

In The Matter of the Resource Management Act 1991 ("the Act")

And

In The Matter Plan Change 4 to the Land and Water Regional Plan –  
Submission of Selwyn District Council

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**BRIEF OF EVIDENCE OF MURRAY ENGLAND**

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## **Introduction**

1. My name is **MURRAY RUSSELL ENGLAND**. My qualifications are BE (Environmental) and NZCE (Civil).
2. I am the Asset Manager – Water Services for the Selwyn District Council (“the Council”) and I am authorised to present this statement on its behalf. I have been employed by the Council since March 2009 initially holding the position of Stormwater Engineer and since May 2012 the position of Asset Manager Water Services.
3. I have the responsibility of managing Councils 5 waters which include Potable Water, Wastewater, Stormwater, Land Drainage and Water Races.
4. Today I am presenting evidence on behalf of the Council. Council lodged a submission on Plan Change 4 to the Proposed Land and Water Regional Plan.
5. The Council operates a large number of assets that are affected by the provisions in Plan Change 4. This includes utility services associated with a number of townships (water, wastewater and stormwater systems). It also operates a number of drainage and water race schemes.

## **Background**

6. Selwyn is the fastest growing local authority within New Zealand. Ensuring effective and appropriate outcomes and having provisions that don’t adversely impact on the ability to provide key infrastructure services is of key importance to enabling the social, economic and cultural wellbeing of the people and communities within the Selwyn District.
7. The Council also has responsibility to implement the Land Use Recovery Plan that was developed post the Canterbury Earthquakes. This plan directs that significant future growth will occur within the Selwyn District. For the Council to effectively implement this plan it is necessary that any unnecessary impediments to providing appropriate services to communities where growth will occur are removed.
8. The Council has invested significantly in participating in the development of the regional policy statements and plans developed by the Canterbury Regional Council addressing land and water matters. This has included involvement through lodging submissions and presenting evidence on the development of the Natural Resources Regional Plan, the Canterbury Regional Policy Statement, the Land and Water Regional Plan and Variation One. The continued involvement of the Council in the preparation of these statutory documents illustrates how important the issues addressed within these Plans are to the Council.

9. Some matters, particularly relating to stormwater are matters that the Selwyn District Council has already addressed Commissioners on in both the Natural Resources Regional Plan process and in the Land and Water Regional Plan Process. In both of those processes acceptable outcomes in the form of objectives, policies and rules were achieved. Yet through Plan Change 4 we are traversing them again.
10. The Council has two key areas of interest in Plan Change 4. Firstly are the implications of Plan Change 4 on the asset management functions of the Council. Secondly the implication of Plan Change 4 on the economic and social wellbeing of the people and communities within the Selwyn District.
11. Within this evidence under the topic of "other matters" I have listed Council submissions where the recommendations in the Section 42A report are specifically supported.

### **Growth in Selwyn District**

12. As identified in the background section of my evidence the Selwyn District is the fastest growing district in New Zealand. Plan Change 4 will impact on the ability for the Council to manage this growth.
13. The Council is taking a proactive approach in managing the growth within its communities from both a social and asset management perspective. The Council has developed "Selwyn 2031" which is the District Development Strategy. Its purpose is to provide an overarching strategic framework for achieving sustainable growth across the district to 2031. Paragraphs 14-18 are taken from the District Development Strategy and describe the key District Development issues the Council is managing. I have updated the growth figures in paragraph 14 to reflect the 2014-2015 annual growth.
14. Selwyn has consistently been the fastest growing district in New Zealand over recent years, with a population of 44,595 in March 2013. Between July 2014 and June 2015, the Selwyn District grew at a growth rate of 6.5%. Selwyn District Council projects further growth could increase Selwyn's population up to an additional 11,000 households (total population of approximately 75,000 people) by 2031.
15. The projections indicate that up to 80% of the urban population growth will occur within the metropolitan Greater Christchurch area, comprising Rolleston, Lincoln, Prebbleton and West Melton townships.
16. Following the upheaval and damage caused by the Canterbury earthquakes, the Council is now even more focused on implementing a strategic planning framework across all parts of the Council and all parts of the district.

17. "Selwyn 2031" will be used to give effect to higher level regional strategic planning documents, including the Recovery Strategy for Greater Christchurch, the Land Use Recovery Plan (LURP) the Canterbury Regional Policy Statement (RPS) and the Urban Development Strategy (UDS). The Recovery Strategy prepared by the Canterbury Earthquake Recovery Authority (CERA) under the Canterbury Earthquake Recovery Act (CER Act) became operative on 1 June 2012 and applies to Selwyn District. It is a statutory document that must be "read together with, and forms part of" other relevant legislation. The District Plan (and other statutory documents) must not be interpreted or applied in a way that is inconsistent with the Recovery Strategy. The Recovery Strategy aims to provide an overall direction and coordination of recovery activities, while facilitating opportunities to restore, renew and revitalise and enhance Greater Christchurch.
18. One of the key documents emerging from the Recovery Strategy to date is the Land Use Recovery Plan (LURP). The LURP was approved by the Minister for Canterbury Earthquake Recovery and was gazetted on 6 December 2013. Both the LURP and (resultant changes made to) the RPS and the District Plan contain clear directions as to where residential and business growth is to occur within the metropolitan Greater Christchurch area for the next 15 years. While the overarching vision of the Recovery Strategy and the LURP is focussed on earthquake recovery, the documents provide a sound basis for "Selwyn 2031" to build upon. Similarly, the principles of the UDS also remain relevant to the managing the effects of urban growth, particularly in terms of integrating land use planning and infrastructure provision.
19. The LURP has directed the Selwyn District Council to undertake a number of actions in the form of changes to its District Plan. Action 18 directed the Selwyn District Council to amend the District Plan to include zoning and Outline Development Plans (ODP's) for seven greenfield priority areas that were identified in the LURP. Ensuring integration of land uses and infrastructure for these greenfield priority areas, and the existing townships was a key consideration.
20. "Selwyn 2031" reinforces the need to ensure that sufficient and appropriately zoned land is available to facilitate residential and business recovery in accordance with the 'priority' areas identified in the LURP, and by focussing on the integration of land use and infrastructure across the district.
21. The Council has already prepared a number of strategic planning documents that have informed "Selwyn 2031", including the Rolleston, Lincoln and Prebbleton Structure Plans and the Rolleston Town Centre Master Plan. These documents will continue to serve as a useful blueprint and reference point for development within these townships, with

"Selwyn 2031" providing an updated overview of relevant growth issues. The integration of land use and infrastructure is a key action to implement the Strategy. Plan Change 4 does impact the provision of essential community services needed to accommodate the identified growth in the Selwyn District.

22. It is within the context of the above and the experience through the NRRP and LWRP processes that the Council submission was drafted. While some of the matters addressed in Plan Change 4 may seem relatively minor. From an asset management perspective, these changes will impact on how we do business and deliver services to our communities. I now address the specific matters in our submission.

### **Specific Matters**

#### Submission Point 5 Definition of "Floodwaters" S42A Recommendations (page 114)

23. The Council supported the definition in part. The submission considered that the definition was too limited and would not enable consideration of floodwater that had not resulted from breaching and overtopping of the banks of the surface water body.
24. The result of the change in definition could mean that floodwater that had not overtopped a bank would not be considered as floodwater and would not fall within the relevant rules. The change sought in the submission was to enable the full range of matters that can currently be considered under Rule 5.142 of the LWRP to continue.
25. The Section 42A Report recommendation is that the "Selwyn DC concern is addressed within the rule itself, as in reality all surface water run-off has exceeded the capacity of a drainage system, artificial watercourse or storm water system, leading to the "overtopping of the banks of a surface water body". I do not agree with this statement. Surface water flooding can and does occur without "overtopping of the banks of surface water body". Examples of this are when ground water rises above ground level and results in surface flooding. Also in low lying areas where there are no positive drainage outlets, land can become inundated during extreme rainfall events. The surface water in these situations is floodwater but neither has resulted from "overtopping of the banks of a surface water body",
26. I consider it necessary to change the definition of "floodwaters" to specifically provide for inundation of the property as a result of flooding due to a broader range of circumstances. I consider the definition could be simplified and read:

*Floodwaters - means water that has inundated a property*

Submission Point 6 Definition of "Reticulated stormwater system" S42A Recommendation (page 68)

27. The Council supported the definition in part. The part that was not supported was removing any reference to the term "drains" and inserting the word "curb" within the definition. The concern arises as drains do form an important part of reticulated stormwater system and cover some circumstances which may not be considered swales or curb and channel. The intent of the submission was to ensure that key components of existing stormwater systems are not excluded through having an efficient definition. The submission also sought clarification of what an "urban area" is.
28. The Section 42A Report does recommend greater clarity is provided around what constitutes urban by accepting the change suggested by Selwyn District Council but not however recommend reinserting the term "drains" into the definition.
29. Based on my asset management experience operating and maintaining stormwater systems I consider the term "drains" should be reinstated into the definition. I consider the definition should read:

*reticulated stormwater system - means a network of pipes, swales, drains kerbs and channels owned or operated by a network utility operator which convey that collects stormwater within urban areas or zones identified in a proposed or operative district plan for residential, commercial or industrial purposes and conveys that stormwater to any device, wetlands retention or detention pond or and infiltration basins and treatment devices, which may include detention ponds, for the treatment of stormwater, prior to a discharge to land, groundwater, or surface water or another reticulated stormwater system and that serves more than one property. It excludes any drainage system that has been constructed for the primary purpose of collection, conveyance or discharge of drainage water.*

Submission point 8 Policy 4.13 – Discharge of contaminants to land or to water S42A Recommendation (page 181)

30. The Council sought changes to Policy 4.13. This policy addresses the discharge of contaminants. The submission identified a drafting issue in the policy as notified which meant it could not be effectively implemented. In addition the Council sought a change to the policy to provide a more appropriate environmental balance so that the policy was not unduly limiting in circumstances where there might be a discharge that may result in a small exceedance in one contaminant while at the same time result in a large benefit for a number of other contaminants which provides for an overall environmental benefit.
31. The Section 42A report addresses the drafting issue identified and has recommended some changes to the policy (page 181). However, this recommended redrafting does not address all of the concerns of the Council as clause 4.13(e)(ii) still refers to a discharge

not resulting in any further degradation in water quality in any receiving surface waterbody. I consider the recommended policy should be amended to read:

- 4.13 For other discharges of contaminants into or onto land where it may enter water or to surface water bodies or groundwater (excluding those passive discharges to which Policy 4.26 applies), the effects of any discharge are minimised by the use of measures that:
- (a) first, avoid the production of the contaminant;
  - (b) secondly, reuse, recover or recycle the contaminant;
  - (c) thirdly, minimise the volume or amount of the discharge; or
  - (d) finally, wherever practical utilise land-based treatment, a wetland constructed to treat contaminants or a designed treatment system prior to discharge; and
  - e) in the case of surface water, results in a discharge that after reasonable mixing:
    - (i) meets the receiving water standards in Schedule 5 ~~as a first priority~~ ; ~~and or~~
    - (ii) ~~as a second priority~~, does not result in any further degradation in **overall** water quality in any receiving surface waterbody that does not meet the water quality standards in Schedule 5 or any applicable water conservation order.

Submission Point 10 Policy 4.16A Stormwater and community wastewater systems S42A Recommendation (page 69)

32. The policy seeks to change the way responsibilities lie with respect to reticulated stormwater. This is one of the issues repeatedly addressed through NRRP and the LWRP. Through both of these former Plans Environment Canterbury notified provisions that sought territorial authorities be responsible for all discharges (in the NRRP it was all discharges within a catchment). To both of those Plans submissions were lodged raising concerns with this approach. The decisions that were released to both the NRRP and the LWRP decided on these submissions and resulted in provisions that were considered appropriate and workable for the Selwyn District Council. For the third time in close succession Selwyn District Council is addressing the same issue. The new policy is:

4.16A Operators of reticulated stormwater systems implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater system, and from 1 January 2025 network operators account for and are responsible for the quality and quantity of all stormwater discharged from that system, and the Canterbury Regional Council shall not issue any permit to discharge stormwater into a reticulated stormwater system.

33. The Council lodged a submission opposing new Policy 4.16A. The key issue is that the policy requires the operator of reticulated stormwater systems to be responsible for the

stormwater discharges from the high risk sites such as contaminated sites, construction-phase stormwater and dewatering operations, which are currently consented by Ecan.

34. Selwyn District Council should not be held responsible for all stormwater discharges. Global consents held by local authorities often exclude certain activities. For example Selwyn District Council resource consent CRC151652 is a global consent to discharge stormwater into land and into surface water in an area of Lincoln. I have attached a copy of the conditions of consent to my evidence in Attachment 1. Condition 1 identifies the discharges that are provided for by the consent. Condition 2 specifies the discharges that are excluded. The advice note under condition 2 states "although discharges from the sites listed above may not discharge under this consent, discharges from sites listed above may discharge via the system authorised under this consent provided that a separate resource consent for the site is obtained and the SDC has authorised the discharge into the system.
35. This policy places significant additional responsibilities on the operator of the reticulated stormwater systems as it is Council as network operator who the policy states must implement methods to manage the quantity and quality of all stormwater directed to and conveyed by the reticulated stormwater systems. This will include discharges that we have had no or very limited involvement in or influence over the quality or quantity of the discharge.
36. Under the status quo if there are issues with 'high risk sites' (like those excluded from Condition 2 of consent CRC151652 then there is a direct enforcement route for the consent authority to the party who is responsible for the discharge. Under the Plan Change 4 approach it would be Selwyn District Council as consent holder that would be the target of enforcement action.
37. Further, in terms of evaluating the implications and appropriateness of the discharge Environment Canterbury has access within its staff to specialist scientists who are qualified and experienced in assessing and monitoring discharges from high risk sites. Selwyn District Council does not have this resource on staff. This makes Environment Canterbury the best placed organisation to manage discharge consents from high risk sites as per the status quo.
38. Changing the current approach will place a large burden and responsibility on the Selwyn District Council requiring a review of our stormwater consents. The implications of this including the financial cost has not been adequately considered in the Section 32 report.



39. The policy and any related rules should be deleted and the regime within the operative LWRP remain.

Submission Point 11 Rules 5.75 to 5.78 and submission Point 12 Rule 5.95 (Section 42A recommendation page 86)

40. The Council submitted on the changes to these rules seeking that a new permitted condition similar to that existing in current LWRP Rule 5.95(1) be inserted. This was that the written permission has been obtained from the network operator that allows the entry of discharge into the network.

41. The recommendation in the Section 42A report was to reject the submission.

42. In considering the application of these rules it is appropriate to include a condition that if the receiving artificial watercourse, constructed wetland or receiving network is managed by a local authority then written approval from that authority is required before any discharge can be made into that system.

43. This will ensure that the integrity of the system can be maintained and Council as operators of the watercourse or wetland can manage any discharge into or from the scheme. This does not seem to be unreasonable. The relief sought is to:

Add an additional permitted activity condition into Rules 5.75 to 5.77 and Rule 5.95 to read:

(x) "A written permission has been obtained from the network operator that that allows the entry of discharge into the network"

Submission Point 15 Rule 5.133 (Section 42A recommendation page 177)

44. The Council submitted on the rule seeking that the specific circumstance when the transfer of water from a private party to a territorial authority occurs. Given the level of importance in providing community water supplies and the levels of growth I have already outlined it is important to ensure that water for community supplies are available without delay and unnecessary processes.

45. The change sought is that a specific reference to "community supply" be added to the first part of the rule so that this covers a transfer to either a new owner of the site, or to a territorial authority. This is necessary to address the situations where private developers of a property secure the consent to provide water supply and then that permit is transferred to a territorial authority. The second situation is when a property changes

from a rural to urban land use. In circumstances where there is an existing water permit for that property that should be able to be transferred to a territorial authority for the purpose of providing a community supply. These transfers should be provided for as a permitted activity. A new rule is proposed to read:

5.133a The temporary or permanent transfer, in whole or in part, of a water permit to take or use surface water or groundwater (where the location of the take does not change), is a permitted activity, provided the following condition is met:  
1. The transfer is to a territorial authority for the purpose of providing a community water supply.

Submission Point 17 Rules 5.146A and 5.146B (Section 42A recommendation page 117)

46. The Council submitted on the rule seeking that the reference to "for the sole" purpose be deleted and replaced with "where there are benefits for".
47. The intent of this rule is that it is enabling for activities that result in the disturbance of a bed or bank of a river to remove sediment where it is for the purpose of benefitting habitat restoration. This is supported.
48. The reason for seeking the change in the wording was not to provide a back door way of disturbing the bed and banks for inappropriate activities. Rather it was to recognise the reality that when money for undertaking these activities is tight, it is more likely that sediment removal that benefits habitats will be undertaken in conjunction with an activity such as drain maintenance.
49. The change sought to the rule is:

Amend Rules 5.146A and 5.146B as follows:

5.146A Despite any other rule in this Plan, the disturbance of the bed and banks of a river to remove fine sediment less than 2 mm in diameter ~~for the sole purpose of~~ where habitat restoration benefits, and the consequential damming, take, use and discharge of water in circumstances where contaminants may enter water is a restricted discretionary activity, provided the following conditions are met:

5.146B The disturbance of the bed and banks of a river to remove fine sediment less than 2 mm in diameter ~~for the sole purpose of~~ where habitat restoration benefits, and the consequential damming, take, use and discharge of water in circumstances where contaminants may enter water

that does not meet one or more conditions of Rule 5.146A is a discretionary activity.

#### Other Matters

50. The submissions of the Council addressed a range of matters not all of which I have addressed in my evidence. The reasons for the submission and the changes sought are set out in the original submissions and further submissions.

51. In some cases the submissions are recommended to be accepted in the Section 42A report. I have reviewed the officer report and provide support for the following recommendations:

- 51.1. SDC Submission 1. Support for the definition of "available reticulated stormwater system" - Recommendation - Retain definition (Page 68 Section 42A Report).
- 51.2. SDC Submission 1. Support for the definition of "stormwater" - Recommendation - Retain definition (Page 57 Section 42A Report).
- 51.3. SDC Submission 9. Policy 4.15 – Recommendation (page 69) amend policy to remove "stormwater" from 4.15(a) and insert a new 4.15(b) to provide for stormwater to be discharged into land or a reticulated system.

**Murray England**

**29 January 2016**

**Attachment 1:**

Resource Consent Conditions

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## RESOURCE CONSENT CRC151652

*Pursuant to Section 104 of the Resource Management Act 1991*

### The Canterbury Regional Council (known as Environment Canterbury)

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GRANTS TO:	Selwyn District Council
A DISCHARGE PERMIT:	To discharge stormwater onto land and into surface water.
CHANGE TAKES EFFECT DATE:	18 Sep 2014
EXPIRY DATE:	07 Oct 2046
LOCATION:	Global, area bounded by Shands/Tancred's/Raineys/Ellesmere/Collin, LINCOLN

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#### **SUBJECT TO THE FOLLOWING CONDITIONS:**

##### **Definitions**

- 0 For the purposes of this consent the following definitions and abbreviations shall apply to all conditions:

'ARI' means Annual Recurrence Interval rainfall event.

'Bulk earthworks' means major cut/fill/waste works which expose an area of bare earth exceeding 2000 square metres.

'Construction' means all bulk earthworks and earthworks associated with the construction of any Selwyn District Council stormwater infrastructure.

'Earthworks' means the disturbance of land surfaces by blading, contouring, ripping, moving, removing, placing or replacing soil and earth, or by excavation, or by cutting or filling operations.

'E&SCG' means Environment Canterbury's Erosion and Sediment Control Guidelines for the Canterbury Region, Report No. R06/23, February 2007.

'E&SCP' means erosion and sediment control plan.

'Global Consent Area' means the area of land covered by this consent and which is shown on Plan CRC111663A, "Location Map" dated 14 April 2011.

'Key sump' means any sump which directly discharges to the final stormwater management device i.e. where the discharge has no other form of primary treatment.

'Manager' means the Canterbury Regional Council, RMA Compliance and Enforcement Manager, or nominated staff acting on the Manager's behalf.

'Recognised Design Guidelines' refers to the Auckland Regional Council, Stormwater Management Devices: Design Guidelines Manual, May 2003, Technical Publication No.10; and/or Christchurch City Council, Waterways, Wetlands and Drainage Guide, Part B: Design, February 2003; and/or the On-Site Stormwater Management Guideline, October 2004, New Zealand Water Environment Research Foundation.

'SDC' means the Selwyn District Council.

'Significant reduction in water clarity' means an average reduction in visual clarity greater than 20 percent, as measured using a clarity tube. Measurements of visual clarity shall be taken between immediately upstream and immediately down-stream of the discharge, and averaged over two readings taken within six hours.

'Stabilised' means an area inherently resistant to erosion such as rock (excluding sedimentary rocks), or rendered resistant to erosion by the application of aggregate, geotextile, vegetation or mulch. Where vegetation is to be used on a surface that is not otherwise resistant to erosion, the surface is considered stabilised once 80 percent vegetation cover has been established.

'Stormwater' means run-off that has been channelled, diverted, intensified or accelerated by human modification of the land surface or runoff from the external surface of any structure as a result of precipitation or from routine washdown events. This definition specifically excludes discharges of spilled or deliberately released hazardous substances and the subsequent washdown of such spills or releases.

Advice Note: With respect to sites or collection areas where stormwater is sourced from land not in the ownership of the consent holder (being the SDC), the point of discharge is where the contaminant or water leaves the effective control of the discharger, which includes but is not limited to the point of entry into the SDC stormwater drainage network. It is therefore the responsibility of individual owners and/or occupiers of land, for example private industrial sites, to ensure that their discharge of stormwater into the SDC stormwater drainage network complies with the above definition of stormwater.

'Stormwater drainage network' means the reticulated piped and open network, including kerb and channel, sumps, pipes, swales and manholes; and any stormwater conveyance and mitigation system for which SDC are responsible for operation, maintenance, and upgrade.

'Stormwater management device' is a constructed or proprietary device which by function attenuates, detains or treats stormwater. The 'final stormwater management device' is the last treatment device before discharge into land or water.

'Temporary systems' means stormwater management devices, which are constructed by individual developers to treat stormwater as an interim measure before the construction of the ultimate SDC stormwater drainage network is complete.

'Water' means fresh water in a river, ephemeral water course, artificial drain, pond, lake, stream, wetland or aquifer, or any part thereof, which is not located within the coastal marine area.

### Limits

- 1 The discharge shall be only:
  - a. stormwater from roofs, roads and hardstand areas (impervious areas), along with pervious areas associated with:

- i. development that existed prior to the commencement of this consent ('existing sites');
  - ii. re-development of 'existing sites';
  - iii. new residential development; and
  - iv. new commercial and industrial development;
- b. sediment laden discharge stormwater from exposed soils, water generated by dewatering and water treatment chemicals in accordance with Condition (15) during the construction and maintenance of any Selwyn District Council stormwater infrastructure;

within the Lincoln Global Consent Area shown on Plan CRC111663A, "Location Map" dated 14 April 2011, which forms part of this consent.

**Advice Note:** Selwyn District Council approval is required prior to any activity operating under this consent. Approval is subject to evidence being provided to satisfy Selwyn District Council that the activity will meet the conditions of this consent.

- 2 Notwithstanding Condition (1) discharges from sites in one or more of the following categories are excluded from this consent:
- a. sites on which activities or industries listed, and which are not excluded by the criteria set out, in Schedule WQL9 of the Natural Resources Regional Plan, which forms part of this consent;
  - b. sites that have been registered by the Canterbury Regional Council on its Listed Land Use Register (LLUR) as 'not investigated', 'below guideline values for', 'managed for', 'partially investigated', 'significant adverse environmental effects' or 'contaminated for';
  - c. sites that are located on, or adjacent to, land that has been historically used as a landfill;
  - d. sites which hold an existing stormwater discharge consent with current non-compliances; and
  - e. sites for which another stormwater consent is currently held.

Advice note: Although discharges from the sites listed above may not discharge under this consent, discharges from sites listed above may discharge via the system authorised under this consent provided that a separate resource consent for the site is obtained and the SDC has authorised the discharge into the system.

- 3 Stormwater shall be discharged into the existing SDC stormwater drainage network or via a new stormwater management system as shown indicatively on Plan CRC111663B, "Future Stormwater Treatment and Subcatchments" dated 21 April 2011, which forms part of this consent.
- a. Stormwater from roads and hardstand areas shall be discharged into land only in the area indicated as "soakage" on Plan CRC111663B;