

Practice and Guidance note

Stormwater Network Discharge

Consent Process for Resource

Consents

| | | |
|---|---|----|
| 1 | Introduction | 2 |
| 2 | About the Stormwater NDC..... | 3 |
| 3 | Processes to authorise the discharge and diversion of stormwater | 6 |
| 4 | Roles and Responsibilities | 12 |
| 5 | Bylaws and regulations | 16 |
| 6 | Summary..... | 18 |
| 7 | Further Information..... | 19 |
| | Appendix 1: Example wording for informing the applicant and advice notes on resource consents | 20 |
| | Appendix 2: Scenarios for developments – worked examples | 24 |

Disclaimer

The information in this practice and guidance note is, according to Auckland Council's best efforts, accurate at the time of publication. Auckland Council makes every reasonable effort to keep it current and accurate. However, users of the practice and guidance note are advised that:

- *the information provided does not alter the Auckland Unitary Plan, Resource Management Act 1991 or other laws of New Zealand and other official guidelines and requirements*
- *this document sets out general principles which may be used as guidance for matters relating to the interpretation and application of the Auckland Unitary Plan; it is not intended to interfere with, or fetter, the professional views and opinions of council officers when they are performing any function or exercising any power under the RMA. Each consent will be considered on a case-by-case basis and on its own merits*
- *Users should take specific advice from qualified professional people before undertaking any action as a result of information obtained in this practice and guidance note*
- *Auckland Council does not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading or reliance placed on Auckland Council because of having read any part, or all, of the information in this practice and guidance note or for any error, or inadequacy, deficiency, flaw in or omission from the information provided in this publication.*

1 Introduction

The Environment Court granted a Stormwater Network Discharge Consent (Stormwater NDC) to Auckland Council's Healthy Waters department on 30 October 2019. The Stormwater NDC authorises the diversion and discharge of stormwater from the public stormwater network within existing and future urban areas (including special purpose zoned land and marina land. This consent was issued under [Chapter E8](#) in the [Auckland Unitary Plan \(Operative in Part\) \(AUP\(OP\)\)](#).

The Stormwater NDC replaces 116 different consents and multiple existing authorisations. The Stormwater NDC establishes a single comprehensive set of requirements to manage all public stormwater diversions and discharges across Auckland.

The Stormwater NDC authorises existing and future public diversions and discharges that meet the conditions of the consent within existing and future urban areas. Privately developed stormwater infrastructure that is to be vested in Auckland Council can rely on the Stormwater NDC for any associated diversions and discharges, subject to compliance with the performance/connection requirements in Schedule 4 of the Stormwater NDC or an adopted Stormwater Management Plan listed in Schedule 10 of the Stormwater NDC.

1.1 Purpose

This Practice and Guidance note (PGN) explains how the AUP(OP) provisions are applied in conjunction with the Stormwater NDC. It also sets out the relationship of the Stormwater NDC with the council approvals for stormwater networks, including under the [Auckland Council Stormwater Bylaw 2015](#), (Stormwater Bylaw) the Council's Engineering Plan Approvals process (EPA), and approvals under the Building Act 1991.

This PGN will be updated in the future when the Ministry for the Environment has clarified the relevance of the National Environmental Standard – Freshwater to stormwater.

2 About the Stormwater NDC

2.1 How does the Stormwater NDC align with the Auckland Unitary Plan (Operative in part)?

The Stormwater NDC is granted under rule E8.4.1(A11) of the AUP(OP). The objectives and outcomes of the Stormwater NDC align with the objectives and policies in Chapter E1 of the AUP(OP).

2.2 Purpose of the NDC

The NDC is a key tool in managing and integrating land uses, stormwater diversions and discharges and the region's natural water assets to reduce impacts from urban development, climate change and flooding and to allow multiple community and environmental outcomes to be realised.

This consent is the largest of its kind in New Zealand and is unique in its approach to managing existing and future stormwater diversions and discharges to:

- provide certainty and a regionally consistent set of performance requirements
- provide a framework to support urban growth and development for future urban areas while enabling stormwater management plans to be tailored to specific sites and scenarios
- improve water quality through robust performance requirements for the public network
- reduce complexity and promote compliance requirements
- deliver accountability, transparency and best practice through regular reporting and reviews.

2.3 What is a diversion or discharge under the Stormwater NDC?

The diversion of stormwater under the NDC is where stormwater is directed into and through a new or existing public stormwater network. Diversions are controlled under [s14](#) of the Resource Management Act 1991 (RMA).

The discharge of stormwater under the NDC includes discharge of stormwater from a new or existing public stormwater network to the receiving environment such as a stream, the coastal marine area or to ground. Discharges are controlled under [s15](#) of the RMA.

2.4 What does the Stormwater NDC cover?

The Stormwater NDC authorises:

- Existing stormwater diversions to (including from existing road and other existing land uses) and discharges from the Public Stormwater Network at the time of commencement of this consent;
- New or changes to stormwater diversions and discharges from the renewal, maintenance, development or improvement of the Public Stormwater Network, subject to compliance with either:
 - i. the performance requirements in Schedule 4; or
 - ii. an adopted Stormwater Management Plan listed in Schedule 10.
- New, or changes to existing, diversions and discharges resulting from:
 - i. the increase of, or changes to, impervious areas from redevelopment, intensification, and/or land use change within existing urban areas that discharge to the Public Stormwater Network; or
 - ii. the increase of/changes to impervious areas from the development of Greenfield land where stormwater assets connect directly to, and/or are subsequently vested and become part of, the Public Stormwater Network;
- subject to compliance with the performance/connection requirements in Schedule 4 or an adopted Stormwater Management Plan listed in Schedule 10.
- applies to areas within future and existing urban zoned land in Auckland (including land in special purpose zones and marina zones).

2.5 What is not covered under the Stormwater NDC?

The Stormwater NDC **does not** apply to diversions and discharges of stormwater which:

- Do not enter or exit a public network
- are into or from a combined sewer network
- are private or from a private network (no public assets/not into public network)
- are in or from rural zoned areas
- are from existing or new road networks that discharge directly to a stormwater network that is not owned and operated by Auckland Council and/or that discharge directly to a freshwater or coastal natural environment or to ground.
- are not stormwater (e.g., contaminants from ITA sites, earthworks sediment etc.).

The Stormwater NDC does not:

- authorise physical works to construct the stormwater network or management devices, including outfalls, dams, streamworks etc. The relevant provisions of the AUP (OP) must be complied with.

- replace the need for a resource consent under AUP (OP) Chapter E9 High contaminant car parks and high use roads (land use rule).
- replace the need for a resource consent under AUP (OP) Chapter E10 Stormwater management areas – Flow 1 and Flow 2 (land use rule).
- obviate the requirement to obtain any approvals under the Stormwater Bylaw, EPA, and/or the Building Act 1991.

2.6 Who does the NDC apply to?

Healthy Waters

Auckland Council's Healthy Waters department is the council's stormwater asset manager. Healthy Waters is the consent holder of the Stormwater NDC. Auckland Council Healthy Waters holds a single consent which authorises diversions and discharges of stormwater from the existing and future public stormwater network in the Auckland region.

Healthy Waters can undertake maintenance, alterations or extensions to the public stormwater network and any changes to the diversion and discharge resulting from the above are authorised by the Stormwater NDC, provided the requirements specified in the NDC conditions are met.

With Healthy Waters' approval, third parties such as private developers can rely on the Stormwater NDC to authorise the diversion and discharge of stormwater from their own developments. Reliance on the Stormwater NDC will require approval from Healthy Waters.

Private Applicants

Under the RMA the diversion and discharge of stormwater (s14 and s15) must be expressly authorised by:

- a rule in the plan or
- a resource consent

Proposed diversions or discharges of stormwater by private developers or applicants can be lawfully undertaken by:

- complying with permitted activity rules under Chapter E8 of the AUP (OP) (see [section 3.3](#) of this PGN)
- obtaining a diversion and discharge resource consent under AUP (OP) Chapter E8.
- obtaining approval from Healthy Waters to use the Stormwater NDC to authorise the diversion and discharge of stormwater from any stormwater infrastructure to be vested in Auckland Council.

Again, this latter option is Healthy Waters' preferred approach as it maintains a consistent management approach through the conditions of the Stormwater NDC.

If an applicant chooses to rely on the Stormwater NDC, they will need approval from Healthy Waters. (i.e., if the developer chooses not to use the NDC, they can apply for their separate consent under AUP (OP), or they have the option to comply with the AUP(OP) permitted activity rules for diversion and discharge.)

The above information should be provided to an applicant at a pre-application meeting or if an application is already lodged, then early in the resource consent process, such as an advice note in the s88 letter. As part of its approval process, Healthy Waters will require the developer to demonstrate that the development will meet the requirements of Schedule 4 of the Stormwater NDC, including where relevant, the preparation and adoption of a stormwater management plan.

Applicants wishing to rely on the Stormwater NDC should have discussions with Healthy Waters or council's Development Engineers within the Regulatory Engineering department early in the application development process, ideally prior to lodging their resource consent/building consent application. Information on the Stormwater NDC can be found on the council's [Auckland Design Manual](#) web page. Example wording for pre-application minutes and advice to give at pre-application meetings are in [Appendix 1](#) of this PGN.

Applicants are encouraged to obtain provisional approval from Healthy Waters under the Stormwater Bylaw via council's Development Engineers prior to lodging resource consents. Notice of this approval from Healthy Waters should be included with the resource consent application documentation to demonstrate how stormwater diversions and discharges are to be managed and that resource consents specific to these matters are not required.

Note that the approval is not legally required to be obtained and may be addressed concurrently, as discussed below. There is some risk that the applicant takes on, without obtaining the third-party approval prior to resource consent application lodgement, as the development may need to be altered or redesigned before the third party will give their approval, which may result in a s127 variation or new consent being required if resource consent has already been approved.

3 Processes to authorise the discharge and diversion of stormwater

3.1 Process for resource consents

For applicants there are two processes which must be followed in relation to the authorisation of the discharge and diversion of stormwater:

- AUP (OP)

- Stormwater NDC approval from Healthy Waters (which is an approval under the [Auckland Council Stormwater Bylaw](#))

These two processes will influence the overall design and layout of the development. Therefore, the review of an application against the Stormwater NDC is a parallel assessment to the review of the matters under the AUP(OP) and can occur concurrently with the AUP (OP) application process. As noted above, prior approval from Healthy Waters is encouraged.

Depending on the type of AUP(OP) application being made; in some circumstances it will be possible to incorporate NDC assessments together and any resulting s92 questions or conditions will be able to be included as part of the AUP (OP) assessment and timeframes.

In other cases, the NDC review and approvals will **not** form part of the AUP (OP) assessment or timeframes, and it will be necessary to include any questions or recommended conditions as advice notes and for the applicant to engage with Healthy Waters directly and/or as part of the EPA.

In Summary:

- Best practice: applicant should be advised to resolve Stormwater NDC matters either prior to or at the same time as responding to any s92 requests for further information.
- Stormwater NDC matters proceed in parallel to RC process; it should not hold up the RC process.
- Healthy Waters may work directly with an applicant outside the resource consents process to resolve Stormwater NDC matters (keeping Regulatory Engineer and planner informed of progress).
- Resource consent decision can be released without the Stormwater NDC approval from Healthy Waters. (Applicants would need to be advised via advice note that if Stormwater NDC approval was not obtained that a s127 or new application may be required.
- Stormwater NDC approval from Healthy Waters required before EPA can be released

3.2 Relationship of AUP (OP) Chapter E8 rules with the Stormwater NDC

| E8 Activity rule | Rule status | Summary of rule | Stormwater diversion/discharge: NDC/AUP (OP) Pathway | Stormwater Bylaw Approval |
|------------------|-------------|--|--|---|
| (A1) | Permitted | <p>Diversion into existing network</p> <p>Key requirement: the impervious area is lawfully established</p> | AUP (OP) permitted activity | <p>Required</p> <p>Stormwater Bylaw requires compliance with NDC when connecting to public network</p> |
| (A2) | RD | <p>Diversion to existing network not complying with standards (applies to combined sewer only)</p> <p>Key requirement: the impervious area is lawfully established</p> | This rule applies to combined sewer only | <p>Not applicable</p> <p>(needs approval from WaterCare)</p> |
| (A3) | Permitted | <p>Diversion and discharge from existing impervious area not to a network</p> | <p>AUP (OP) permitted activity</p> <p>Outside scope of NDC because not to the network.</p> | Not applicable |
| (A4) | Permitted | <p>Diversion and discharge from road impervious area not to a network (<5000m²)</p> | <p>AUP (OP) permitted activity</p> <p>Outside scope of NDC because not to the network.</p> | Not applicable |
| (A5) | RD | <p>Diversion and discharge from road impervious area not to a network (>5000m²)</p> | <p>AUP (OP) RD activity consent required</p> <p>Outside scope of NDC because not to the network.</p> | Not applicable |

| | | | | |
|-------------|---------------|--|--|--|
| (A6) (A7) | Permitted | Diversion and discharge outside urban area | AUP (OP) permitted activity Outside scope of NDC because outside urban area | Not applicable |
| (A8) | Permitted | Diversion and discharge from >1000m² impervious area to land or water in urban area | AUP (OP) permitted activity | Required if network to be vested Stormwater Bylaw requires NDC stormwater management requirements to be complied with if vesting new network to council (HW) |
| (A9) | Controlled | Diversion and discharge from 1000m² – 5000m² impervious area to land or water in urban area | AUP (OP) controlled activity consent required <u>Or</u> Rely on NDC (if network is to be vested) | Required if network to be vested Stormwater Bylaw requires NDC stormwater management requirements to be complied with if vesting new network to HW |
| (A10) (A11) | Discretionary | All other diversion and discharges/ diversion and discharge from a network | AUP (OP) Discretionary activity consent required <u>Or</u> Rely on NDC (if network is to be vested, in urban area) | Required if network to be vested Stormwater Bylaw requires NDC stormwater management requirements to be complied with if vesting new network to HW |

3.3 E8 Permitted Activities

For permitted activities under Rule E8.4.1(A1) or (A8) of the AUP (OP), no resource consent is required for the diversion or discharge of stormwater.

However, *in order to connect to the public stormwater network or vest assets* to Auckland Council, approval from Healthy Waters and/or Regulatory Engineering is required under the Stormwater Bylaw which refers to the NDC. The extension to the public network and public connection point would be assessed by the Regulatory Engineers but the discharge volume would be approved by Healthy Waters. See section 5.1 for further discussion of the Stormwater Bylaw.

It is recommended that applicants have discussions with Healthy Waters or council's Development Engineers early in the development process regarding stormwater management under the Stormwater Bylaw. Ideally this should be prior to lodging the resource consent applications and early in the design phase.

Consents and permitted activities under other AUP (OP) chapters (e.g., E3, E7, E9, E10, E33) relating to the management of stormwater including high contaminant generating car parks and high use roads (E9) and stormwater management areas – Flow 1 and Flow 2 (E10) – are still relevant and Specialist Team input may be required.

3.4 AUP (OP) matters of discretion relating to stormwater

There are activities in AUP (OP) where matters of discretion are restricted such that consideration of a network discharge consent is not included. However, there are other places in the AUP (OP) which require development to consider a network discharge consent or which include matters for assessment of stormwater effects as part of the assessment criteria. This means that NDC matters may be included within the AUP (OP) assessment scope.

For example [E38 Subdivision](#) - Urban Policy E38.3

(22) Require subdivision to be designed to manage stormwater:

(a) in accordance with any approved stormwater discharge consent or network discharge consent;

This policy applies for most urban subdivisions. However, this policy does not apply for rules E38.4.2 (A14) or (A15), E38.4.3 (A33) or (A34) – subdivision in accordance with an approved land use resource consent or around existing buildings and development because there are confined matters of discretion and assessment.

Additionally, many precincts, especially those incorporated through recent greenfield plan changes, include policies, rules, and matters of discretion requiring consistency with a stormwater management plan or setting out specific stormwater management requirements.

In these cases there will be clear overlap between the AUP (OP) assessment and the stormwater NDC requirements. Any questions or conditions which arise from the NDC can be included within the AUP (OP) assessment and consent conditions.

3.5 Stormwater NDC Requirements

Stormwater Management Plans

Stormwater Management Plans (SMP) are required for all greenfield and large brownfield developments under the Stormwater NDC. SMPs are the key tool for setting out the best practicable option for stormwater management by taking a holistic approach which incorporates water sensitive design principles. The guidance for preparing a SMP and a template can be found on the [Auckland Design Manual](#).

Where an SMP has already been adopted, development must comply with that SMP. Adopted SMPs can be found on the Auckland Design Manual and be viewed on Council's Geomaps GIS viewer under the 'Catchments and Hydrology' layer once they have been incorporated.

Stormwater NDC Schedule 4

For developments that are proposed to be undertaken in an area where no SMP has been adopted, the Stormwater NDC sets out performance requirements for different development scenarios in Schedule 4 of the consent conditions (see [Auckland Design Manual guidance](#) for full text). In summary:

- greenfield developments must have an SMP that meets the specific requirements set out in Schedule 4
- large brownfield developments (>20 lots or >5000m² new/re-developed impervious) must have an SMP that meets the specific requirements set out in Schedule 4
- small brownfield developments (<20 lots and <5000m² impervious) must demonstrate that the development meets the specific requirements set out in Schedule 4
- NZTA/AT/railways transport projects that connect to the public stormwater network must demonstrate that the development meets the specific requirements set out in Schedule 4
- Healthy Waters projects (network maintenance, upgrades etc) must demonstrate that the project meets the specific requirements in Schedule 4 through an assessment of changes to catchment discharges

[Section 5.1](#) of this PGN outlines how the requirements of historical NDCs relate to the requirements of this Stormwater NDC.

4 Roles and Responsibilities

This section outlines the usual roles and responsibilities of the resource consent processing planner, regulatory engineering, Healthy Waters, resource consents specialists and the compliance monitoring team.

4.1 Resource Consent Planners

Pre-application (when the service is available)

- provide advice to applicants regarding requirements and approvals under Stormwater NDC

Consent lodgement and initial assessment (s88)

- provide early advice regarding need for approvals under Stormwater NDC

Resource Consent Decision

- consent can be granted prior to Healthy Waters' Stormwater NDC/ Bylaw approval (timing) as per guidance in [PGN Other approvals outside of the RC Process](#)

4.2 Regulatory Engineering – Development Engineers

Pre-application

- attend pre-application meetings (when the service is available) and invite Healthy Waters where relevant
- provide advice regarding stormwater management requirements and approvals under Stormwater NDC.

Consent lodgement, initial assessment (s88) Further information (s92)

- refer applications to Healthy Waters in accordance with the Service Level Agreement between Resource Consents and council family.

Small Brownfields

- Development Engineers will review Small Brownfields scale developments to ensure sufficient information is provided to enable an assessment of the proposed stormwater management, including checking the information relating to the NDC requirements and relevant information is provided to demonstrate compliance with an adopted SMP or Schedule 4.

Large Brownfields & Greenfields

- let applicant know that an SMP is required if not provided.
- refer application to Healthy Waters for technical review and SMP approval
- if receive an SMP refer it to Healthy Waters
- receive queries back from Healthy Waters regarding SMP and send to Planner to include into S92 (under other matters section where relevant).
- direct applicant to discuss SMP directly with Healthy Waters where needed

Assessment

Small brownfields

- Regulatory Engineer to assess application to ensure that it is in compliance with adopted SMP or Stormwater NDC as appropriate.
- Note that planners can only consider against relevant matters of discretion and assessment criteria under the AUP (OP). Stormwater NDC requirements and checks, such as first pipe check and downstream capacity issues are something the engineers can advise the applicant separately (or via the “*suggested changes/recommendations*” section in s92 letters).
- If the engineers/Healthy Waters do not give approval/or seek alternative solutions e.g., upgrade a pipe, then planners can add that as an advice note. As noted above, best practice is for the applicant to check with Healthy Waters and engineers on the Stormwater NDC requirements prior to lodging the resource consent.

Large brownfields and Greenfields

- Regulatory Engineer to check that the resource consent application is in accordance with the newly approved SMP for the proposed development and that appropriate conditions can be drafted to ensure compliance with the SMP.

Consent Conditions

- recommend conditions and advice notes relating the technical matters raised in the Stormwater NDC/SMP as needed
- conditions may be included where the AUP (OP) relevant matters of discretion and assessment criteria allow such conditions.
- advice notes should be included where the AUP (OP) relevant matters of discretion and related matters of discretion do not allow imposition of conditions under s108 and s108AA of the RMA. Example wording for conditions or advice notes is in [Appendix 1](#) of this PGN

Resource Consent Decision

- Resource Consent can be granted prior to Healthy Waters' Stormwater NDC / Bylaw approval being issued as per guidance in [PGN Other approvals outside of the RC Process](#).

Engineering Plan Approval (EPA)

- check against Code of Practice and all conditions of consent as usual.
Liaise with Healthy Waters or other specialists as necessary to ensure Stormwater NDC requirements will be met (Development Engineers usually check for compliance and only go to Healthy Waters' or other specialists if needed.)
- ensure that an applicant's engineer has the appropriate skills to prepare a report and/or that they will ensure that appropriate skilled personnel will be managing the Stormwater NDC requirements (such as Stormwater quality specialists)
- EPA cannot be released until Stormwater NDC requirements are met.

4.3 Healthy Waters

Healthy Waters plays multiple roles in the resource consent application process:

- provide specialist technical input as stormwater management specialists,
- provide input as asset owner of stormwater network (network operator approval),
- provide Stormwater NDC approval as resource consent holder

As the Stormwater NDC consent holder, Healthy Waters can give approval to third parties such as private developers to rely on Healthy Waters' consent to authorise the diversion and discharge of stormwater from their own developments.

Healthy Waters specialists will review SMPs for large brownfield and greenfield developments. This will likely include questions and clarifications on the content of the SMP and the proposed stormwater management.

Once Healthy Waters are satisfied with the SMP they will issue either provisional approval of the SMP (if there is still the possibility of changes to the proposal) or will adopt the SMP into the NDC. A formal letter will be issued with each of these approvals.

Healthy Waters will direct questions through the Development Engineer/ Planner where the queries are minor. If there are significant issues to be resolved Healthy Waters may discuss these directly with the applicant and their engineering team.

Additionally, Healthy Waters provides technical specialist input such as where a proposal includes flooding issues or future assets to be vested in council as part of the public stormwater network. When Healthy Waters is acting as a stormwater

specialist for a resource consent application it needs to focus on relevant RMA matters. In these cases it is not commenting as the stormwater asset manager/owner.

4.4 Resource Consent Specialists

Specialists in the SWWWITA team provide technical specialist input to stormwater related permitted activities and resource consent applications under AUP (OP) Chapters:

- E8 where the applicant is not relying on the Stormwater NDC
- E9 and E10 – stormwater quality and stormwater management areas (Flow1 and Flow2)
- E33 for industrial and trade activities

There is potential for overlap between the assessments undertaken by Specialists, Development Engineers and Healthy Waters, where this is the case, all teams should work closely together.

4.5 Compliance and Monitoring

Typically, Compliance Monitoring Officers (CMOs) undertake monitoring of resource consents. For stormwater this typically means discharge consents relating to rules in Chapter E8 and land use consents under Chapters E9 and E10 and includes confirmation of the design, installation, performance and operation and maintenance of the stormwater systems and treatment devices. Where stormwater land use consents are triggered under Chapters E9 and E10, this function remains with the CMOs.

Where other consents aren't triggered, the lack of permitted activity criteria under E8 for assessing connection to the network can lead to lack of information being recorded in SAP resulting in an inability to ensure compliance both with and of the NDC. Accordingly, the process of monitoring stormwater management approved and authorised through EPA or assessment and adoption of SMP by Healthy Waters (as per conditions and schedules of the NDC), removes the monitoring requirement from CMOs inadvertently compounding the disconnect between the consenting and other approval processes. This has implications on the future implementation (i.e ensuring required devices are installed and maintained on an ongoing basis and that these requirements are recorded in a clear and reportable way) of stormwater management on site as well as the ability to undertake compliance monitoring under and of the NDC. Considering this, good data collection and record keeping can help to mitigate this disconnect and help ensure an accurate record for HW and Resource Consents to ensure development remains compliant with SMP but also for CM in terms of ensuring ongoing compliance across the NDC.

5 Bylaws and regulations

5.1 Stormwater Bylaw

Auckland Council has an [Auckland-wide bylaw for stormwater management](#) which has been operational from 1 November 2015. The key purpose of the bylaw is to provide a consistent regulatory approach for the public stormwater asset management across Auckland.

The purpose of the bylaw is to:

- ensure that the public stormwater network and private stormwater systems are of a consistently high standard throughout Auckland
- require on-site stormwater devices on private land to be well maintained, as they form part of the wider stormwater network. This will require conditions of consent and/or consent notices on titles where relevant.
- manage activities on private property that have adverse impacts on the public stormwater network
- enable the council to develop stormwater controls for specific areas and specific local issues.
- ensure that discharges into the public stormwater network do not damage the network or compromise the council's ability to comply with any applicable network discharge consent

Of particular relevance is that the purpose of the Bylaw is to ensure discharges into the public network do not compromise the council's ability to comply with any network discharge consent.

This means that regardless of a development's status under the RMA or AUP (OP), if the discharge will enter the public network, the development must be consistent with the requirements of the Stormwater NDC.

In order to connect to the public stormwater network or vest assets to Auckland Council, approval from Auckland Council is required under the Stormwater Bylaw. This is part of the Engineering Plan Approval Process.

If compliance with the Stormwater NDC is not confirmed prior to or at the time of the resource consent application, it will need to be confirmed at the time of connection (EPA). If changes are required to the development in order to comply with the regionwide NDC, then a variation to the resource consent may be needed.

The Stormwater Bylaw is being reviewed and any changes will be made following public consultation and endorsement from the Governing Body.

5.2 Engineering Plan Approval (EPA)

As noted above EPA is required when a project involves construction or alteration of a public infrastructure asset including:

- public stormwater and wastewater drainage
- public water supply
- roads, shared driveways and common accessways
- public parks, parks furniture, lighting parking etc

For stormwater assets the EPA checks that the design is in accordance with the Stormwater Code of Practice and is issued under the Stormwater Bylaw.

For a subdivision consent, the EPA approval will be needed prior to the issue of a s224C certificate.

The EPA is issued by Regulatory Engineering with input in accordance with the SLA.

5.3 Stormwater Code of Practice

The [Code of Practice for Land Development and Subdivision: Chapter 4 – Stormwater](#) (COP) is applicable to the design of any physical stormwater assets which will be vested to Auckland Council. This includes connections, pipe network and stormwater management devices.

5.4 Building consents

In the event the development does not trigger a Resource Consent or an EPA, but still would increase discharge to a compromised network due to an extensive addition to a dwelling, the building consent process will assess the effectiveness of the existing outfall. If the network is compromised, then additional mitigation such as detention tanks may be required to control discharge rates.

Applicants wishing to rely on the Stormwater NDC will need to have discussions with Healthy Waters or development engineers early in the development process, ideally prior to lodging their resource consent/building consent application. Where the matters of discretion in AUP (OP) do not include infrastructure assessment, this assessment will occur as part of the engineering plan approval at building consent stage. For subdivisions, this is assessed prior to the issue of s 224C.

5.5 Existing network discharge consents

Prior to the granting of the regionwide Stormwater NDC, Healthy Waters held approximately 114 existing NDCs and historic authorisations issued to the former District Councils and to Auckland Council.

These will be progressively surrendered in 2021 and some of the requirements will become part of the requirements in the regionwide stormwater NDC. Until that time some of the existing NDCs remain valid.

- check the lists of [adopted SMPs](#) and [surrendered NDCs](#) on the Auckland Design Manual for the most up to date information

NDCs granted since 2013:

- the supporting Catchment Management Plan or SMP will be adopted into the regionwide NDC and comprise the requirements which must be met for development.
- development in these areas can rely on the existing NDC to inform stormwater management decisions and to authorise the stormwater diversion and discharge if the SMP has not yet been adopted.

NDCs granted between 2001 and 2013:

- the supporting CMP or SMP may be adopted into the stormwater NDC.
- check with Healthy Waters for confirmation if development should rely on the existing NDC or the regionwide stormwater NDC to authorise the stormwater diversion and discharge or inform stormwater management decisions.

NDCs granted before 2001:

- these NDCs have all been surrendered in full.
- new development in these areas should refer to the regionwide stormwater NDC.

6 Summary

- the Stormwater NDC authorises the diversion to and discharge of stormwater from the public Stormwater Network.
- an applicant may apply for their own diversion and discharge consent or rely on the Stormwater NDC. This latter option is Healthy Waters' preferred approach as it maintains a consistent approach to stormwater management across the region.
- approval from Healthy Waters is needed to rely on the Stormwater NDC for the authorisation of stormwater diversion and discharge.
- approval from Healthy Waters (under the stormwater bylaw) is needed to connect the public network or vest assets to the public network, even if the diversion of stormwater is a permitted activity under the AUP(OP)
- the review of an application against the NDC is a parallel assessment to the review of the matters under the AUP(OP).
- applicants are encouraged to discuss the stormwater management for their development with development engineers or Healthy Waters early in the process to avoid having to make changes to their proposal later during the EPA approval process.

7 Further Information

More information about the Stormwater NDC can be obtained from:

- [Auckland Design Manual](#) has comprehensive information and is available to the public. Please share this link with applicants.
- applicants are directed to HWdevelopment@aucklandcouncil.govt.nz if they have questions or to request their SMP to be reviewed for adoption

Reference Documents:

- [NDC Schedule 4](#)
- Full text of the NDC: [Consent Order](#) approved by the Environment Court, dated 30 October 2019
- [Code of Practice](#) for Land Development and Subdivision: Chapter 4 - Stormwater, version 2 dated 1 November 2015.
- [Stormwater Bylaw 2015](#), Dated July 2015

Practice and Guidance notes

- [Other approvals outside of the Resource Consents process](#)

Resource consents documents

- [SLA](#)
- [Standard conditions manual](#)

Appendix 1: Example wording for informing the applicant and advice notes on resource consents

It is important that if an applicant is seeking to rely on Healthy Waters' Stormwater NDC to authorise the diversion and discharge of stormwater then they are informed of these matters early in the consent process (ideally at pre-application stage). This is even if they are outside of the scope of the AUP (OP) assessment as this could result in changes to the proposal if the (NDC) requirements and Bylaw are not met.

- This information should be provided at pre-application meetings for inclusion in pre-app minutes,
- Included in the s88 and s92 letters under 'other matters' explanations,
- Included as advice notes
- Included as conditions where the matters of discretion permit these, the conditions manual can be referred to include such conditions

Wording suggestion for advice at pre-app meetings, in s.88 and s.92 letters:

Proposed diversions or discharges of stormwater by private developers or applicants can be made lawful by:

- Complying with permitted activity rules under Chapter E8 of the AUP(OP) (see section 4.3 of this PGN)
- Obtaining a diversion and discharge resource consent under Chapter E8.
- Seeking to rely on Healthy Waters Stormwater NDC to authorise the diversion and discharge of stormwater from the development, if the stormwater infrastructure is to be vested in Auckland Council.

This latter option is Healthy Waters' preferred approach as it maintains a consistent management approach through the conditions of the Stormwater NDC.

If the proposed development is seeking to rely on the Healthy Waters NDC consent for diversion and discharge of stormwater, then a separate Bylaw approval will be required from Healthy Waters as follows:

Approval to rely on Stormwater NDC:

- *<20 lots and <5,000m² impervious area – Development Engineering approval*
- *>20 lots or >5,000m² impervious area – Healthy Waters approval (stormwater management plan)*

- *Even if the proposal is a Permitted activity under AUP (OP), bylaw approval is still required.*

Be clear that EPA = bylaw approval in this case.

A bylaw approval will be via an engineering plan approval for a development

Wording suggestion for advice pre-app meetings and in s.88 letters:

Proposed diversions or discharges of stormwater by private developers or applicants can be made lawful by:

- Complying with permitted activity rules under Chapter E8 of the AUP(OP) (see section 4.3 of this PGN)
- Obtaining a diversion and discharge resource consent under Chapter E8.
- Seeking to rely on Healthy Waters Stormwater NDC to authorise the diversion and discharge of stormwater from the development, if the stormwater infrastructure is to be vested in Auckland Council.

This latter option is Healthy Waters' preferred approach as it maintains a consistent management approach through the conditions of the Stormwater NDC.

If the proposed development is seeking to rely on the Healthy Waters NDC consent for diversion and discharge of stormwater, then a separate Bylaw approval will be required from Healthy Waters as follows:

Even if the proposal is a Permitted activity under AUP(OP), bylaw approval is still required.

Approval required to rely on Stormwater NDC:

- *<20 lots and <5,000 impervious area – Development Engineering approval*
- *>20 lots or >5,000m² impervious area – Healthy Waters approval (stormwater management plan)*

It is important that the applicant is informed of these matters even if they are outside of the scope of the AUP (OP) assessment as this could result in changes to the proposal if the Bylaw (NDC) requirements are not met.

Pre-application advice

- Acknowledge option to be authorised by AUP(OP) (Chapter E8) or Stormwater NDC but suggesting that Stormwater NDC is preferred option

- Regardless of a development's status under the RMA or AUP(OP), if the discharge will enter the public network, the development must be consistent with the requirements of the stormwater NDC
- NDC requirements for stormwater management (provide link to ADM) and the need for SMP if relevant.
- Applicant should discuss the SMP with Healthy Waters before lodging their consent to seek provisional approval.
- Highlight risk to development of not getting NDC approval concurrently with AUP consents.

Regardless of a development's status under the RMA or AUP (OP), if the discharge will enter the public network, the development must be consistent with the requirements of the Stormwater NDC.

If compliance with the Stormwater NDC is not confirmed prior to or at the time of the resource consent application, it will need to be confirmed at the time of connection (EPA). If changes are required to the development in order to comply with the nationwide NDC, then a variation (RMA s127) to the resource consent will be needed. Waiting until EPA application to confirm compliance with the NDC is at the applicant's own risk.

More information about the NDC

- The [Auckland Design Manual](#) website has information about the NDC requirements and approval processes including an SMP template and preparation guidance.
- Applicants are directed to HWdevelopment@aucklandcouncil.govt.nz if they have questions or to request their SMP to be reviewed for adoption

Examples of advice notes in resource consents:

- *Details and specifications for the provision of infrastructure (e.g. public/private drainage, location, and types of connections) and access (including drainage of accessways, construction standards etc) are subject to a separate EPA and/or Building Consent approval process.*

Should it become apparent during the EPA and/or Building Consent process that a component of the granted resource consent cannot be implemented (e.g. detailed tests for soakage fail to achieve sufficient soakage rates, or sufficient gradients for drainage cannot be achieved in accordance with engineering standards/ bylaws etc), changes to the proposal will be required. This may require either a variation to this subdivision consent or a new consent.

Similarly, should the detailed design stage demonstrate that additional reasons for consent under the AUP are triggered (e.g. after detailed survey the access gradient increases to now infringe or increase an approved infringement to a standard in the plan), a new or varied resource consent is required.

- *It is the responsibility of the consent holder to ensure that all information submitted and assessed as part of the subdivision consent is correct and can be implemented as per the subdivision consent (without requiring additional reasons for consent). Any subsequent approval processes (such as the EPA) do not override the necessity to comply with the conditions of this resource consent.*
- Please be mindful of the different requirements of subdivisions consents and EPA – the subdivision consent is more of a ‘concept’ approval whilst the EPA contains all the engineering details.

Be clear that EPA approval = Bylaw approval (refer to NDC consent conditions) and approval under the Building Act

Explanation re Bylaw, NDC, AUP(OP) E8 PA

For permitted activities under Rule E8.4.1(A1) of the AUP(OP), approval from Healthy Waters under the Stormwater NDC is not required in order to be a permitted activity under AUP(OP). Resource consent is not required for the diversion of stormwater.

However, in order to connect to the public stormwater network or vest assets to Auckland Council, approval from Healthy Waters will be required under the Stormwater Bylaw. See E8.6.2.1 Note.

The purpose of the Bylaw is to ensure discharges into the public network do not compromise the council’s ability to comply with any network discharge consent. This means that regardless of a development’s status under the RMA or AUP(OP), if the discharge will enter the public network, the development must be consistent with the requirements of the stormwater NDC.

If this is not confirmed prior to or at the time of the resource consent application, it will need to be confirmed at the time of connection (EPA). If changes are required to the development in order to comply with the NDC, then a variation to the resource consent may be needed.

It is therefore recommended that applicants have discussions with Healthy Waters /Regulatory Engineers early in the development process regarding stormwater management/connection, ideally prior to lodging their resource consent applications even if their proposal will be a permitted activity under E8.4.1(A1).

Appendix 2: Scenarios for developments – worked examples

Set out below are scenarios for whether a development is covered by the NDC and which requires input from development engineers and HW.

Greenfield Subdivision

- 50 lot residential subdivision
- Site is currently used for rural activities but has a residential zone
- Proposal includes new stormwater network to be vested to HW
- New network will discharge to a stream



| Example | AUP stormwater Consent required? | NDC authorisation required? | Process | Comments |
|---|--|--|------------------------------------|--|
| <ul style="list-style-type: none"> • 50 lot residential subdivision • Site is currently used for rural activities but has a residential zone • Proposal includes new stormwater network to be vested to HW • New network will discharge to a stream | <p>No</p> <p>Previously would have required consent under E8</p> <p>Now can be authorised by NDC</p> | <p>Yes</p> <p>Large Greenfields requirements apply</p> <p>SMP required to be adopted</p> | <p>Healthy Waters to adopt SMP</p> | <p>No impervious area threshold for greenfield development</p> |

Industrial redevelopment

- 5.2ha industrial site to be redeveloped.
- Discharge to existing public network in two locations
- All proposed stormwater management assets on site to be private



| Example | AUP stormwater Consent required? | NDC authorisation required? | Process | Comments |
|---|---|--|------------------------------------|--|
| <ul style="list-style-type: none"> • 5.2ha industrial site to be redeveloped • Discharge to existing public network in two locations • All proposed SW Management assets on site to be private | <p>No</p> <p>E8 (A1) permitted to divert to existing public network</p> | <p>Yes</p> <p>Large brownfields requirements apply</p> <p>SMP required to be adopted</p> | <p>Healthy Waters to adopt SMP</p> | <p>Bylaw requires NDC to be complied with to connect to the public network</p> |

Infill subdivision

- 8 dwelling terrace development
- Site area 1650m²
- Connection to existing network



| Example | AUP stormwater Consent required? | NDC authorisation required? | Process | Comments |
|---|---|---|------------------------------------|--|
| <ul style="list-style-type: none"> • Infill subdivision (and <5000m²) • Discharge into existing network | No E8 (A1) permitted to divert to existing network | Yes Small Brownfields requirements apply | DE to review and approve under NDC | Bylaw requires NDC to be complied with to connect to network |

Private discharge

- 2.5ha site in Onehunga
- Commercial redevelopment for storage units
- 50 Carparks treated by StormFilters. To be maintained by site owner.
- Discharge to private soak holes onsite



| Example | AUP stormwater Consent required? | NDC authorisation required? | Process | Comments |
|---|----------------------------------|--|--|----------|
| Commercial storage units development, approx. 2.5ha discharge to onsite soakage (borehole) includes 50 carparks (2000m ²) StormFilters which will be owned and maintained by site owner | Yes E8 (A10) E9 (A4) | No – NDC does not apply. Private assets and not discharging to public network | Usual consent/permitted activity process for E8 & E9. Resource Consents Specialist Unit review. | |