clause 3c

Amend the word Councils to Council's with an apostrophe. (Three instances in this sub-clause and at least eight instances throughout the document).

Clause 4.1i

Amend and clarify the definition for hazardous land and activities. The acronym HAIL stands for Hazardous Activities and Industries List, but does not cover land.

Provide a separate definition for HAIL as this acronym is used in the body of the document.

Clause 4.1n(vi)

Amend the wording at the commencement from "An effect" to "A detrimental effect" for the sake of clarity.

Clause 4.1w(i)

Amend the wording from "Rains garden" to "Rain garden".

Clause 5.2c

Amend the first word from "Remove" to "Removing" to provide consistency of style with the other sub-clauses in section 5.2.

Clause 5.5b

Amend the wording "will provide" to "must provide"

Clause 5.5c

Amend the wording "will nominate" to "must nominate"

Clause 6.1d

Amend the wording “property owners or managers” to “property owner’s or manager’s” with apostrophes.

Clause 6.1e

Clarify the relationship between this clause and clause 4.1s(iv) which refers to regulated material as set out in clause 6.1(e). There is no mention of regulated materials in clause 6.1e and the unreferenced sub-clause (i) is confusing. Consider instead adding a new definition under section 4.1:

Regulated materials include but are not limited to copper, lead, asbestos or other materials that contain contaminants of concern.

Subsequent to this, delete the reference to clause 6.1e in the definition of regulated storm water.

Clause 6.2b” Nuisance” (with a superfluous capital) to “nuisance.”

Clause 6.2d

Consider changing the word “premises” to “site.” While the wording premises is strictly correct the reference to wetland is better understood in relation to the word site, which is used elsewhere in the document.

Clause 6.3a

Amend wording “Environment Southlands” to “Environment Southland’s” with an apostrophe.

Amend wording “sites owner” to “site’s owner” with an apostrophe.

Clause 6.4b

Amend the wording “owner or managers” to “owner’s or manager’s” with apostrophes.

Clause 7.2

Sec 150 of the LGA gives Council the authority to set fees and charges but it would be helpful to bylaw users to be able to locate what these charges will be.

Add the following wording:

..... “as set out in Council’s Schedule of Fees and Charges.”

I note that no published schedule of charges exists as yet for storm-water issues but should be made available for developers in particular to consider top assist their understanding of the impacts of this bylaw.

END OF SUBMISSION

While this submission is largely editorial, I hope that the suggested changes will make the document clearer and easier to use by both staff and the public. I do not wish to speak to Council further to my submission.

Regards

Graham Jones



7 March 2022

Submission - Stormwater Bylaw
Invercargill City Council
Private Bag 90104
Invercargill 9840

Dear Sir/Madam

Submission on Invercargill City Council's Proposed Stormwater Bylaw 2022

Environment Southland supports the Proposed Stormwater Bylaw 2022 ('Bylaw') as a significant step towards protecting and improving water quality in the lower reaches of the Oreti catchment. It will bring mutual benefits as we have been undertaking a substantial amount of environmental management work in this area.

As the consenting authority for the discharge to surface water bodies from Invercargill City Council's reticulated stormwater system, Environment Southland is also interested in ensuring compliance with the conditions of that consent. The conditions require that contaminants are managed below appropriate levels with remedial actions being taken in case of exceedance. The Bylaw will be conducive to achieving compliance as it provides Invercargill City Council with a broad regulatory power to deal with various sources of stormwater contamination.

The allocation of sufficient resources for implementation and enforcement will be crucial for the Bylaw to achieve the desired results.

It is suggested that special attention is paid to monitoring reticulated stormwater systems which discharge to the Coastal Marine Area, where stringent controls through the discharge consent requirements do not currently apply.

We would welcome further discussions on this topic, as our work programmes and goals for the region's water are developed and rolled out.

Yours sincerely

Lucy Hicks
Policy and Planning Manager

For now
& our future

Submission for Stormwater Bylaw

Submission Number 12

Name Kathy Obers

City/Town Invercargill

Do you wish to speak to the Mayor and Councillors about your submission?

No

Are you submitting as a private resident or business?

Private Resident

Do you support the Invercargill City Council implementing the Stormwater Bylaw?

Yes - I support the introduction of the Stormwater Bylaw

What is your feedback on our proposed Stormwater Bylaw?

I like the clear communication explaining the difference between stormwater and wastewater and how we can protect our environment from harmful discharges. The Questions and Answers section contained valuable information and i think we should all take the opportunity to read it. I like the educational stance the council is taking on this Bylaw.