



PALMERSTON NORTH CITY

PALMERSTON NORTH STORMWATER BYLAW 2022

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PALMERSTON NORTH STORMWATER BYLAW 2022

PART ONE – INTRODUCTION

1 Title

1.1 The title of this Bylaw is the Palmerston North Stormwater Bylaw 2022.

2 Purpose

2.1 This Bylaw is made under the authority of the Local Government Act 2002 for the purpose of ensuring that the public stormwater network is protected and managed by Palmerston North City Council in such a manner that it:

- a) promotes a water sensitive design (WSD) approach;
- b) safeguards public health and safety, property, and the environment;
- c) minimises the impact of flooding, and erosion, and regulates inflows into the public stormwater network to avoid nuisance and/or degradation of the receiving environment.

2.2 The Council in making this Bylaw, acknowledges the particular interest in this Bylaw of tangata whenua as kaitiaki of water, and particularly recognises the role of Rangitāne o Manawatū as mana whenua.

3 Commencement

3.1 This Bylaw comes into force on 24 May 2022.

4 Repeal

4.1 The Palmerston North Stormwater Drainage Bylaw 2015 is repealed at the commencement of this bylaw.

5 Definitions

For the purpose of the Bylaw and Administration Manual, unless inconsistent with the context, the following definitions apply:

Administration manual means the Administration manual for the Palmerston North Stormwater Bylaw 2022 as approved by the Council when the Palmerston North Stormwater Bylaw 2022 was made and as amended from time to time by delegated authority under the Bylaw.

Approval	means approved in writing by the Council, either by resolution of the Council or by an officer of the Council authorised for that purpose.
Authorised officer/agent	means an officer or an agent appointed by the Council and given powers to perform duties and functions under this Bylaw, and includes an enforcement officer appointed under section 177 of the Local Government Act 2002.
Bylaw	means the Palmerston North Stormwater Bylaw 2022.
Catchment	means the area of land within which stormwater flows (whether by gravity, pumping, piping or otherwise) to a given point.
Catchment management plan	means a plan prepared by or for Council for the understanding, control and management of stormwater and stormwater related hazards within a catchment.
Commercial premises	means: <ul style="list-style-type: none"> (a) Any premises used or intended to be used for any commercial, industrial or trade purpose; (b) Any premises used or intended to be used for the storage, transfer, treatment, or disposal of waste materials or for other waste management purposes, or used for composting organic materials; (c) Any other premises from which a contaminant is discharged in connection with any industrial or commercial process; or (d) Any other premises discharging other than domestic sewage; and includes any land or premises wholly or mainly used for agricultural or horticultural purposes, including composting organic materials.
Council	means the Palmerston North City Council and includes any person or Committee acting under authority duly delegated by the Palmerston North City Council.

Contaminant	<p>includes any substance (including gases, odorous compounds, liquids, solids, and micro-organisms but excluding precipitation) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—</p> <p>(a) when discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or</p> <p>(b) 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; or as described in the Resource Management Act 1991</p>
Council infrastructure	<p>any physical assets owned by Council, either above ground or buried, for the purpose of providing services e.g. water, wastewater, stormwater.</p>
Customer	<p>means a person who has obtained permission from the Council to connect their premises to the public stormwater network.</p>
Development	<p>in relation to any land means altering the stormwater runoff characteristics of that land including by stormwater drainage works, building work, subdivision or change of use or ground cover.</p>
Dwelling	<p>includes any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the ground or not, used wholly or partly for human habitation, and includes the land accessory to a dwelling.</p>
Earthworks	<p>means any movement of earth, including the excavation or deposition of earth or cleanfill that results in changes to the existing ground level. This includes, but is not limited to, earth movement associated with subdivision and siteworks as defined by the Building Act 2004.</p>

Engineering Standards for Land Development

means the current version of the Council's engineering standards detailing the standards to be achieved when carrying out land development.

Excessive load

means total volume or peak flow discharges to the network which exceeds the proportion of the available capacity within the network available to the site based on the impermeable site area.

Flood plain

means a low-lying area which is expected to or predicted to flood in a storm event usually described as an Average Return Interval (ARI) 20-year event.

Flood risk area

means an area which may be at risk of flooding in an (ARI) 20-year event.

Memorandum of Encumbrance

means an agreement for the payment by any person or persons by yearly or periodical payments or otherwise of any annuity, rent charge, or sum of money other than a debt where land owned by the person or persons is legally defined and used as security should failure to pay occur.

Nuisance	<p>has the same meaning as Section 29 of the Health Act 1956 and includes a person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort or convenience of another person; and in the context of this Bylaw also includes but is not limited to:</p> <ul style="list-style-type: none"> (a) danger to life; (b) danger to public health; (c) flooding of any building floor or sub-floor, or public roadway; (d) damage to property; (e) damage to the public stormwater network; (f) erosion or subsidence of land; (g) long- or short-term adverse effects on the environment; (h) adverse loss of riparian vegetation; (i) wastewater overflow to land or water; (j) anything that causes a breach of any stormwater discharge consent condition binding the Council, (including an accumulation of chemicals causing a breach).
Occupier	<p>means any person or company who occupies any land or building (including commercial premises) and, if the land or building is unoccupied, includes the owner or the owner's agent.</p>
Overland flow path	<p>means a path along or across any land where surface water is predicted or observed to flow and is likely to cause flooding of more than a minor nature.</p>
Person	<p>includes a corporation sole and a body of persons, whether incorporated or not.</p>
Point of connection	<p>means the boundary between the public stormwater network and a private stormwater system. The point of connection is the point on the public stormwater network which marks the boundary of responsibility between the owner of the premises and the Council, to the maximum distance of 30 metres from the relevant property boundary.</p>

Premises

include 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;
- (b) 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;
- (c) land held in public ownership (e.g. reserve) for a particular purpose;
- (d) individual units in buildings which are separately leased or occupied.

Private stormwater system

means a set of facilities and devices either natural or built which are used to convey run-off, reduce the risk of flooding and to improve water quality, not forming part of the public stormwater network. This includes but is not limited to pipes, gutters, downpipes, catchpits, swales, subsoil drains, stormwater treatment devices, rainwater tanks and any stormwater management device or redundant stormwater system.

Public stormwater network

means:

- (a) any stormwater pipes, channels, swales, detention or attenuation devices, wetlands, pump stations and embankments or treatment facility, vested in or under the control of the Council, which serves more than one freehold lot;
- (b) all drains, kerb and channels, storage and attenuation devices, pump stations or treatment facilities within legal road reserve or other public places;
- (c) any drain, channel, or treatment or attenuation facility declared to be a public drain under section 462 of the Local Government Act 1974.

Permit	means any approval or consent required or given by the Council under this Bylaw and includes any approval whether or not on a prescribed form including by electronic communication.
Record of Title	means a Record of Title created under section 12 of the Land Transfer Act 2017.
Redundant private stormwater system	means a system, structure or device that is part of a private stormwater system and has been replaced by another system, structure or device so as to be no longer necessary for the operation of that private stormwater system or required under any building or resource consent condition or engineering approval related to the site.
Road Controlling Authority	In relation to a road: <ul style="list-style-type: none"> (a) means the authority, body or person having control of the road; and (b) includes a person acting under and within the terms of a delegation or authorisation given by the controlling authority.
Service opening	means a means for gaining access for inspection, cleaning or maintenance of a public stormwater network.
Soakpit	means an underground storage compartment designed for the on-site retention of stormwater or other surface water flows that is emptied by soakage to the underlying material.
Stormwater Management Plan	means the plan required as a condition of subdivision consent which details specific management approaches and measures and/or devices to be constructed to mitigate both stormwater quantity and quality effects within the catchment and receiving environment.
Stormwater	means run-off that has been intercepted, channelled, diverted, intensified or accelerated by human modification of a land surface, or run-off from the surface of any structure, as a result of precipitation and includes any contaminants contained within.

**Stormwater
contamination
mitigation plan**

means a plan for commercial, residential or other premises detailing specific management practices, measures and/or devices to be implemented and constructed to treat and manage stormwater on-site to prevent contamination of stormwater. The plan must include detail of the maintenance and operation requirements for the measures and/or devices.

**Stormwater attenuation
measure**

means any measure or device designed to detain or attenuate stormwater on the premises and limit its peak outflow or volume or both from the premises into the public stormwater network.

**Stormwater treatment
device**

means any measure or device designed to remove contaminants from stormwater on the premises prior to its discharge to the public stormwater network.

Watercourse

means every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently.

Zone of influence

means waterway area or any overland flow path leading to or from the public stormwater network.

PART TWO – PUBLIC STORMWATER NETWORK CONNECTIONS

6 Connections to the public stormwater network

- 6.1 No person other than the authorised officers and agents of the Council may carry out work on or connect to the public stormwater network or otherwise alter or modify with any part of that network unless the connection or work by the person is permitted in writing by the Council in which case all conditions in the permit must be met.
- 6.2 Every application for a connection to the public stormwater network or work on the public stormwater network must be made in writing using the Council's prescribed form together with payment of the required fee. The applicant must provide all details concerning the connection or work required by the Council.
- 6.3 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.
- 6.4 The Council may set and amend standard conditions for a stormwater connection to the public stormwater network in the Administration Manual. The conditions of consent for connection will be those recorded in the Administration Manual unless specifically varied in writing by the Council in which case the latter prevail over those in the Administration Manual where inconsistent but otherwise the standard conditions apply whether expressly stated or not.
- 6.5 Every owner or occupier of premises discharging into the public stormwater network may only do so on the basis of standard conditions for stormwater connection in the Administration Manual.

PART THREE – PROTECTION OF STORMWATER ASSETS AND THE PUBLIC STORMWATER NETWORK

7 Protection of the public stormwater network

7.1 No person may, unless specifically authorised by a resource consent or approval by the Council:

- (a) Stop, obstruct, alter, interfere with or divert any stormwater drain or any part of the public stormwater network in a manner that may cause blockage or nuisance to the public stormwater network;
- (b) Alter, interfere with or divert any stormwater via any private pipe, drain or overland flow path such that the discharge enters the public wastewater system;
- (c) Erect any defence, structure or stopbank, grow any vegetation, deposit any rubbish or other debris in any public stormwater drain, flood plain, flood risk area or overland flow path identified by the Council, or carry out any activity in a place or manner that affects the functioning of or causes nuisance to the public stormwater network;
- (d) Obstruct any overland flow paths identified by the Council, or flood plains, with any material or structures such as buildings, fences, retaining walls and rock gardens;
- (e) Locate or permit any material, hazardous material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, to be located or stored in such a manner that it could enter the public stormwater network (directly or indirectly, in any storm event), unless it has first passed through an appropriate stormwater treatment 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 New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment.
- (f) Carry out any of the above with the consequence that it adversely affects land or buildings including other land and buildings on other land.

7.2 No person may remove live vegetation from the drain margins of the public stormwater network without approval from Council, if that clearing may cause or worsen erosion or sedimentation of the drain.

7.3 No person may cause a temporarily or permanently sustained excessive load on the public stormwater network that is likely to result in damage to the network.

8 Working in close proximity to the public stormwater network

8.1 A person must obtain approval from Council before:

- (a) undertaking any earthworks that are likely to result in damage to the public stormwater network;
- (b) removing any existing cover material or placing any additional material over or within the zone of influence of the public stormwater network specified in the Engineering Standards for Land Development that is likely to result in damage to the public stormwater network;
- (c) covering any stormwater inlet, outlet, treatment device, or service opening in a way that is likely to restrict access to the public stormwater network or detrimentally affect the performance of the public stormwater network.

8.2 No person may carry out any earthworks within a road without permission in writing from the road controlling authority.

8.3 Any person proposing to carry out earthworks must first view the as-built information on Council records concerning the location of Council infrastructure to establish whether Council infrastructure is located in the vicinity.

8.4 At least five days' notice in writing must be given to the Council prior to the intended date of any earthworks within two metres of the public stormwater network. Where appropriate, the Council will mark out to within $\pm 0.5\text{m}$ on the ground the location of its services and may require any restrictions on the work it considers necessary to protect its services particularly to the public stormwater network within overland flow paths. The Council may charge for this service.

8.5 All persons performing earthworks and working around buried services must ensure the buried services are not damaged, and that bedding and backfill is reinstated in accordance Council's Engineering Standards for Land Development.

8.6 Any person who damages any part of the public stormwater network must notify the Council immediately and will be responsible for the full cost of repair and reinstatement.

9 Operation and maintenance of private stormwater systems

- 9.1 Unless the Council approves otherwise, the owner of any private stormwater system is responsible for the operation and maintenance of that system.
- 9.2 The owner of a private stormwater system must ensure that the system:
- (a) is maintained in good operating condition; and
 - (b) does not cause or contribute to nuisance.
- 9.3 The owner or occupier of a premises on which there is a watercourse, stopbank, or other defence against water, must maintain that watercourse, stop bank, or other defence against water in an operational state which ensures the free flow of water.
- 9.3.1 A resource consent under the Resource Management Act 1991 from the Regional Council may be required for maintenance works under this clause. No owner or occupier is obliged to perform maintenance under this clause that would contravene the Resource Management Act 1991.

10 Removal of redundant private stormwater systems

- 10.1 The Council may require an owner of a private stormwater system, or any part of it, to remove or de-commission any Redundant Private Stormwater System at that owner's cost where that Redundant Private Stormwater System has caused, or is likely to cause, damage to the Public Stormwater Network.
- 10.2 The owner of a Redundant Stormwater System that has been removed or decommissioned under subclause 10.1 must ensure that the premises on which the system is located or was previously located is restored so as to not materially increase the flooding or contamination risks for neighbouring upstream or downstream properties.

PART FOUR – STORMWATER CONTAMINATION MITIGATION

11 Discharge of contaminants to the public stormwater network

- 11.1 No person may discharge or permit any contaminant to enter the public stormwater network unless that discharge is approved by the Council.
- 11.2 No person may discharge, deposit or permit any contaminants, material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater network, unless that discharge has passed through an appropriate (and if necessary) approved stormwater treatment 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 New Zealand (Ministry for the Environment, 1998) or any superseding guidelines published by the Ministry for the Environment.
- 11.3 No person may store raw material, products or waste in a manner or location such that there is a more than minor risk of that material entering the public stormwater network if that material contains corrosive, toxic, biocidal, radioactive, flammable, or explosive materials, or any material which, when mixed with the stormwater stream in the public stormwater network, may:
- (a) generate toxic, flammable, explosive or corrosive materials in hazardous quantities, or
 - (b) damage the public stormwater network, the environment or adversely affect the health and safety of Council staff or the public.

12 Avoiding and mitigating contaminant discharges

- 12.1 If any existing commercial, industrial, trade or other premise discharges contaminants to the public stormwater network in a manner that may damage the public stormwater network, the environment or adversely affect the health and safety of Council staff or the public, the owner or occupier must verbally advise Council staff immediately and as soon as practically possible in writing thereafter.
- 12.2 The owner or occupier must make every effort to immediately contain, divert and/or terminate the contamination and put in place temporary measures to prevent a recurrence or a continuation of the contamination. The owner or occupier shall be responsible for any costs incurred by Council in responding to and following up on the contamination.

13 Requirement to prepare a Stormwater contamination mitigation plan

13.1 The owner or occupier of the premises must, if requested by Council, prepare a Stormwater contamination mitigation Plan and submit the plan to Council for approval, to demonstrate to Council that its discharge is being managed and treated to avoid contaminants being discharged to the public stormwater network that would cause nuisance and/or degradation to the receiving environment.

13.2 The Stormwater contamination mitigation 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 public stormwater network, 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 public stormwater network;
- (d) Methods and timeframes proposed to control contamination of the public stormwater network;
- (e) A description of the maintenance procedures in place and proposed; and
- (f) Spill prevention and spill response procedures.

13.3 The owner or occupier must provide a Stormwater contamination mitigation plan to Council for review and approval within three months of a request.

13.4 Once the Stormwater contamination mitigation plan has been approved by Council, the owner or occupier must comply with all provisions, including timeframes specified, of the Stormwater contamination mitigation Plan.

13.5 The owner or occupier must review the Stormwater contamination mitigation Plan every three years and provide it to Council for review and approval.

13.6 The Council may require that any Stormwater contamination mitigation Plan be revised where there have been significant changes in the facility concerned or its operational procedures.

PART FIVE – ENFORCEMENT

14 Offences and penalties

14.1 Every person who:

- (a) Fails to comply or acts in contravention of any provision of this Bylaw;
- (b) Breaches the conditions of a permit granted under this Bylaw; or
- (c) Fails to comply with a notice served under this Bylaw;

commits an offence under section 239 of the Local Government Act 2002 (LGA), and is liable to a fine as specified in section 242 of the LGA, or the issue of an Infringement notice under section 245 of the LGA.

14.2 The Council may issue infringement notices, in such forms and for such amounts as are authorised in any regulations made under Section 259 of the LGA Act 2002. The Council may exercise any other statutory remedies available to the Council.

PART SIX – BYLAW ADMINISTRATION

15 Delegations

15.1 The following people are authorised delegates under this Bylaw:

- (a) The Council by resolution
- (b) the Chief Executive of the Council;
- (c) the person holding the office identified in Council's Delegations Manual as responsible for the administration of this Bylaw;
- (d) Any other person authorised to exercise a power under this Bylaw, pursuant to the Council's Delegations Manual or resolution of the Council.

15.2 Authorised delegated persons may exercise any power, function or duty under this Bylaw or carry out any act in order to achieve its effective administration on behalf of the Council other than those expressly required to be by Council resolution including, without limitation:

- (a) Specify the standard conditions that apply to stormwater service connections to the public stormwater network;
- (b) Specify forms and procedures for the effective administration of the Bylaw;
- (c) Make any decision or determination required in this Bylaw in order to administer it;
- (d) Decisions regarding whether or not a permit should be granted, and the terms and conditions of that permit including standard conditions and variations;
- (e) Decisions regarding approval, suspension, withdrawal or removal of an approval or permit or Stormwater Contamination Mitigation Plan.

15.3 The Council by resolution may amend the Administration Manual. Before amending the Administration Manual, the Council must consult appropriately and in accordance with the Local Government Act 2002 with any person that it considers may be affected by the proposed amendments and give those persons a reasonable opportunity to provide feedback on the proposed amendments before they come into effect. The Council must have regard to that feedback before making any final decision on the proposed amendments.

15.4 All, specifications, conditions or methods for this Bylaw must be in writing and kept in the Administration Manual for this Bylaw called the Stormwater Bylaw Administration Manual (except those contained in the Engineering Standards for Land Development) and shall be available to the public.

15.5 Every exercise of a power of delegation under this clause must be reported to Council if not exercised by Council by resolution provided that failure to report does not invalidate the exercise of the delegate's power.

16 Permits

16.1 Where an activity under this Bylaw requires a permit from the Council, the person seeking a permit must:

(a) Complete the required application form;

(b) Pay the applicable fee;

(c) Comply with any requirements set as conditions of that permit.

16.2 A permit may include, in addition to conditions incorporated by this Bylaw, conditions that the Council considers are reasonably necessary to manage the effects of the activity, achieve the objectives of this Bylaw and minimise the risk of nuisance. A permit is only for the activity or work detailed in the application, subject to any limitations or controls set in conditions.

16.3 The Council may grant a permit for an activity that would otherwise contravene this Bylaw.

16.4 A permit is personal to the applicant and is not transferable.

16.5 An authorised officer may revoke or suspend any permit issued under this Bylaw at any time, or suspend for such periods of time, on such terms and conditions as the authorised officers may consider appropriate in the circumstances to protect public health and safety or to minimise nuisance.

17 Approvals

17.1 Where approval from the Council is required under this Bylaw, any application for such approval will be considered, and a decision made, within 15 working days, unless a different timeframe is explicitly provided for in the Bylaw.

17.2 Where further information is required to enable the application to be considered and a decision made, but is not supplied at the time of application, then the timeframe for making the decision will be suspended until such time as the information requested is supplied.

18 Fees and charges

18.1 The Council may set fees and charges in accordance with section 150 of the Local Government Act 2002 for the connection of stormwater and related services.

18.2 All fees and charges payable under this Bylaw shall be recoverable as prescribed by sections 57 to 82 of the Local Government (Rating) Act 2002.