

Bylaw

STORMWATER

TITLE:	Ashburton District Council Stormwater Bylaw 2022
TEAM:	Assets
RESPONSIBILITY:	Assets Manager
DATE ADOPTED:	5 October 2022
COMMENCEMENT:	21 October 2022
NEXT REVIEW DUE:	5 October 2027

1. Title and Commencement

The title of this Bylaw is the Ashburton District Council Stormwater Bylaw 2022.

2. Purpose and Objectives

The purpose of this Bylaw is to:

- a) Manage and regulate the land, structures, and infrastructure associated with Ashburton District Council's Stormwater Networks
- b) To protect land, structures, and infrastructure associated with Ashburton District Council's Stormwater Networks from misuse or damage; and
- c) Protect the public from Nuisance; and
- d) Protect, promote, and maintain public health and safety.

The objective of this Bylaw is to:

- a) Prevent the unauthorised use of, or discharge into, the Stormwater Network;
- b) Manage the volume of runoff and entry of contaminants into the Stormwater Network;
- c) Enable the Council to achieve the water quantity, water quality, ecosystem health, social and cultural impact objectives set out in its Stormwater Network Discharge Consents.
- d) Define the obligations of the Council, installers, Occupiers, Owners and the public regarding the discharge of Stormwater and management of the Stormwater Network; and
- e) Manage the risk of flooding.

***Explanatory note:** This Bylaw is to help manage Stormwater Networks within the District so as to protect people, property, and the Environment by minimising the impact of flooding, erosion, and contamination of Stormwater. It is in addition to controls on Stormwater imposed by the Canterbury Regional Council and Ashburton District Council under the Resource Management Act 1991, the Building Act 2004, or any other act, regulation, or bylaw.*

The Council holds Stormwater Network Discharge Consents from Canterbury Regional Council for the discharge of Stormwater. This places obligations on the Council to manage, and where possible improve the quality of Stormwater that enters the network in existing and future urban areas and is discharged to the Environment. Waterways are part of the receiving environment for Stormwater and form part of the network that carries Stormwater. Council has a stewardship role in the protection, restoration and management of waterways and their margins.

Please also note that this Bylaw imposes requirements for applications, Approvals, inspections, monitoring, reviews, and audits and may require works to be undertaken. For the avoidance of doubt, and unless stated to the contrary, the costs of compliance with these requirements, the payment of application fees and cost of private works will rest with the Owner or Occupier of the Site

3. Application

3.1.1 This Bylaw is made under the authority of the Local Government Act 2002 for Stormwater drainage in the Ashburton District. This Bylaw applies to the Stormwater Network owned and operated by the Ashburton District Council, and anything discharged into the Stormwater Network. It also controls activities that may affect the integrity or effective operation of the Stormwater Network.

4. Definitions

In this Bylaw, unless the context requires otherwise:

Approved or Approval means Approved in writing by the Council, either by resolution of the Council or by any Authorised Officer.

Authorised Officer means any Person to whom authority is delegated by Council to take action in relation to this Bylaw or to undertake the duties of a Council officer under this Bylaw, including a contractor or agent of Council.

Buried Services means all public Stormwater pipes, rising mains, and other underground utilities under the responsibility of the Council.

Catchment means the area of land within which Stormwater flows (whether by gravity, pumping, piping, or otherwise) to a given point.

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

Council means the Ashburton District Council, or any officer authorised to exercise the authority of Council.

Development Area means any individual area within a Site or Sites that is undergoing development and construction activities.

District has the meaning provided in the Ashburton District Council Explanatory Bylaw 2016.

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

Erosion and Sediment Control Plan (ESCP) means a plan that identifies the environmental risks associated with erosion and sediment from a site and describes the methods and controls that will be used to mitigate and manage those risks.

Flood Plain means a low-lying area, normally adjacent to a Catchment's main watercourses, that is inundated by water during heavy rainfall or a flood event.

Hazardous Substance has the same meaning as in the Hazardous Substances and New Organisms Act 1996.

Industrial or Trade Sites means—

- a) any Site used for any industrial or trade purposes; or
- b) any Site used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or
- c) any other Site from which a contaminant is discharged in connection with any industrial or trade process;—

but does not include any production land

Non-Residential Site means any Industrial or Trade Site or any commercial Site with heavy vehicle and/or high traffic movements.

Non-Residential Site Stormwater Audit Programme means the Council's programme of work to monitor and improve the discharges from Non-Residential Sites to the Stormwater Network.

Nuisance means, but is not limited to:

- a) Any person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort, or convenience of another person;
- b) flooding of any building floor or sub-floor, or public roadway;
- c) any act, or failure to act, that causes:
 - i. damage to property;
 - ii. damage to the Stormwater Network;
 - iii. Erosion or subsidence of land;
 - iv. adverse loss of riparian vegetation; or
- d) anything that causes a breach of any Stormwater discharge consent condition binding the Council, (including an accumulation of chemicals causing a breach).

Occupier means the Person who occupies the Site. This may be the Owner of the Site, a lessee, squatter, or any other Person on or using the Site.

Overland Flow Path means any flow path taken by Stormwater on the surface of the land.

Owner means the Person who owns the Site.

Person includes any individual, the Crown, a corporation sole, and also a body of Persons, whether corporate or otherwise.

Point of Discharge means the point where the discharges leading from the Site connect into the council owned and operated network, which marks the boundary of responsibility between the Owner and Council, irrespective of Property boundaries.

Private Stormwater System means any Stormwater system that serves one or more properties and is not owned, managed, or maintained by the Council. It includes any component that drains water from a Property up to the point of discharge to the Stormwater Network.

Prohibited substance means a contaminant in Stormwater that has not been expressly authorised by the Council. Prohibited substances include, but are not limited to: sediment, cement, construction by-products, green waste, litter, detergents, soap, swimming/spa pool water, metal residues, leachate, petrochemicals, pesticide, solvents, substances labelled “biodegradable” or similar, and any other Hazardous Substance.

Property means a separately rateable Property.

Register of Non-Residential Sites means the Register established under this Bylaw,

Site means any of the following:

- a) A Property or allotment which is held under a separate Record of Title (or for which a separate Record of Title may be issued) and in respect to which a building consent has been (or may be) issued; or
- b) A building or part of a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a Record of Title is available; or
- c) Land held in public ownership (e.g., reserve) for a particular purpose.

Stormwater means runoff that has been channelled, diverted, intensified, or accelerated by human modification of the land surface or runoff from the external surface of any structure as a result of precipitation and may contain contaminants. . This definition excludes discharges of spilled or deliberately released Hazardous Substances and/or washdown activities, and groundwater taken for the purposes of land drainage.

Stormwater Management Device means a device or facility used to reduce Stormwater runoff volume, flow and/or Contaminant loads prior to discharge. This Includes but is not limited to:

- a) Rain gardens
- b) Porous paving
- c) Infiltration trenches
- d) Sand filters

- e) Settlement traps, tanks, and ponds
- f) Green roofs
- g) Wetlands
- h) Ponds
- i) Rainwater tanks
- j) Proprietary devices
- k) Stormwater detention and/or retention devices.

Stormwater Network means any infrastructure, facilities and Stormwater Management Devices operated, owned, or administered by the Council, which, in relation to Stormwater, are used to convey runoff, or reduce the risk of flooding, or to improve water quality. This includes but is not limited to:

- a) open drains
- b) inlet structures
- c) pipes and other conduits
- d) manholes
- e) chambers
- f) traps
- g) outlet structures
- h) pumping stations
- i) treatment structures and devices.

Stormwater Network Discharge Consent means any Stormwater Network Discharge Consent issued by Canterbury Regional Council, which enables the Council to discharge Stormwater to land and water, in accordance with certain conditions, and includes any variations to the consent.

Stormwater Protection Plan means a plan which relates to a specific Site and/or activity being carried out on the Site and addresses the specific Stormwater management approach for that Site and/or activity.

5. Protection of Stormwater System

5.1 Restrictions

Explanatory Note: The restrictions outlined in clause 5.1 of this Bylaw are in addition to controls on Stormwater imposed by the Canterbury Regional Council and Ashburton District Council under the Resource Management Act 1991, the Building Act 2004, or any other act, regulation, or bylaw.

5.1.1 No Person may, without Council's Approval under this Bylaw:

- a) Connect to, alter any connection, disconnect from, or discharge into, any part of the Stormwater Network; or
- b) Erect any barrier within the Stormwater Network; or
- c) Stop, obstruct, alter, interfere with, or divert any part of the Stormwater Network; or
- d) Build or place any structure or material on, or remove any material from, any Overland Flow Path or Flood Plain.; or
- e) Plant, place or remove vegetation from any part of the Stormwater Network so as to:
 - i. Impair the flow of Stormwater ;
 - ii. Cause bank destabilisation;
 - iii. Impede access by machinery or apparatus used to clean, maintain, or improve the Stormwater Network; or
 - iv. Otherwise cause Nuisance or damage.
- f) Impede the free flow of water in an open Stormwater drain, or within a distance of at least three (3) metres from the nearest margin of that Stormwater drain, with the exception of Approved vehicle crossings; or
- g) Cover, remove, alter or block (partially or fully) any service opening such as a manhole, sump, or any other Stormwater infrastructure unless such actions are undertaken by emergency services personnel for the express purpose of protecting the Stormwater Network from contaminants.

5.1.2 Works to connect to the Stormwater Network, or alter a connection, can only be carried out by a Council Approved contractor, and the contractor must comply with all relevant codes of practice, standards, specifications, Approvals, and conditions required by Council.

5.2 Working Around Buried Services

Explanatory Note: Anyone working around Buried Services can access beforeUdig at www.beforeudig.com or call beforeUdig at 0800 248 344. This is a free service that lets anyone request information on the location of underground pipes and cables in and around any location. BeforeUdig also covers non-Council infrastructure, including electricity and telecoms. People using the service will receive a plan showing Buried Services in the request location, within 24 hours.

You can use this service even if you are only at the planning stage. When the time comes to start digging you will also need to submit a Corridor Access Request (CAR) if you are working in the road corridor.

- 5.2.1 The Council will keep accurate permanent records ('as-builts') of the location of its Buried Services. This information will be available for inspection at no cost to users. Charges may be levied to cover the costs of providing copies of this information.
- 5.2.2 Any Person proposing to carry out excavation work around Stormwater Network Buried Services must view the as-built information to establish whether or not Council Buried Services are located in the vicinity.
- 5.2.3 At least five working days' notice must be given to the Council of an intention to excavate in the vicinity of its Buried Services.
- 5.2.4 Where appropriate, the Council will mark out on the ground (within ± 1.0 metre) the location of its Buried Services and provide in writing any restrictions placed on the proposed work which it considers necessary to protect its Buried Services. The Council may charge for this service.
- 5.2.5 When excavating and working around Buried Services due care shall be taken to ensure the Buried Services are not damaged, and that bedding and backfill are reinstated in accordance with the appropriate Council specification.
- 5.2.6 Any damage which occurs to a Council Buried Service must be reported to the Council immediately. Repairs must be carried out by a Council-Approved contractor. The Person causing the damage shall reimburse Council with all costs associated with repairing the damaged Buried Service, and any other costs the Council incurs as a result of the damage.
- 5.2.7 Where the Council is unable to determine who caused the damage and the damage is to a Council asset or under private land, the Council will seek to recover all costs associated with repairing the damaged Buried Services, and any other costs the Council incurs as a result of the damage, from the Owner of the land where the damage occurs.

5.3 Building over or near Buried Services

- 5.3.1 For building over or near Buried Services, the restrictions and processes described in 5.2 apply. Other restrictions may be applied by the Council for protection of the Stormwater Network after consideration of the criticality of the Stormwater pipe, proposed works methods, depth of excavation, soil physical properties, and other site specific factors.
- 5.3.2 Removal of any covering or obstructing material or adjustment of the Stormwater structures on private land will be at the Owner's expense.

5.4 Loading or Storage of Material Over Public Stormwater Pipes

- 5.4.1 No Person may cause the crushing load imposed on a public Stormwater pipe to exceed that which would arise from the soil overburden plus a HN-HO-72 wheel or axle load (as defined by the Waka Kotahi New Zealand Transport Agency Bridge Manual).
- 5.4.2 No Person may cover, obscure, or place any additional material over or near any part of the Stormwater Network without the prior Approval of the Council.
- 5.4.3 Service openings must not be covered in any way unless Approved. Removal of any covering material or adjustment of the opening are at the Owner's expense.

5.5 Prohibited Substances

5.5.1 No Person may cause or allow any Prohibited Substance to:

- a) enter the Stormwater Network, either directly or indirectly; or
- b) be stored, handled or transferred in a manner that may enter the Stormwater Network, including in the event of spillage, or as a result of rain.

***Explanatory note:** Prohibited Substances, or water contaminated with Prohibited Substances, cannot be disposed of down Stormwater inlets, or washed into roadside gutters, and must be disposed of appropriately.*

Where possible, vehicles, boats, and other equipment should be washed on grassed or shingle surfaces, or at a commercial car wash. This should not be done on sealed surfaces as the wash-down water will run into the kerb and channel and then enter the Stormwater Network, contaminating our waterways.

Preventing Prohibited Substances from entering the Stormwater Network may require preventative and spill control measures such as secondary containment, indoor storage, bunding, and spill kits.

5.5.2 Any Person responsible for, or aware of, any spill or discharge of a Prohibited Substance to the Stormwater Network or to land, must immediately notify the Council of the incident.

***Explanatory note:** Spills and similar accidents, whether directly into a waterway or onto land (including roads), have the potential to enter Stormwater and contaminate waterways. The Canterbury Regional Council also requires notification of such incidents.*

6. Conditions of New and Continued Acceptance of Discharge

6.1 Application to discharge

6.1.1 Every application to discharge Stormwater to the Stormwater Network must be made in writing on the standard Council form and be accompanied by the prescribed charges. The applicant shall provide all details required by the Council, including how the applicant plans to mitigate any negative effects as a result of the activity outlined in the application. An application must be made irrespective of whether a public Stormwater pipe has been laid up to the Point of Discharge.

6.1.2 The applicant will be considered to have the authority to act on behalf of the Owner of the Site for which the discharge is sought and must produce written evidence of this if required by the Council.

6.1.3 The Council will, after consideration of any matters the Council considers relevant:

- a) Approve the application and inform the applicant of the method and location of connection, the size of the connection and of any particular conditions applicable; or
- b) Refuse the application and notify the applicant of the decision giving the reasons for refusal.

***Explanatory Note:** As a point of clarification, the details required under 6.1.1 will typically reflect the provisions of clause 7.2.2 which in turn reflects the matters that Council will generally consider relevant. Council may require further detail on information supplied to meet the requirements of the Bylaw.*

- 6.1.4 Upon Approval, where a physical connection is required to the kerb and channel or to the Stormwater Network, the Council will supply and install the Stormwater connection and any extension of the Stormwater Network as necessary to permit such connection at the applicant's cost or may permit the applicant to manage the supply and installation of the Stormwater connection using Approved contractors.
- 6.1.5 An Approved application for discharge which has not been actioned within six months of the date of application Approval will lapse unless a time extension has been Approved.
- 6.1.6 Any application for an extension of time should be received by the Council in writing with reasons as to why the extension is being sought and submitted to the Council at least 20 working days before the date that falls six months after the date that the original application was Approved. Approval of the time extension is entirely at the discretion of the Council.
- 6.1.7 The Council will limit the number of extensions to one. Should the applicant be unable to connect to the Stormwater system within the period of the time extension, an entirely new application will need to be made, with associated costs to be borne by the applicant.
- 6.1.8 Any refund of fees and charges shall be at the discretion of the Council.

6.2 Stormwater Quality Standards

- 6.2.1 The Council may, by resolution, specify standards for discharges to the Stormwater Network.
- 6.2.2 A resolution under this clause may:
 - a) Specify standards generally, or for specific situations, activities, or industries, or for types of Property;
 - b) Apply to all of the District, or to any specified part or parts of the District, i.e., a Stormwater catchment; and
 - c) Apply immediately or come into force at a specified time.
- 6.2.3 Once a standard comes into force, the Occupier of any Property or Site to which the standard applies, must comply with the standard made under this Bylaw.
- 6.2.4 The Council may require the Occupier of any Property or Site to reduce or prevent Contaminants from entering the Stormwater Network in quantities or concentrations that exceed a standard. This may include, but is not limited to:
 - a) Changing on-site practices; or
 - b) Installing a Stormwater management device or treatment process.

Explanatory note: *Non-Residential Sites are also subject to the relevant clauses outlined in Section 7, Management of Stormwater Discharges from Non-Residential Sites.*

Before making any resolution under this clause, the Council will consider their obligations under their Stormwater Network Discharge Consents or any other act, regulation, or bylaw and the views and preferences of Persons affected by the decision, applying the principles in section 82 of the Local Government Act 2002 and the Council's Community Engagement Policy. Any specified standards for discharges to the Stormwater Network will be publicly available on Council's website.

6.3 Requirements for Onsite Stormwater Management

- 6.3.1 The Council may require a Stormwater Management Device to be fitted to manage the quality or quantity of Stormwater being discharged from a Property.
- 6.3.2 The Council may require the implementation of specific site management practices to manage discharges of Stormwater from all or part of Property.

6.4 Construction

- 6.4.1 Installation of lateral connections and junctions on public Stormwater pipes will be inspected by Council prior to acceptance.
- 6.4.2 Any works not constructed in accordance with Council standard specification, or deemed unacceptable in any way, must be repaired, or replaced at the contractor's cost. Additional fees may be applied to the contractor if reinspection is required.
- 6.4.3 The Council reserves the right to inspect, replace, or remove any works constructed by unapproved contractors or others.
- 6.4.4 The Council may recover any or all costs associated with inspection, replacement, or removal from the applicant.
- 6.4.5 Where a new public Stormwater pipe is required as part of a subdivision development, the developer shall provide all the drainage works subject to the Approval of the design and construction of the works by the Council.

7 Management of Stormwater Discharges from Non-Residential Sites

7.1 Register and Risk Classification of Non-Residential Sites

Explanatory note: Discharges from Non-Residential Sites (such as those with highly trafficked paved areas) are at higher risk of Stormwater contamination due to the nature of the activities being carried out on-site. Contaminants that enter the Stormwater Network jeopardise the Council's ability to comply with any Council Stormwater Network Discharge Consent.

- 7.1.1 The Council must, by resolution, adopt a Register of Non-Residential Sites that sets out:
 - a) Industrial, trade and relevant commercial activities; and
 - b) Land areas for industrial, trade and relevant commercial activities that are of interest to the Council; and
 - c) Timeframes for compliance with the Non-Residential Site requirements as set out in an Approved Stormwater Protection Plan.
- 7.1.2 The Council may, by resolution, amend the Register of Non-Residential Sites at any time.
- 7.1.3 The Council will assign a risk classification to a Non-Residential Site on the Register based on the information provided by the Occupier in the Stormwater Protection Plan and any onsite verification.

Explanatory note: The Sites will be entered into the Non-Residential Site Stormwater Audit Programme and will require monitoring and engagement commensurate with their risk status.

- 7.1.4 When a risk classification has been assigned to a Non-Residential Site, the Occupier has 20 working days after receiving notification of the risk classification to object and request a re-assessment. If no objection is received, the risk classification is confirmed after 20 working days.

7.2 Requirement for a Stormwater Protection Plan

- 7.2.1 The Council may require the Owner or Occupier of a Site to submit to the Council for Approval a Stormwater Protection Plan for that Site where, Council is satisfied that::
- a) The Site generates Contaminants and there is a reasonable risk that accidents or other events may take place where Contaminants could enter the Stormwater Network and have the potential to breach the provisions of this Bylaw or any standards made under this Bylaw; or
 - b) For any reason the Council considers there is a reasonable risk of a Contaminant discharge entering the Stormwater Network from that Site that could cause a breach of the provisions of this Bylaw or any standards made under this Bylaw; or
 - c) There are Overland Flow Paths present within the Site that have the potential to breach the provisions of this Bylaw or any standards made under this Bylaw in terms of contaminant discharges to the Stormwater Network.

If another plan has been prepared which addresses these issues, it may be used in place of a Stormwater Protection Plan at the sole discretion of the Council.

- 7.2.2 The Stormwater Protection Plan must include:
- a) A suitably scaled drawing showing the site layout, boundaries, all private Stormwater and Wastewater drainage including the point or points of connection to the Stormwater Network or discharge from the Site, relevant buildings, and outdoor spaces (including their use);
 - b) A site assessment identifying all actual and potential sources of Stormwater contamination;
 - c) Methods in place to prevent contamination of the Stormwater Network and the Stormwater receiving Environment;
 - d) Methods and timeframes proposed to control contamination of the Stormwater Network and the Stormwater receiving Environment;
 - e) A description of the maintenance procedures in place and proposed;
 - f) Spill prevention and spill response procedures;
 - g) Cleaner production, pollution prevention, application of innovative solutions and waste minimisation procedures to be adopted including comment on whether the proposed procedures are considered to be a best practicable option and/or innovative solution.
 - h) Stormwater Management Devices used to reduce Stormwater runoff volume, flow and/or contaminant loads prior to discharge;
 - i) A comment on how the Stormwater Protection Plan meets the overarching purpose and intentions of this Bylaw;

- j) Other matters that Council may decide are required in respect to other features of the Site in question.

***Explanatory note:** Council reserves the right to have any Stormwater Protection Plan reviewed by a suitably qualified or experienced professional at the cost of the applicant/submitter. For new developments, this review can be done in conjunction with the Erosion and Sediment Control Plan.*

- 7.2.3 The Owner or Occupier of the Site must provide a Stormwater Protection Plan to Council for review and Approval within three months of a request from the Council.
- 7.2.4 The Council must Approve a Stormwater Protection Plan if it is satisfied that the measures contained in the Stormwater Protection Plan are adequate to prevent adversely affecting the health and safety of Council staff, or its agents, and the public, as well as preventing damage to the Stormwater Network and the receiving Environment.
- 7.2.5 If a Stormwater Protection Plan has been Approved by the Council, the Owner and Occupier must comply with all provisions, including any timeframes specified in the Stormwater Protection Plan.

7.3 Non-Residential Site Audits, Monitoring and Review

***Explanatory note:** Non-residential Site Audits are a product of the registration and risk classification of existing and new Non-Residential Sites, following an exchange of information between Council and the Owner or Occupier of the Site. The purpose of such Audits is to determine compliance with the requirements of the Bylaw or any standards made under this Bylaw.*

- 7.3.1 The Occupier of a Non-Residential Site must cooperate with the Council's Non-Residential Site Stormwater Audit Programme, including, but not limited to:
 - a) Enabling access to enter the Site subject to reasonable prior notice and Council's compliance with lawful and reasonable health and safety requirements;
 - b) Providing documents, plans and other information relevant to the Stormwater Discharge; and
 - c) Enabling on-site sampling and testing.
- 7.3.2 The Council may require corrective actions to be undertaken by the Occupier of a Non-Residential Site as a result of an audit. These may relate to:
 - a) a plan and timeframes for improving the discharges from the Site to the Stormwater Network; and
 - b) Any other matters that the Council considers appropriate.
- 7.3.3 The Council may review or require a Stormwater Protection Plan (including its risk classification) as the result of an audit process.
- 7.3.4 The Council may require that any Stormwater Protection Plan be revised to the satisfaction of the Council at any time where, in the opinion of the Council, there have been changes in the facilities or operational procedures present at the Site which have the potential to affect the ability of the Site to comply with this Bylaw.

- 7.3.5 An Owner or Occupier of a Site subject to an Approved Stormwater Protection Plan may, at any time submit to the Council a request to update the Stormwater Protection Plan to remedy this (in reference to clause 7.3.4) and submit to Council for its approval.

8 Requirements for Earthworks

8.1 Sedimentation and Erosion Protection

Explanatory note: Reducing erosion and sediment from earthworks helps to prevent habitat degradation in our waterways and protects the Stormwater Network from damage or reduced functionality from sediment.

- 8.1.1 No Person may, as a result of development or works, discharge any Stormwater into a Stormwater drain or any drain leading to the Stormwater Network, unless such development or works includes provisions to ensure siltation and erosion are not increased and that water quality is not reduced. This shall include the installation of adequate silt control measures in accordance with Canterbury Regional Council's Erosion and Sediment Control Toolbox to:
- a) Prevent earth or sediment from being washed off the site or otherwise carried in water onto neighbouring properties, roads, or into the Stormwater Network;
 - b) Stabilise land to prevent earth slipping onto neighbouring properties, roads, or into the Stormwater Network;
 - c) Stabilise entranceways and prevent earth or sediment from being spilled or tracked off the site by people or vehicles; and
 - d) Control or minimise dust.
- 8.1.2 Such provisions shall be made before development or works are started. These control measures shall be maintained and regularly cleaned out until ground cover has been reinstated on the site or the activity no longer poses a risk to the Stormwater Network and/or any measures are self-sustaining..
- 8.1.3 An Erosion and Sediment Control Plan must be prepared for any development areas for which the construction phase Stormwater discharge is authorised by any Council Stormwater Network Discharge Consent; or any other development works that might pose a sediment and erosion control risk.
- 8.1.4 An Erosion and Sediment Control Plan required under this Bylaw must be prepared by a suitably qualified person in accordance with Canterbury Regional Council's Erosion and Sediment Control Toolbox.

Explanatory note: Council reserves the right to have the Erosion and Sediment Control Plan to be reviewed by a Suitably Qualified or Experienced Professional at the cost of the applicant/submitter. Sites with a total area of land disturbance greater than two hectares at any one time are unable to discharge Stormwater under any Council Stormwater Network Discharge Consent and will be required to obtain a separate consent for the discharge of construction phase Stormwater from the Canterbury Regional Council.

9 Maintenance

9.1 Maintenance of Private Drainage Systems

- 9.1.1 It is the responsibility of the Owner to maintain in good working order, at all times, the Private Stormwater Systems on their Site. This includes all pipes, channels, Stormwater Management Devices, or other components. The Owner(s) of any Property with a Private Stormwater System must:
- a. ensure that the Private Stormwater System is maintained in good operating condition, and allows for the free flow of Stormwater ;
 - b. discharge Stormwater from the Site or Sites in accordance with any controls the Council specifies (including any operative resource consent); and
 - c. not cause or contribute to Nuisance in a storm event.
- 9.1.2 If the Council believes that a Private Stormwater System is damaged, blocked, or otherwise not in a satisfactory operating state, the Council may require the Owner to investigate and rectify any issues, at the Owner's cost within timeframes specified or agreed by the Council.
- 9.1.3 The Owner owns the private Stormwater drains and devices within the Owner's Property and on the Owner's side of the Point of Discharge, and is responsible for all maintenance, repairs and associated costs.
- 9.1.4 Any Person with a privately-owned Stormwater Management Device must retain the operations and maintenance manual, as-built drawings, and maintenance records for the device; and make these available to the Council on request.

9.2 Access for Maintenance, Repair, and Inspection

- 9.2.1 Subject to the provisions of the Local Government Act 2002, the Owner or Occupier shall allow Council, with or without equipment, access to any area of the Site for the purposes of carrying out any work on the Stormwater Network including inspection and survey, and for determining compliance with the requirements of this Bylaw.
- 9.2.2 Wherever practical Council shall make every reasonable attempt to notify the Owner or Occupier of any scheduled work on the Stormwater Network before the work commences. Where immediate action is required and notification is not practical, work will be carried out without notice and the Owner or Occupier subsequently informed of works undertaken.

10 Payment

10.1 Prescribed Fees and Charges

- 10.1.1 Where this Bylaw provides for the Council to issue an Approval, or give any authority for anything, or carry out an inspection, monitoring, review, or audit, the Council may require the payment of a fee.

- 10.1.2 Where this bylaw provides for a connection to the Stormwater Network, or the provision of any good, service, or amenity, the Council may require payment of a fee for that service.

Explanatory note: Any fees are set out in the Council's Annual Plan or Long Term Plan. The Council also sets a targeted rate to fund the Stormwater activity.

11 Enforcement of Bylaw

Explanatory note: Council's preferred approach to enforcement is to achieve voluntary compliance through the clear communication of requirements supported by customer education. There may be occasions when this alone is not sufficient to achieve compliance. When the bylaw is breached, Council Officers will need to make judgements about whether and to what extent Council takes more directive action to achieve compliance.

While Council always aims to resolve issues as early as possible, it is prudent to have scope in the enforcement toolbox for escalating response when necessary. Clauses 11.1 to 11.5 set out what Council views as a progression path from less serious to more serious enforcement action, beginning with the issue of a defect notice and culminating in prosecution in the District Court. Council also regards the cancellation of Approval to Discharge Stormwater as a serious enforcement action as it would require an Owner to obtain their own Stormwater Discharge consent from Canterbury Regional Council.

11.1 Breaches of Bylaw

- 11.1.1 Any person commits a breach of this Bylaw who:
- a) does, or causes to be done, or knowingly permits or suffers to be done, anything that is contrary to any provisions of this Bylaw;
 - b) fails to do, or knowingly permits or suffers to remain undone, anything which that person was required to do under this Bylaw;
 - c) refuses or neglects to comply with any notice or direction duly given to that person under this Bylaw within the time period specified in that notice or direction;
 - d) obstructs or hinders any Council Officer in the performance of his or her duties under this Bylaw;
 - e) omits, neglects or fails to obtain a current Approval where required under this Bylaw;
 - f) omits, neglects or fails to pay a fee fixed by Council in respect of any Approval
 - g) fails to comply with any conditions contained in an Approval granted by Council.

11.2 Defect notices

- 11.2.1 In the event of a breach of this Bylaw, the Council may serve a defect notice on the Owner advising its nature and the steps to be taken within a specified period set by Council, to remedy it.
- 11.2.2 If, after the specified period, the Owner has not remedied the breach, the Council may charge a reinspection fee.
- 11.2.3 Council may take immediate action to remedy the defect if the breach is such that delay would create unacceptable results for:

- a) public health, or
- b) safety considerations, or
- c) risk of consequential damage to Council assets; or
- d) compliance with any Council Stormwater discharge consent.

11.3 Remedial Works

- 11.3.1 At any time after the specified period of 11.2.1 has elapsed, or where the breach is such that there is a risk as set out in 11.2.3, the Council may carry out any remedial work required in order to make good the breach, and to recover from the Person committing the breach all reasonable costs incurred in connection with the remedial work.

11.4 Suspension or cancellation of Approval to discharge Stormwater

- 11.4.1 Any breach of this Bylaw may result in the Council suspending or cancelling a Stormwater discharge Approval.
- 11.4.2 Where Approval to discharge has been suspended, the Council will give written notice to the occupier to set out the steps that must be taken, or the criteria that must be met, for the Site to be able to resume discharging into the Stormwater Network, and a timeframe for complying.
- 11.4.3 The Council must give written notice withdrawing a suspension and authorising Stormwater to be discharged from the Site before the Site operator is able to resume discharging Stormwater.
- 11.4.4 Discharge Approval will be cancelled for any suspension that has not been withdrawn within the timeframe specified in the suspension notice.

Explanatory note: Once cancelled, an occupier has no legal authority to discharge to the Stormwater Network, and will need to seek the appropriate consents from the Canterbury Regional Council to discharge Stormwater to land or water. If an occupier wishes to reconnect to the Stormwater Network, they will need to apply under clause 6.

11.5 Injunction

- 11.5.1 Breaches of this Bylaw may result in an application being made to the District Court for an injunction to restrain the party involved from continuing the activity that caused the injunction to be granted.

11.6 Prosecution

- 11.6.1 Any Person who breaches this Bylaw may be prosecuted for any such breach and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002, and may also be liable to penalties under other legislation.