

Flooding Response 1: SUMMARY

This is a summary of the progress the working group has achieved since the last public meeting

This summary relates only to the recent flooding of low-lying land in Whangamata

1. Regulatory Matters in respect to flooding RMA

Surface flooding comes under the control of TCDC through Resource Consent Certificate 105667 approved by WRC in 2011. This certificate comprises a discharge permit to discharge to water.

Divert and discharge urban stormwater runoff and associated contaminants at multiple locations to land, the Te Weite Stream, Waikiekie Stream, Moana Anu Anu River Estuary, Otahu Estuary, Whangamata Harbour and such other locations as may be covered by this consent in the future in accordance with the conditions of this consent, and use discharge structures in the general vicinity of Whangamata Urban Area that is reticulated by the Thames Coromandel District Council municipal stormwater network

Divert and discharge relate to the diversion of rain from surface, to collection, to discharge. Flooding occurrences of 1 in 10 year rain intensity events allow infrastructure like pipe, channels and other diversion devices to be overwhelmed. The foreseeability of this requires managed secondary flow paths. These can go to holding tanks or designated flood plains or pumping stations. The most common is a waterway. The desirability is for these to allow the secondary flow paths to become dry as the rain stops.

The properties we have investigated have a common denominator that the flood water is ponding in low lying land and basins. The low lying land became the secondary flow path without any means of discharge to a waterway. Mostly they have become blocked. This is a breach of the management of storm water.

2. Regulatory Matters in respect to flooding – The Building Act

Building Consent applications since 1991 could not be approved under s36(1) of the Building Act 1991 if the land was subject or likely subject to inundation (flooding).

Limitations and Restrictions on Building Consents

36. Building on land subject to erosion, etc.—(1) Except as provided for in subsection (2) of this section, a territorial authority shall refuse to grant a building consent involving construction of a building or major alterations to a building if—

- (a) The land on which the building work is to take place is subject to, or is likely to be subject to, erosion, avulsion, alluvion, falling debris, subsidence, inundation, or slippage; or

This legislation is included as s71 in the Building Act 2004.

Our research has been unable to find one instance where TCDC complied with these clauses in the Building Act. Since 1991 TCDC has approved 7070 building consents to a total value of \$515 Million. We suspect many owners of buildings affected by flooding could have been prevented from the loss they now face if TCDC had complied with this legislation. This legislation is not optional.

3. Compliance Matters in respect to flooding

Flooding falls under the building code clause E1-surface water. The Building Act requires MBIE (and its predecessors) to issue approved documents. That is if certain standards are met building work is deemed to comply with the building code and hence the Building Act. This is by way of Acceptable Solutions (E1/AS1 – surface water) and as verification (E1/VM1). These include:

- a. Floor levels are to be no less than 150mm above the crown of the road or
- b. From a level at the base of the concrete floor the land must be at a fall of no less than 1:25 undisturbed to a clear waterway. Ie the secondary flow path must be capable of draining all surface water.
- c. Soak pit bases must be clear of the water table. TCDC has set this under policy 16B base of stones to be clear of winter water table.

Our investigation has found many of the buildings recently flooded do not comply with these Acceptable Solutions. Builders we have spoken to say they set the heights, not council. This is a breach of TCDC statutory duty. We have witnessed flooded lawns above the soak pits. This means the water table is so high soak pits cannot meet E1/AS1 so are in breach of the Building Act.

Our investigation has found many of the low lying basins with surface water have been formed through a number of breaches by TCDC:

- Roading infrastructure involved cut and fill to provide a semi level road through undulating sand dunes. Originally the dunes acted as a secondary flow path. Now these are blocked and do not work. The new road height has changed the crown of the road height in relation to the old building. The properties that were cut are high and dry, but the properties with fill are now below the road and below the secondary flow path. The road design should have managed the low lying land by extra fill or pipes or removing the blocked water ways. TCDC failed to manage the secondary flow path.
- Building consents of neighbours were approved without regard they would 'block' secondary flood paths and create basins that could no longer drain the neighbours low lying land.
- Building the carpark at the Williamson Golf course to a level above the neighbours land and above the club house with reliance on the soak pit management system cannot soak because the water table is above the level of the ground
- Creating the weir at Williamson Park with discharge pipes beneath the level of the pond means the surface water has nowhere to drain to. The pipes are full. The water table cannot drop ready for more rain. In essence the pipes have flooded the aquifer so it can no longer absorb rainwater which leaves the soak pits flooded and useless
- TCDC as failed to conduct any maintenance to the pipes, sumps and the sediment pond to an extent these are not working to design capacity

The working group has identified some useful solutions.

- (i) The cheapest is to fill low lying ground and basins with sand. This is permanent and requires no capital cost or future maintenance.

- (ii) More drains to remove excess surface flooding from secondary flood paths
- (iii) Pumps to a pipe system or waterway to lower the water table
- (iv) Removing the water from the weir

We have been monitoring some of the 'requests for service'. We are of the opinion TCDC has a conflict of interest when it processes these. To solve means TCDC will need to proceed with diligence which means they must take into account all the factors that cause the flooding. To date what we have seen is helpful personnel, however they are not skilled in the RMA, Building Act or the building code. There responses are mostly irrelevant diversions to frustrate and give inaccurate information. This is intended to deflect owners attention from TCDC's failure to perform its duties.

The RFS team have no 'toolbox' of flood solutions. To do so would be an act of admission of their employer. We are of the opinion TCDC must stand aside as it is not up to them to 'manage the conflict'. Affected owners must see that the decisions are fair and based on facts.

We will be producing an 'inspection sheet' similar to building compliance inspections. Owners will complete these and then file a 'complaint' not a RFS. Complaints must be managed in accordance with the terms of the Resource certificate 105667. TCDC must report annually the 'complaints' against it and how each was resolved. This ensures historical 'complaints' are dealt with under the RMA to WRC. The purpose of this process is over time the 'toolbox' of solutions would evolve. We expect neighbours to act together as they will also be on low lying land and likely subject to flooding. We can only expect weather events to worsen and become more regular so acting together early will reduce the number of flooded properties. The water table will take some time to lower. It may never recover without pumping.

Further investigations are ongoing in regards to:

- a) The manner in which the 2011 certificate 105667 was issued,
- b) How the weir came about. We are resolute certificate 105667 never envisaged discharge to Ocean.
- c) How the Island View discharges came about
- d) How to clean up the Wentworth river.
- e) Getting the compliance team to comply with the Building Act
- f) Investigate why notices have not been put into LIMs regarding flooded landIsland

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