

**Proposed Natural Resources Plan for the Wellington Region**

**Supplementary Right of Reply: Stormwater  
For Hearing Stream 4**

**28 May 2018**

**Topic: Stormwater**

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**On behalf of Greater Wellington Regional Council**

## **Contents**

<b>1.</b>	<b>Introduction</b>	<b>3</b>
<b>2.</b>	<b>NZTA's Stormwater Treatment Standard</b>	<b>3</b>
<b>3.</b>	<b>Amended recommendation to interceptor condition on Rules R48 and R49</b>	<b>5</b>

## 1. Introduction

1. This supplementary Right of Reply responds to Panel requests made at the Right of Reply for Hearing Stream 4 on 18 May 2018. The Panel asked for a written response to two questions:

- What is the regulatory context of NZTA’s Stormwater Treatment Standard for State Highways 2010 (the “Stormwater Treatment Standard”)?
- Is NZTA’s Stormwater Treatment Standard ‘fit for purpose’?

2. Counsel have responded to these questions from a legal perspective in a memorandum dated 28 May 2018 with the conclusion that there is no statutory basis for NZTA’s Stormwater Treatment Standard.

3. I have also provided an amended wording for the interceptor condition on Rules R48 and R49 that I recommended in my Right of Reply: Stormwater at paragraph 270. I supported this amendment verbally during the Right of Reply hearing in response to a question from the Panel but provide it here in written form for completeness.

## 2. NZTA’s Stormwater Treatment Standard

4. NZTA’s *Stormwater Treatment Standard for State Highways* (NZTA 2010) is a 283-page technical document. High level headings in the document include:

- 1 Introduction
- 2 Stormwater Issues Background Discussion
- 3 Receiving Environments
- 4 Stormwater Management Concepts
- 5 Selecting a Treatment Approach
- 6 Stormwater Hydrologic Design Criteria Recommendations
- 7 Choosing Stormwater Management Devices for Highways
- 8 Stormwater Practice Detailed Design
- 9 Construction
- 10 Operation and Maintenance
- 11 Retrofitting Considerations
- 12 Costing Options for Stormwater Management Practice Implementation

- 13 Costing
5. The Stormwater Treatment Standard is one of a suite of internal documents NZTA has chosen to develop to meet the LTMA's broad direction to '*exhibit a sense of social and environmental responsibility*'<sup>1</sup>. Others referred to in the evidence of Dr McConchie for NZTA<sup>2</sup> include:
- NZTA Environmental and Social Responsibility Policy
  - NZTA Environment Plan
  - NZTA Stormwater and Treatment Standard for State Highway Infrastructure 2010
  - NZTA Project Management Manual - Part 4 Guidelines
6. I have sought verbal advice from a water quality expert familiar with the Stormwater Treatment Standard<sup>3</sup> and its use in the Transmission Gully project as well as from Council staff working in the Roads of National Significance team<sup>4</sup>. From this, I understand that NZTA's Stormwater Treatment Standard is a robust technical document and is considered current industry best practice but that there are concerns and uncertainties regarding its implementation. I understand the Stormwater Treatment Standard is primarily focused on designing appropriate stormwater treatment systems for new motorways but could be used to help guide retrofitting solutions.
7. In my view, NZTA's internal stormwater standards are not sufficiently certain to rely on for achieving the proposed Plan's objectives and policies. Firstly, Council has no control over the contents of an organisation's internal standards, and they can be changed as and when an organisation sees fit. Secondly, internal standards and policies may or may not be effectively implemented in practice if there is no external regulatory or monitoring requirement to do so. I am thus concerned that relying on NZTA's internal standard will not be effective or efficient compared to the

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<sup>1</sup> LTMA s96(1)(a)

<sup>2</sup> Dr McConchie, Statement of Evidence on behalf of the New Zealand Transport Agency, 30 January 2018.

<sup>3</sup> Personal communication, Sue Ira, Director, Koru Environmental, 24 May 2018.

<sup>4</sup> Personal communication, Richard Percy, Project Leader, Statutory Projects, Roads of National Significance Team, GWRC, 24 May 2018.

conditions and monitoring requirements of a consenting regime under proposed Rule R52.

8. I am also concerned that relying on an organisation’s internal standard constitutes ‘picking winners’ and is inequitable to other resource users, who may also have developed their own internal industry standards and guidelines. The proposed Plan does rely on some AS/NZS standards for some permitted activity rules (such as many of the discharges to air rules in section 5.1). However, these are national standards issued by Standards New Zealand, not internal documents specific to a single organisation.
9. I would expect NZTA’s Stormwater Treatment Standard to form part of any resource consent application under Rule R52 for how it intends to minimise the adverse effects of its stormwater discharges in accordance with Policy P78(c)<sup>5</sup> ‘*implementing good management practice*’.
10. Therefore I continue to recommend that stormwater discharges from state highways require resource consent under Rule R52 rather than being a permitted activity as sought by NZTA.

### **3. Amended recommendation to interceptor condition on Rules R48 and R49**

11. The Panel asked whether the phrase ‘oil interceptor’ should be replaced with ‘interceptor’ in my recommended amendments to Rules R48 and R49. It is my opinion that this would be appropriate as it would avoid unnecessarily limiting the type of interceptor used, so long as it could still meet the discharge quality. Therefore I have provided an updated recommendation for this condition in Rules R48(a) and R49(d) (shown in ~~double strike through~~):

*the discharge does not originate from industrial or trade premises where hazardous substances are stored or used unless:*

*(i) hazardous substances cannot enter the stormwater system, or*

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<sup>5</sup> Using the re-numbered clauses in my recommended amendments to Policy P78.

(ii) the stormwater contains no hazardous substances except petroleum hydrocarbons, and the stormwater is passed through an ~~oil~~ interceptor and the discharge does not contain more than 15 milligrams per litre of total petroleum hydrocarbons prior to release, and