Approved By:	**Date Adopted :**
Date In Force: Section 7.1(e) - 12 months from enforcement date Section 7.1(f) – 6 months from enforcement date	**Review Date:**

PROPOSED HAMILTON CITY STORMWATER BYLAW 2015

TABLE OF CONTENTS

1. INTRODUCTION ---------- 2
2. SHORT TITLE, COMMENCEMENT AND APPLICATION ---------- 2
3. SCOPE ---------- 2
4. PURPOSE ---------- 2
5. COMPLIANCE WITH OTHER ACTS AND CODES ---------- 2
6. DEFINITIONS ---------- 3
7. STORMWATER SYSTEMS ---------- 4
   7.1. Protection of Stormwater System ---------- 4
   7.2. Damage to Stormwater System ---------- 5
   7.3. Obstructions and Capacity of the stormwater system ---------- 6
   7.4. Private Stormwater System ---------- 6
8. ACCESS ---------- 6
9. FEES & CHARGES ---------- 7
10. BREACHES ---------- 7
11. REMEDIAL WORK COSTS OF REMEDYING DAMAGE ARISING FROM BREACH OF BYLAW ---------- 7
12. OFFENCES AND PENALTIES ---------- 8

Hamilton City Council, in exercise of its powers and authorities conferred on it under the Local Government Act 2002 (LGA 2002) and the Health Act 1956 and any subsequent amendments to the Acts and all other relevant powers, makes the following bylaw.

1. INTRODUCTION

Hamilton City Council has the ability to make bylaws for regulating and protecting land drainage. In addition, Council has a duty under s17 of the Waikato River Settlement Act 2010, to have regard to the Vision and Strategy for the Waikato River, which lists water degradation as a fundamental issue to be resolved. Hamilton City's Comprehensive Stormwater Discharge resource consent and Stormwater Management Plan aims to manage stormwater discharge for quality and quantity and to avoid, remedy and mitigate any adverse effects on the environment. The management of stormwater ultimately aims to assist in achieving the Vision and Strategy for the Waikato River by helping to protect aquatic habitats, minimising scour, erosion and flooding and improving bathing water quality.
(Note: the above introduction does not form part of this bylaw and is intended to be read as an introductory note)

2. SHORT TITLE, COMMENCEMENT AND APPLICATION

1.1. The bylaw shall be known as the "Hamilton Stormwater Bylaw 2015".

1.2. The bylaw shall apply to the Hamilton City Council District.

1.3. The bylaw shall come into force on (*date to be determined*)

3. SCOPE

This bylaw shall apply to the district of Hamilton City pursuant to the LGA 2002 and any land, building, work, or property or catchment under the control of the Council, although situated beyond Council's district. This bylaw applies to both public and private stormwater systems and watercourses.

4. PURPOSE

4.1. The purposes of this bylaw are to enable Council to:

a) Manage the land, structure or infrastructure associated with stormwater drainage within its jurisdiction.
b) Protect and regulate against damage, misuse, or loss of the land, structures, or infrastructure associated with stormwater drainage.
c) Prevent the unauthorised use of the land, structures or infrastructure associated with stormwater drainage.
d) Ensure that streams and tributaries of the Waikato River, which form part of HCC's stormwater systems, remain clear and unobstructed.
e) Manage the entry of contaminants into the stormwater system.
f) Protect, promote, and maintain public health and safety.

5. COMPLIANCE WITH OTHER ACTS AND CODES

5.1. This Bylaw has been developed in accordance with all relevant legislation and guidance.

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

6. DEFINITIONS

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

Approval	Means approved in writing by the Council, either by resolution of the Council or by any Authorised Officer of the Council.
Authorised Officer	Means an employee or contractor of the Council warranted under the Local Government Act 2002, authorised to carry out general or specific duties in relation to stormwater including enforcement arising from any of the provisions of this act and this bylaw.
Council	Means Hamilton City Council or an employee or contractor of the Council appointed to carry out duties relating to Stormwater management.
Ecological device	Means a device such as fish ramps and constructed fish protection structures designed to preserve aquatic habitat.
High Risk Facility	Means a facility carrying out or intended to carry out any of the activities listed in the High Risk Facilities Register, and includes the land and buildings of the site. Council may, by resolution, specify any activity to be included in or removed from the High Risk Facilities Register.
Open Drain	Means any system that collects and transports stormwater or groundwater through a series of open channels or ditches, but may include culverts and pipes in areas of vehicle or road crossings.
Overland Flow Path	Means a secondary flow path or the overland route taken by any concentration of, or significant sheet flow of, stormwater on its way to a flood plain or second stormwater system.
Pollution Control Plan	Means a plan that includes appropriate policies, procedures and review timetable that is held onsite that guides appropriate management of any material either held on site or intended or likely to be onsite that may cause entry of prohibited materials into the stormwater system or any other breach of this bylaw.
Prohibited materials	Means anything that is not stormwater, including but not limited to substances that; i. Pose a danger to life ii. Pose a danger to public health iii. Cause flooding of any building floor or sub-floor, or public roadway iv. Cause damage to property v. Cause a negative effect on the efficient operation of a stormwater system vi. Cause damage to any facet of a stormwater system vii. Cause erosion or subsidence of land viii. Cause long or short term adverse effects on the environment ix. Cause adverse loss of riparian vegetation x. Cause wastewater overflow to land or water xi. And means anything that causes a breach of any stormwater

discharge consent condition binding Council

Stormwater Surface water runoff that:

a) Enters or may enter the stormwater system as a result of a rain event and;
b) Contains any substance where the type and concentration of the substance is consistent with the contributing catchments landuse(s) and that of the receiving environment.

Stormwater System Includes any land, structure or infrastructure associated with stormwater drainage, including:

a) **Private Stormwater System** - Means all privately owned components of a stormwater system which are located on private property, up to the point of discharge into the public stormwater system or a watercourse.
b) **Public Stormwater System -** Means all components of the stormwater system owned by the Council, including drains, kerb and channel, catch pits, pipes, manholes and lateral connections that carry away stormwater, whether or not any part of the system passes through private property.
c) **Watercourse -** Means a natural channel that conveys water whether or not it passes through private property. This includes channels where, due to seasonal variations, water does not flow.

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

7. STORMWATER SYSTEMS

7.1. Protection of Stormwater System

a) A person must not, without the prior approval of Council, discharge or allow to be discharged anything other than stormwater to the stormwater system.

b) A person must not store, transport, handle or use materials in a way which may result in prohibited materials entering the stormwater system.

c) Any person undertaking earthworks must ensure that controls are in place to prevent sediments entering the stormwater system.

d) Any person who knows of the entry or imminent entry of prohibited materials to the stormwater system must immediately:

i. Take all practicable steps to stop the imminent entry or further entry of any prohibited materials to the stormwater system; and
ii. Notify an authorised officer /Council as soon as reasonably practicable.

e) Any owner or occupier or manager of a high risk facility must install and maintain appropriate private stormwater interception system to adequately eliminate or as far as practicable and otherwise minimise the risk of prohibited materials entering the public stormwater system.

f) Any owner or occupier of a high risk facility must develop, maintain and keep available for inspection a pollution control plan which eliminates as far as is practicable and otherwise minimise the risk of breach of this bylaw. Council may require the pollution control plan to be submitted for approval.

g) The owner, occupier and all persons on the site of a high risk facility must comply with the requirements of the pollution control plan.

Note 1 (This note does not form part of the bylaw) –For further information on sediment control refer to the "A Guide to Sediment Control on Building Sites'.

Note 2: (This note does not form part of the bylaw) Where prohibited materials are not managed to the satisfaction of Council, Council may require the owner/occupier to divert the prohibited material to wastewater and apply for a tradewaste consent in accordance with the current Hamilton Tradewaste Bylaw.

7.2. Damage to Stormwater System

a) No person shall cause or allow to be caused any damage to, or destroy any:

i. Dam
ii. Weir
iii. Stormwater detention device
iv. Swale
v. Overland flow path identified in a consent notice, other documents of Council or illustrated in integrated catchment management plans.
vi. Stopbank
vii. Headworks
viii. Building; or, treatment device
ix. Drainage reserve land
x. Ecological device
xi. Erosion and scour control structures
xii. Stormwater inlet structures
xiii. Stormwater outlet structures
xiv. Any other installation connected with the stormwater system and under control of the Council

b) No person shall modify, interfere with or remove items listed in Clause 7.2 (a) without the prior approval of Council.

c) Every person excavating or working around the public stormwater system must take due care to ensure that the excavation or work is carried out in a manner that does not damage and/or compromise the integrity of the stormwater system.

d) Any person who knows of damage to a stormwater system must report it to Council or an Authorised Officer immediately.

7.3. Obstructions and Capacity of the stormwater system

a) A person must not, without the prior approval of Council:

i. Do anything that directly or indirectly obstructs, alters or impedes the natural flow of the stormwater system.
ii. Obstruct or hinder any facet of any public or private stormwater system in a manner that is likely to cause nuisance.
iii. Erect any structure or stop bank, grow any vegetation, deposit any waste or carry out any activity in a place or manner that is likely to cause nuisance to a public stormwater system during a storm event.
iv. Obstruct or alter any overland flow paths or flood plains identified in a consent notice, or other documents of council with any material or structures such as earth bunds, buildings, fences, retaining walls and rock gardens.
v. Pump or divert water into any watercourse or public stormwater system.
vi. Cause water to flow into a watercourse or public stormwater system from outside the Catchment Area where, in the opinion of the Authorised Officer, the water will overload the capacity or will otherwise interfere with the proper functioning of the watercourse or public stormwater system.

b) A person must not, without the prior approval of Council,:

i. Stop, modify, divert or deepen any open drain or,
ii. Divert any open drain or otherwise cause stormwater to flow into the wastewater system without first obtaining written approval from Council.

7.4. Private Stormwater System

a) Council may require an owner/ occupier to fix or upgrade private stormwater systems, at the owners cost, to meet original design specifications.

b) No owner or occupier may, without Council's written approval, remove a private stormwater system or do anything which reduces it effectiveness.

c) No person shall allow stormwater to enter the wastewater system without prior approval from Council.

d) Owners and occupiers are responsible for ensuring the maintenance of any watercourse on their premises, including the removal of any obstruction that impedes or is likely to impede the free flow of water

8. ACCESS

8.1. In accordance with section 171 of the Local Government Act 2002, an Authorised Officer may enter and inspect any land or building (other than a dwelling house) for routine inspection or monitoring or for post breach monitoring. The Authorised Officer must give at least 24 hours notice of the intended entry [if the land or buildings are unoccupied].

8.2. In accordance with section 171 of the Local Government Act 2002, an Authorised Officer may enter and inspect any land or building (other than a dwelling house) of a high risk facility for routine inspection and monitoring. The Authorised Officer must give at least 24 hours notice of the intended entry [if the land or buildings are unoccupied].

8.3. In accordance with section 171 of the Local Government Act 2002, an Authorised Officer may enter land for the purpose of detecting a breach of this bylaw if the Authorised Officer has reasonable grounds for suspecting that a breach has occurred or is occurring on the land. The Authorised Officer must give reasonable notice unless the giving of notice would defeat the purpose of entry.

8.4. In accordance with section 173 of the Local Government Act 2002, in the event of a sudden emergency causing or likely to cause damage to property or the environment or where there is danger to any works or adjoining property, an Authorised Officer may enter occupied land or buildings. Notice is not required.

9. FEES & CHARGES

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

10. BREACHES

10.1. It is a breach of this bylaw to:

a) Fail to comply with any requirement of this bylaw;

b) Fail to comply with any defect notice issued by an Authorised Officer pursuant to this bylaw;

c) Obstruct and Authorised Officer in the performance of their function under this bylaw.

10.2. The Authorised Officer may report breaches or imminent breaches to Waikato Regional Council and the Environment Protection Authority for further enforcement.

10.3. A person is not in breach of this Bylaw if that person proves that the act or omission complained of was:

a) Necessary:

i. To save or protect life or health or prevent injury; or

ii. To comply with Council's obligations under the Health Act 1956 and any subsequent amendments

iii. To prevent serious damage to property; or

b) To avoid actual or likely damage to the environment; and

i. The conduct of the defendant was reasonable in the circumstances; and

ii. The effects of the act or omission were adequately remedied or mitigated by the defendant after the offence occurred.

11. REMEDIAL WORK COSTS OF REMEDYING DAMAGE ARISING FROM BREACH OF BYLAW

11.1. In accordance with section 186 of the Local Government Act 2002, if an Authorised Officer serves a notice on the owner or occupier requiring works to be carried out or materials to be provided in connection with the premises, Council or an Authorised Officer may carry out the work or provide the materials where the owner or occupier fails to comply with the notice, either:

a) within the time specified in the notice, or

b) within 24 hours if notice certifies that the work is urgent, or

c) if the owner or occupier fails to proceed with the work with all reasonable speed.

11.2. In accordance with section 187 of the Local Government Act 2002, if an Authorised Officer serves a notice on any person under this bylaw, and the person fails to take the steps within the time specified, then Council or any Authorised Officer is authorised to take the steps set out in the notice. Council may recover the cost of doing the work, together with reasonable administrative and supervision charges.

11.3. In accordance with section 176 of the Local Government Act 2002, a person who has been convicted of any offence against this Bylaw is liable to pay to Council the costs of remedying any damage caused in the course of committing the offence. The costs must be assessed by a District Court Judge and are recoverable summarily as if they were a fine.

11.4. Costs recoverable under this clause are in addition to any other penalty for which the person who committed the offence is liable.

11.5. Costs recoverable under this clause are in addition to any other penalty under other legislation for which the person who committed the offence is liable.

12. OFFENCES AND PENALTIES

12.1. A person who breaches this bylaw and is convicted of an offence is liable to a penalty not exceeding $20,000 pursuant to Section 242 under the Local Government Act 2002.

The COMMON SEAL of the xxxxxx COUNCIL
was hereunto affixed in the presence of:

Councillor: .....

Councillor: .....

Chief Executive: .....