

Stormwater Bylaw 2015 Submissions

Please click on the submission reference of the submission you wish to view

Submission Number	Name	Organisation
1	Anastasia MacIntyre	
2	Myles Pollard	
3	Hugh Keane	Waikato Regional Council
4	Kevin O'Shannessey	Waikato-Tainui Te Kauhanganui Incorporated
5	Julian Booker	BPO Ltd

Name: Miss Anastasia MacIntyre

Organisation (if applicable):

- 1. Do you support in principle the intention to regulate stormwater through the use of a bylaw?**

Yes

- 2. What aspects of the proposed bylaw do you agree with and why? Please specify the topic, clause and page numbers.**
- 3. What aspects of the proposed bylaw do you disagree with and why? ? Please specify the topic, clause and page numbers.**
- 4. Do you have any other comments?**

Name: Mr Myles Pollard

Organisation (if applicable): -

1. Do you support in principle the intention to regulate stormwater through the use of a bylaw?

Yes

2. What aspects of the proposed bylaw do you agree with and why? Please specify the topic, clause and page numbers.

Part 1-5 inclusive. These parts are reasonable. Pages 1-2

3. What aspects of the proposed bylaw do you disagree with and why? ? Please specify the topic, clause and page numbers.

Definitions of prohibited materials and stormwater especially the definition of stormwater part b versus the definitions of prohibited materials.

Why, it is perverse to allow what is frankly at times foul runoff from roads to be classed as acceptable, because it flow from a road, yet to class as unacceptable tap water that runs from a damage mains riser.

The definition of overland flow path, is too broad. An overland path given how much rain? A once a year thunder storm, or 1 in 100 years flood. Page 4

7.1.b"Page 4... must not store..." etc.... This goes to far it is much too broad; almost anyone that washes their own car could fall foul of the bylaw. The bylaw says you must not let the contamination into the stormwater, which is fair enough, but that you must not do anything that may let contamination into the stormwater is just going too far.

It seems the kind of definition that bans everything, then lets the Council pick and choose when and where the bylaw is broken, or rather lets the HCC decide when it chooses to enforce the bylaw or not. If a bylaw is almost impossibly strict it may be ignored or derided and when the bylaw is enforced some those that have it enforced on them will say that they are being unfairly picked on.

7.1. d, e, f, g Page 4

The HCC bylaw casts a wide net and set a high standard.

Let me exercise a hobby horse. Practicable versus practical.

It seems that in their desire to be through and cover all possibilities the drafters of the bylaw have reached out for the word practicable rather than its humble cousin practical. The bylaw is meant to be read and understood and followed by ordinary people, so they presumably will have in their minds the ordinary meanings of words, rather than the subtle ones that the lawyers have. Here is the ordinary definition of practicable and of practical.

Practicable, means capable of being carried out in action, practical means being useful in practice.

They are very different. Practicable means able to be done, it is a thing that is technically possible, but a great deal that is practicable isn't done because it is too expensive, it is not practical.

Practicable demands the very best that it is technically possible to do, practical asks for that which is both technically possible and can be done profitably. (See WESEEN, Words confused and misused)

It would be fair enough if the HCC asked everyone to do what is reasonable to keep the stormwater clean and the system that carries it working aright. Sadly almost no one would know what reasonable meant in this context but reasonable certainly sounds right. As does practical, after all practical solutions to problems can be done and profitably done.

High Risk Facilities. A lot may be asked of their owners.

They are to imagine the worst that could happen and take all practicable steps to avoid it. Note if the probability of the worst happening is not zero and the cost of taking all practical steps is very large and cannot be insured against, the business will fold or trade on and fold until the evil day, that the foreseen but uninsured happens.

What's the worst that can happen, within reason, say a full petrol tanker catches fire at a petrol station near a stream. If the tanker is damaged and all the divisions in the tanker fail, that's say 30000 litres of motor spirit that will run down hill, and if it is very bad the fire service probably won't be willing or able to stop all the fuel or the foam and water used to fight any fire from getting into the stormwater network. Perhaps the under the forecourt of the station impoundment tanks could be built that are strong, leak proof and baffled or filled with scoria or vermiculate so as to avoid fuel air explosions. It will not be easy to devise a way that can turn away clean stormwater yet accept fuel or dirty water. A failsafe method will be needed. It could be done for a service station perhaps. It would be costly and it would be interesting to know how many times it might be used and what the savings from it would be compared to the cost of capital used to make it.

Some high risk facilities might be too big.

For example the Icepack building was large, but not as large as Fonterra's inland port.

Perhaps the worse industrial fire in New Zealand was the ICI fire in Auckland.

Can't recall how much runoff there was at the ICI fire, but it was a lot, a fair bit of it must have ended up in the harbour. Probably the only practical way to avoid that was dispersment of the buildings into many small and separate buildings as is done with munitions.

Economic justification for the proposed changes. Is this part of the bylaw efficient? Does it improve net welfare? It should be simple enough to find out the past frequency, size, kind and cost of past spills, and to compare this to the likely cost savings from fewer spills and the cost of capital invested in new plans for and drainage etc to get the fewer spills. The HCC may well have this information. If not it would be good to have a go at calculating the effects of the bylaw to see it improves welfare and if it is better than any other method.

Is this change best practice in NZ

Most troubling in 7.2,a, v Page 5 is the phrase "...any other document.."

The HCC could hold a fair number of them for each property and it may not be easy or cheap for the ordinary householder to discover exactly what the HCC wants of them.

Personally I have found the HCC very reasonable and staff always helpful in telling me where drains were and how the area around them was to be looked after and have had not worries with them. But some Councils are not so reasonable.

7.3.ii Why facet? (7.3.ii) Page 6 Why not part?

Diamonds when cut have facets, not so drains.

7.3 a iii,iv Page 6

Vegetation 1(Unreasonably and inefficiently shifts the risk of tree damage etc from the HCC, and onto private landowners. And IV it is unclear which landowners are affected and what the HCC wants of them.)

Over time stormwater drains can degrade, and tree roots can get into the drains. It can be difficult to tell what happened first, did the packing under the drain move and crack the drain letting water out and tree roots in or did adventurous tree root cause that damage. Very likely a bit of both.

Few owners will be in position to argue the point and will have to wear the cost of the repairs to the council drains, or perhaps have to go at getting the cost for the work back from their insurers.

Probably it will be more efficient if the HCC insures itself against the cost of damage done to the drains by tree roots and other vegetation and adds a tiny bit more to the rates, this being cheaper than every ratepayer, trying to find an insurer that will offer cover to them against the possibility that proper owners trees broke the HCC drains. Getting the cover needed, even by those prepared to pay for it maybe tricky, let alone getting the cover at a fair price.

Careful house buyers will be looking at drainage maps and if they are sensible getting CCTV inspection of any major HCC drains that run through the property.(Are they allowed?) And presumably these would be owners will do part of the HCC's work in checking the drains. If there are a fair number of these inspections the HCC might be tempted to give up routine inspections and just rely on others doing the work.

It is fair enough as a general rule that if you break the pipe you pay the HCC to cost to fix it and the HCC does the work as a check that the work is done right. For example you survey the site and, oops, drive a pile into the main stormwater. If you maliciously break it you should pay to put it right and get some other penalty. And again if some ratbag thinks its cheaper for them to put the stormwater into the sewerage than they should pay dearly to put it right.

Not at all sure about bylaw and the way it threatens vegetation where the vegetation is roots. The only foolproof way to have no damage from tree roots is to get rid of all the trees. A bit harsh, and treats the value of the network as greater than the value of the benefits from trees.

This part of the bylaw needs revising.

Vegetation II

It is not clear what the HCC wants from the owners of places where flow might go to do. Is this the flow path on particular planned and graded flow path or just the flow paths identified by flood modelling? If it is the later then some very hard work is going to be needed to work out to how replace the present boundary fences and hedges that divide these paths with something that won't block in a flood event.

Even 7 wire fences collect debris and will block the flow if it has enough rubbish in it. See 7.2 a,

7.3a.iv and 7.4.b Page 6

If other documents of council means a flood hazard zone map, then we need to talk. The bylaw says storm event, but they come in different sizes and if the test is any storm event, some serious work will be needed, or owners will be asking for consents to plant their gardens.

7.4 b goes too far, old drains often fill with soil, especially the old field tile drains. Fair enough to say don't reduce the capacity of the drains you have put in. But you should be free to rip out the old ones. New drains very often go in the place of the old drains, and the new often have a higher capacity as the walls of plastic tubes are thinner than the walls of the old clay pipes. No one should need a consent to replace field tiles.

4. Do you have any other comments?

Here is my submission on the proposed Hamilton City Stormwater bylaw 2015.

Malicious damage is already a crime and punishable by severe penalties. The HCC give no examples of increases in malicious damage, or of malicious damage that would have been prevented by the proposed bylaw. It would be interesting to know if there been an increase in the amount of criminal damage to the stormwater or sewerage networks and if the new bylaw would prevent similar damage in the future.

Plumbers and drainlayers are the ones that keep stormwater and sewerage separate. Has the HCC asked the plumbers what they think should be done to help keep the stormwater and sewerage networks free from damage? Those plumbers that have lived in Hamilton probably know that the city has separate networks for stormwater and sewerage and that they are supposed to meet only at the River and after the sewerage has been treated. Many people from out of town, Aucklanders, Wellingtonians etc are used to combined networks and probably neither know or care about the separate stormwater and sewerage networks. Perhaps newcomers to Hamilton need a welcome pack from the HCC that gives some free information and some free advice about how Hamilton's stormwater and sewerage work and the ways they should be looked after. Genesis energy do something similar. It will need more than the HCC website and publications.

7.1.b "... must not store..." etc.... This goes a bit far; almost anyone that washes their own car could fall foul of the bylaw. The bylaw says you must not let the contamination into the stormwater, which is fair enough, but that you must not do anything that may let contamination into the stormwater is just going too far.

It seems the kind of definition that bans everything, then lets the Council pick and choose when and where the bylaw is broken, or rather lets the HCC decide when it chooses to enforce the bylaw or not. If a bylaw is almost impossibly strict it may be ignored or derided and when the bylaw is enforced some those that have it enforced on them will say that they are being unfairly picked on.

For those that deliberately and knowingly put the stormwater in the sewerage they deserve all that comes to them the cost to put it right and keep it right, and perhaps a bit more than the cost of getting a plumber or drainlayer in to do the job properly at the start.

Some will break the bylaw not through any malicious or negligent act but simply because they allow trees or flax to grow in their section. Not all know where the HCC stormwater and sewerage networks run, nor does everyone know how far searching tree roots can run.

The HCC bylaw casts a wide net and set a high standard. We are to take all practicable steps to see that the bylaw is not broken. Does this mean for instance that landowners are to have no trees, not a one that might venture roots into the stormwater? If so Hamilton will again be a barren and treeless place. True, some poplars and especially willows are notorious for getting into drains, but other trees much loved can be bad too cabbage trees for example.

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Practicable, is a couple of steps to far. Rather than ideal standards that remain forever unattained, what is needed are practical solutions that get things right most of the time and can be made better as needed and guided by experience. The best protection for much of the drainage network comes from the continual education of people that the stormwater and sewerage systems are separate, and that any foul stuff put into the stormwater goes straight into the river. Essential too are the HCC staff that answer the public's questions about what pipes are where, what can be done with them etc. These people have always been excellent and helpful, as have the HCC's stormwater and drainage workers.

Vegetation 1

Over time stormwater drains can degrade, and tree roots can get into the drains. It can be difficult to tell what happened first, did the packing under the drain move and crack the drain letting water out and tree roots in or did adventurous tree root cause that damage. Very likely a bit of both.

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Even 7 wire fences collect debris and will block the flow if it is has enough rubbish in it. See 7.2 a, 7.3a.iv If other documents of council means a flood hazard zone map, then we need to talk. The bylaw says storm event, but they come in different sizes and if the test is any storm event, some serious work will be needed, or owners will be asking for consents to plant their gardens. 7.4 b goes to far, old drains often fill with soil, especially the old field tile drains. Fair enough to say don't reduce the capacity of the drains you have put in. But you should be free to rip out the old ones. New drains very often go in the place of the old drains, and the new often have a higher capacity as the walls of plastic tubes are thinner than the walls of the old clay pipes. No one should need a consent to replace field tiles.

High Risk Facilities. A lot may be asked of their owners..

They are to imagine the worst that could happen and take all practicable steps to avoid it. Note if the probability of the worst happening is not zero and the cost of taking all practical steps is very large and cannot be insured against, the business will fold or trade on and fold until the evil day, that the foreseen but uninsured happens.

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will be needed. It could be done for a service station perhaps. It would be costly and it would be interesting to know how many times it might be used and what the savings from it would be compared to the cost of capital used to make it.

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Economic justification for the proposed changes. Is this part of the bylaw efficient? Does it improve net welfare? It should be simple enough to findout the past frequency, size, kind and cost of past spills, and to compare this to the likely cost savings from fewer spills and the cost of capital invested in new plans for and drainage etc to get the fewer spills. The HCC may well have this information. If not it would be good to have a go at calculating the effects of the bylaw to see it improves welfare and if it is better than any other method.

Is this change best practice in NZ

The definition of prohibited materials seems to include tap water if there is enough of it for example the HCC has had an oops with a water main. As a ratepayer not sure that the definition of prohibited materials needs to include tap water.

No one wants malicious damage done to the drains, or needless stupid damage done to the drains, but in the documents provided the HCC has not made much of a case that the bylaw will reduce harm from malicious doings or stupidity.

Education will be needed to remind people not to muck about with the drains or put foul stuff into the stormwater etc , but again the bylaw itself does not done this.

Certainly if you break a drain you should get the HCC to put it right and wear the cost, but not much more than that.

The provisions about vegetation are worries. First the slow damage from tree roots is insidious and hard to avoid, other than by cutting trees down or wrapping drains in barrier cloth etc, and home owners may not be able to get insurance at fair rates to cover the cost of any damage their trees done to council drains. More likely that efficient cover is got by the HCC insuring itself against the cost of damage done by tree roots and charging a little on the rates to cover the expense each year of putting the drains right.

Most troubling in 7.2,a, v is the phrase "...any other document.."

The HCC could hold a fair number of them for each property and it may not be easy or cheap for the ordinary householder to discover exactly what the HCC wants of them.

Personally I have found the HCC very reasonable and staff always helpful in telling me where drains were and how the area around them was to be looked after and have had not worries with them. But some Councils are not so reasonable.

High Risk Facilities

The bylaw tells the owners of high-risk sites to make plans to avoid etc. Well plans are fine but what will be needed when the time comes is works, so the bylaw should also refer more to works. Yet it seems silly that the owners of high risk facilities may have spend much to build structures to avoid contamination from accidents etc that have a low probability of happening, yet the runoff from roads is allowed to continue much as it has.

Perhaps the bylaw is needed, but the way vegetation is considered is not good. Slow damage from tree roots is best found repaired and paid for by council. Not at all clear if ordinary house insurance policies cover the kinds of costs involved, perhaps as a public liability. Even if private cover is offered it may not be accepted. Nor is it clear from the bylaw just what properties are in what flood path, and just what the HCC wants the owners of those properties to do to prepare for a flood.

A final trivial point why facet? (7.3.ii) Why not part?

Diamonds when cut have facets, not so drains.

Yours faithfully M A Pollard.

P.S. Your new online submission tool is a lazy way of collecting the thoughts of submitters and rendering them as a summary of views for and against. Rather than cut and paste my comments, read them as they were intended, with a copy of the proposed bylaw at hand. And yes I do resent being the Council's unpaid copyist

Name: Mr Hugh Keane

Organisation (if applicable): Waikato Regional Council

- 1. Do you support in principle the intention to regulate stormwater through the use of a bylaw?**

Not Answered

- 2. What aspects of the proposed bylaw do you agree with and why? Please specify the topic, clause and page numbers.**

See attachment.

- 3. What aspects of the proposed bylaw do you disagree with and why? ? Please specify the topic, clause and page numbers.**

- 4. Do you have any other comments?**

Hamilton City Council – Waikato Regional Council Formal Submission in Support of the Proposed Stormwater Bylaw 31/3/2015

Thank you for the opportunity to present a formal submission by Waikato Regional Council (WRC) in support of HCC's proposed stormwater bylaw for Hamilton City.

Over the past 15 years WRC have worked closely with HCC City Waters staff on stormwater (s/w) management in the city and we have always appreciated the Council's rapid response and communication to prevent or minimise the discharge of containments to the Waikato River and its tributaries.

In this regard there are 3 issues that are relevant and should be given regard to with HCC's proposed s/w bylaw:

1 Comprehensive Stormwater Consent

In 2011 WRC was able to grant HCC a comprehensive stormwater discharge consent - without the need for a formal hearing.

This consent is a blanket authorisation for s/w discharges from outfalls to the Waikato River and its tributaries in the Hamilton Urban Area. This consent requires HCC over time to investigate and make improvements where practical to the s/w network.

As part of the comprehensive discharge consent HCC has a Stormwater Quality Improvement Programme and a stormwater bylaw will assist HCC in improving water quality and complying with its comprehensive discharge consent.

2 Spill Management & Response

Both our councils work closely in responding to and investigating spills to the urban s/w network. Often this has been caused by a third party discharging contaminants to the s/w system. A recent example was an oil spill to the Waikato River which probably originated from the Frankton rail yards. HCC and WRC worked together to indentify and prevent further oil discharges, which culminated in KiwiRail decommissioning the old oil/water separator, and improving their management of rolling stock washing at the rail yards. However, Councils cannot always rely on a third party to be so proactive, and a bylaw can be an efficient tool in effecting change.

3 Small Lot Developments

The expansion of North Hamilton in the last 15 years has required HCC and WRC monitoring staff to actively engage with developers and builders to ensure that house building sites do not cause excessive runoff of sand, soil, concrete and paint washings to HCC's s/w catchpits, stormwater ponds and pipework - and ultimately our urban streams. And whilst both councils have effected real improvements in the industry there still remains a few parties who are reluctant to install and/or adequately maintain appropriate earthworks & sediment controls to prevent damage and excessive runoff to HCC's s/w network.

The Waikato River Vision and Strategy forms part of the Proposed Waikato Regional Policy Statement and is given effect through the plans administered by Regional and territorial authorities along the river. The Waikato-Tainui Raupatu (Waikato River) Settlement Claims Act 2010 also provides for joint management agreements between Waikato-Tainui and the local authorities (HCC and WRC); participation in river-related resource consent decision-making; recognition of a Waikato-Tainui environmental plan; provision for regulations relating to fisheries and other matters managed under conservation legislation and an integrated river management plan.

In summary, I consider the bylaw will be an effective tool in improving urban water quality and will support HCC in managing and protecting the stormwater network. It will also provide guidance to residents, developers and industries – thus contributing further to the health and

protection of our urban streams – which is consistent with the Vision and Strategy for the Waikato River.

Hugh Keane
Team Leader Infrastructure
Resource Use Directorate
Waikato Regional Council

61 15 38A
Doc# 3292651

Name: Mr Kevin O'Shannessey

Organisation (if applicable): Waikato-Tainui Te Kauhanganui Incorporated

1. Do you support in principle the intention to regulate stormwater through the use of a bylaw?

Yes

2. What aspects of the proposed bylaw do you agree with and why? Please specify the topic, clause and page numbers.

- 1 Clear set of guidelines for the management of stormwater
- 2 The education programme
- 3 Protect and regulate against damage, misuse, or loss of land and pollution of our water ways

3. What aspects of the proposed bylaw do you disagree with and why? ? Please specify the topic, clause and page numbers.

4. Do you have any other comments?

Waikato-Tainui supports this bylaw through the Joint Management Agreement we have with Hamilton City Council and the setting up of a Joint Working Party. That will see both parties work together on the implementation and monitoring of the bylaw.

Name: Mr Julian Booker

Organisation (if applicable): BPO Ltd

1. Do you support in principle the intention to regulate stormwater through the use of a bylaw?

Yes

2. What aspects of the proposed bylaw do you agree with and why? Please specify the topic, clause and page numbers.

See attached hard copy submission.

3. What aspects of the proposed bylaw do you disagree with and why? ? Please specify the topic, clause and page numbers.

4. Do you have any other comments?

Please see attached table.

4. Do you have any further comments?

Feedback can be:

- submitted online : www.hamilton.govt.nz/haveyoursay
- posted: Freepost 172189, Strategy & Research Unit, Hamilton City Council, Private Bag 3010, Hamilton 3240
- delivered to the main reception, ground floor of Council Building, Garden Place

Important Reminder: All written feedback must reach Council by 4.00pm 1 April 2015. Feedback after this date may not be included in the feedback summary to Councillors.

Thank you for your feedback.

What aspects do you agree with and why?

Clause	Topic	Why
7.1f	Pollution control plan	In order to manage stormwater discharges there is a need to inspect, audit and measure discharges. This provides one means of actively managing pollution of stormwater. There will be sites that are not high risk facilities e.g. those with large unsealed areas, wreckers, solid waste depots and so on that may not meet limits but there is no way of identifying/managing these in the Bylaw.

What aspects do you disagree with and why.

Clause	Topic	Why
1.	Introduction	"Aims to assist in achieving the vision and strategy for the Waikato River...and improve bathing water quality". There is no mention of any desire for the restoration and protection of other water bodies within the HCC boundary for example urban streams which provide spawning habitat for native fish and Hamilton Lake which occasionally suffers algal problems. Bathing water quality breaches are usually microbiological, it is unlikely the Bylaw will improve these results.
4.1e	Purpose	"Manage the entry of contaminants into the stormwater system". We agree with the concept but there is a lack of information about how this will be achieved, there is no information or reference to what concentrations are acceptable (reference needed to Regional Plans, EPA guidelines, ANZECC guidelines, HCC stormwater consent discharge limits?), there is no system for auditing or consenting sites particularly high risk facilities etc apart from a pollution control plan, there are no monitoring requirements to show that a site is actually compliant.
7.1a	Prior approval of HCC	There is no mention of a formal system on how to get approval from HCC. There are a small number of industrial sites that we know of

		<p>within Hamilton that discharge cooling water or condensates to stormwater.</p> <p>It is very common for water to be discharged to stormwater in small amounts from the washing of houses, cars, buildings, driveways etc. Was this the intention?</p>
7.3a	i to iv Obstructions	Add in the words "unless written approval is given by HCC or Resource Consent allows it". This could be useful in situations where there are scientific, engineering or environmental investigations being carried out.
7.4(c)	No person shall allow stormwater to enter the wastewater system without prior approval.	Similar wording is in the Trade Waste Bylaw yet there is no system for "approval". We assume that if outdoor areas exist that drain to stormwater and they are mentioned in the trade waste application that when the consent is granted that this warrants "approval".