

CHBDC:Part 21:2008

CENTRAL HAWKE'S BAY DISTRICT COUNCIL BYLAWS



Part 21 – Stormwater

~ NEW ~

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Explanatory Note

Stormwater is disposed of within the District by public and private stormwater drains (eg. open watercourses and pipes), and ground soakage. This Bylaw controls stormwater management aspects of these networks.

Council is only responsible for maintaining a limited number of drains. These are shown in Council's policy documents.

Watercourses passing through or serving private land are generally considered private. Private drains are the responsibility of the owner of the land they serve, and each section of a private watercourse (including a privately piped watercourse) is generally the responsibility of the owner of the land it passes beside or through.

The Central Hawke's Bay District Plan contains rules for use of land subject to flooding. These rules which include minimum freeboard requirements must be complied with (or a resource consent must be obtained if they are not complied with) for any activity or development in a flood prone area.

Consent may also be required from the Hawke's Bay Regional Council for any work in or near a watercourse or for the discharge of stormwater to ground soakage or a watercourse. Please seek advice if in doubt.

Stormwater Areas

Central Hawke's Bay District Council has adopted stormwater area maps for the areas serviced by its stormwater networks.

From time to time it will be necessary for Council to adjust the boundaries and rules of the stormwater areas, for example, to take account of reticulation extensions and new development areas.

Council also records areas known to be liable to flood, and these records are continually updated as more knowledge is gained about flooding issues and potentials.

Delegated Powers

This Bylaw does not provide for the delegation of powers to officers of Council.

Any delegation necessary to enforce aspects of this Bylaw are effected through Council Resolution issuing warrants for the officers as provided for in the Local Government Act 2002 (section 174).

CHBDC BYLAWS

Part 21 - STORMWATER

2100 TITLE

A Bylaw of the Central Hawke's Bay District Council by way of Special Order pursuant to the provisions of the Local Government Act 2002 and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the **Central Hawke's Bay District Council Stormwater Bylaw 2008**.

2101 COMMENCEMENT

This Bylaw shall come into force on the first day of July 2008.

2102 REPEAL

As from the day this Bylaw comes into force, any previous stormwater bylaw or parts of any stormwater bylaw and their amendments in force in the Central Hawke's Bay District (including the former local authorities that now comprise the Central Hawke's Bay District Council) shall be repealed.

2103 APPLICATION OF BYLAW

This Bylaw shall apply to the Central Hawke's Bay District.

2104 SCOPE

This Bylaw is made under the authority of the Local Government Act 2002 for the management of stormwater and provision of stormwater networks. The management of stormwater and the provision of stormwater networks by Council is subject to a number of Statutory Acts and Regulations including:

- (i) Building Act 2004
- (ii) Building Regulations 1992 (New Zealand Building Code)
- (iii) Health Act 1956
- (iv) Land Drainage Act 1908
- (v) Local Government Act 1974
- (vi) Local Government Act 2002
- (vii) Local Government (Rating) Act 2002
- (viii) Resource Management Act 1991
- (ix) Summary Proceedings Act 1957

2105 INTERPRETATION

When interpreting this Bylaw use the definitions set out in Section 2106 unless the context requires otherwise. For the purpose of this Bylaw, the word 'shall' refers to practices that are mandatory for compliance with this Bylaw, while the word 'should' refers to practices that are advised or recommended.

2106 DEFINITIONS

For the purpose of this Bylaw, unless inconsistent with the context, the following definitions apply:

Annual Exceedance Probability (AEP) - means the probability that a storm of the given magnitude will be equaled or exceeded in any given year:

- (a) 1% AEP corresponds to a 1 in 100 year storm.
- (b) 2% AEP corresponds to a 1 in 50 year storm.
- (c) 10% AEP corresponds to a 1 in 10 year storm.

Approved - Approved in writing either by resolution of Council or by any authorised officer of Council.

Council - The Central Hawke's Bay District Council or any officer authorised by Council or legislation to exercise the authority of Council.

Catchment - Means the area of land within which stormwater flows (whether by gravity, pumping, piping, or otherwise) to a given point.

Catchment Management Plan - Means a plan prepared by or for Council for the understanding, control and management of stormwater and stormwater related hazards within a Catchment.

Development - In relation to any land means altering the stormwater runoff characteristics of that land including by stormwater drainage works, building work, subdivision or change of use.

Fees and Charges - The list of items, terms, rates and prices for services associated with the disposal of stormwater as adopted by Council in accordance with the Local Government Act 2002 and the Local Government (Rating) Act 2002.

Flood Plain - means a low lying area, normally adjacent to a catchment's main watercourses, which is expected to or predicted to flood in a storm event usually described as a 1% AEP event.

Flood Risk Area - means an area which may be at risk of flooding in up to a 1% AEP storm.

Level of Service - The measurable performance standards within which Council undertakes to provide and manage stormwater disposal.

Nuisance - has the same meaning as Section 29 of the Health Act 1956 and includes a person, thing, or circumstance causing distress or annoyance or unreasonable interference with the peace, comfort or convenience of another person; and in the context of this bylaw also includes but is not limited to:

- (a) danger to life; or
- (b) danger to public health; or
- (c) flooding of any building floor or sub-floor, or public roadway; or
- (d) damage to property; or
- (e) damage to the stormwater network; or

Nuisance cont.

- (f) erosion or subsidence of land; or
- (g) long or short term adverse effects on the environment;
- (h) adverse loss of riparian vegetation; or
- (i) wastewater overflow to land or water; or
- (j) anything that causes a breach of any stormwater discharge consent condition binding the Council, (including an accumulation of chemicals causing a breach).

Occupier - The person who occupies the premises. This may be the owner of the premises, lessee, squatter or any other person on or using the premises.

Overland Flow Path - means any secondary flow path illustrated in a catchment management plan or the overland route taken by any concentration of, or significant sheet flow of, stormwater on its way to a flood plain or second stormwater drainage network.

Owner - the person who owns the premises.

Person - A natural person, corporation, sole or a body of persons whether corporate or otherwise.

Point of Discharge - The point where the stormwater pipe leading from the premises discharges into the public stormwater drainage network, which marks the boundary of responsibility between the owner and Council, irrespective of property boundaries.

Premises - Premises include the following:

- (a) a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued; or
- (b) a building or part of a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available; or
- (c) land held in public ownership (e.g. reserve) for a particular purpose.

Public Stormwater Drainage Network - includes:

- (a) any pipe, drain, drainage channel, land drainage work or treatment facility, vested in or under the control of the Council, which serves more than one freehold lot;
- (b) all drains, drainage channels, land drainage works or treatment facilities within legal road reserve or other public places;
- (c) any drain, drainage channel, land drainage work or treatment facility over which the Council has exercised control for a period of not less than 20 years; and
- (d) any drain, drainage channel, land drainage work or treatment facility declared to be a public drain under section 462 of the Act.

Registered Drainlayer - means a tradesperson certified by the Plumbers, Gasfitters, and Drainlayer's Board under the Plumbers, Gasfitters, and Drainlayer's Act 1976 and regulations and holding such other certifications as the Council may require from time to time.

Roading Authority - A territorial authority or Transit New Zealand.

Stormwater Drainage Network - means a set of facilities and devices, either natural or man-made, which are used to convey run off, reduce the risk of flooding, and to improve water quality. This includes but is not limited to open drains and watercourses, inlet structures, pipes and other conduits, manholes, chambers, traps, outlet structures, pumping stations, treatment structures and devices.

Stormwater Detention Device - means any device such as holding tank or pond designed to retain stormwater on the premises and limit its outflow from the premises into the stormwater drainage network.

Watercourse - has the meaning given in Section 2 of the Land Drainage Act 1908, which includes all rivers, streams, creeks, culverts and channels through which stormwater commonly flows, whether continuously or not.

Note: For the avoidance of doubt, a watercourse includes any watercourse or drainage network over private or public land.

Reference should be made to CHBDC:Part 1 *Introductory* for definitions not included in this Bylaw.

2107 PROTECTION OF PUBLIC STORMWATER DRAINAGE NETWORKS

2107.1 Protection of Network

No person shall:

- (a) allow any material, hazardous material, chemical, rubbish, litter or other substance that causes or is likely to cause a nuisance directly or indirectly into the public stormwater drainage network; or
- (b) deposit or permit any material, hazardous material, chemical, rubbish, litter or other substance, likely to cause a nuisance on entering the public stormwater drainage network, to be located so that it is likely to enter the public stormwater drainage network (directly or indirectly) in any storm event; or
- (c) obstruct any watercourse in a manner that adversely affects or may affect the efficiency and safety of a public stormwater drainage network; or
- (d) do anything that damages or is likely to cause damage to any public stormwater drainage network.

No person shall without the prior written consent of Council:

- (a) erect any barrier within a stormwater drain; or
- (b) stop, obstruct, alter, interfere with or divert any stormwater drain, or any part of Council's drainage network; or
- (c) erect any defence against water in any stormwater drain, flood plain, flood risk area or overland flow path; or
- (d) carry out any of the above so as to adversely affect land or buildings including other land and buildings on other land.

All open stormwater drains shall be kept clear of any obstruction that impedes or is likely to impede the free flow of water, for a distance of at least 3 metres from the nearest margin of the stormwater drain, provided that no person shall remove vegetation from such an area without approval from Council, if that clearing may cause or worsen erosion or sedimentation of the drain.

2107.2 Storage of Hazardous Materials

No person shall store any hazardous or other material in a manner likely to adversely affect watercourses or public health and safety, and shall take all reasonable steps to prevent entry of those materials via leakage, spillage or other mishap into watercourses or the stormwater network.

The occupier of any premises shall immediately notify Council of any hazardous material entering watercourses or the public stormwater drainage network.

2107.3 Working around Buried Services

Council will keep accurate permanent records ('as-builts') of the location of its buried services. This information shall be available for inspection at no cost to users. Charges may be levied to cover the costs of providing copies of this information.

Any person proposing to carry out excavation work shall view the as-built information to establish whether or not Council services are located in the vicinity. At least five working days notice in writing shall be given to Council of an intention to excavate in the vicinity of its services. Where appropriate Council shall mark out to within ± 0.5 m on the ground the location of its services, and nominate in writing any restrictions on the work it considers necessary to protect its services. Council may charge for this service.

When excavating and working around buried services due care shall be taken to ensure the services are not damaged, and that bedding and backfill are reinstated in accordance with the appropriate Council specification. Any damage which occurs to a Council service shall be reported to Council immediately. The person causing the damage shall reimburse Council with all costs associated with repairing the damaged service, and any other costs Council incurs as a result of the incident.

NOTE - Excavation within roadways is also subject to the permit process of the appropriate roading authority.

2107.4 Loading or Material over Public Stormwater Pipes

No person shall cause the crushing load imposed on a public stormwater pipe to exceed that which would arise from the soil overburden plus a HN-HO-72 wheel or axle load (as defined by Transit New Zealand Bridge Manual).

No person shall place any additional material over or near a public stormwater pipe without approval.

Manholes, catchpits and other ancillary structures shall not be covered in any way unless approved by Council. Removal of any covering material or adjustment of the structures shall be at the property owner's expense.

2107.5 Excavation Near Public Stormwater Pipes

No person shall excavate, or carry out piling or similar work closer than:

- (a) five (5) metres from the centre line of any main or trunk stormwater main, or
- (b) two (2) metres from the centre line of any other public stormwater pipe,

without approval in writing from Council. Such approval may impose conditions on the carrying out of any work near the stormwater pipe.

2107.6 Building over Buried Services

No building shall be built over a public stormwater pipe without the specific approval in writing of the Council. Council will specify the engineering requirements for any building over a public stormwater pipe.

2108 PRIVATE DRAINAGE SYSTEMS

2108.1 Maintenance of Private Drainage System

It is the responsibility of the owner or occupier to properly maintain in good working order at all times, the private stormwater drainage network on the premises. This includes all pipes, gutters, stormwater detention devices or other components as well as the drainage network itself.

2108.2 Private Soakage Systems

The owner of a private soakage system shall at all times ensure that the private soakage system is functioning in such a way as to prevent a nuisance in up to a 10% AEP storm.

The owner of a private soakage system shall on request by Council provide such information as is required to demonstrate that their private soakage system is functioning in such a way as to prevent a nuisance in up to a 10% AEP storm, and shall if this is not the case, carry out such works as are required to make it so (having first obtained such approvals as are required for the works involved).

2109 SITE DEVELOPMENT AND MANAGEMENT

2109.1 Proposed Works

No person shall carry out stormwater drainage works without:

- (a) prior written approval from Council, and
- (b) a building consent or resource consent if required.

Every application to carry out stormwater drainage works shall include drawings and specifications for the proposed works. The drawings shall show, to the satisfaction of Council, the proposed works and their effects on the subject site and surrounding land.

All proposed stormwater drainage works shall be designed, constructed and operated:

- (a) in compliance with any relevant Catchment Management Plan or discharge consent including its recommendations or conditions for the area concerned; and
- (b) to Council's standards for corresponding public drainage works where they serve or may serve land or buildings in different ownership; and
- (c) to Council's Stormwater Drainage Policies; and
- (d) to minimise sediment discharge to any stormwater drain; and
- (e) in compliance with any written conditions imposed by Council when approving the works, and with any relevant building or resource consent; and
- (f) to be consistent with foreseeable catchment-wide works (for example, extending a pipe upstream or downstream) so as to give a benefit to the catchment as a whole.

Such stormwater drainage works shall remain the responsibility of the owner of the land on which the works occur unless and until they are taken over and vested in Council. The cost of all work involved will be the owner's cost unless specific agreement for alternative cost sharing is approved in writing by Council.

2109.2 Other Development

No development may take place and no building or structure shall be constructed on or over or under any land within a flood risk area, flood plain or overland flow path unless specifically approved by Council, and subject to such conditions as Council may set.

No person shall extend or alter any building or structure which is already constructed on, over or under any land within a flood risk area, flood plain or overland flow path in such a way that:

- (a) the extent of the obstruction to the flood risk area, flood plain or overland flow path is increased in any way; or
- (b) the protection from any nuisance is reduced; or
- (c) the likelihood or extent of any nuisance is increased,

unless specifically approved by Council and subject to such conditions that Council may set.

2109.3 Stormwater Detention

As part of the development of a property Council may require the installation or construction of private stormwater detention devices to retard the flow of stormwater or for other purposes together with an approved maintenance plan for the designed stormwater works to Council's satisfaction.

After construction and approval by Council, the capacity, discharge rate and orifice size (if any) shall not be altered from that approved by Council.

2109.4 Vehicle Crossings and Driveways

Where a building is at an elevation below the carriageway of the adjacent road or access way, the vehicle crossing to the site shall be constructed with an over vertical curve to ensure that run-off from the carriageway does not enter the property via the vehicle crossing.

The internal vehicle drive and parking areas shall be designed and constructed to direct run-off away from the buildings and to eliminate the potential for a nuisance to be created.

2109.5 Siltation and Erosion Protection

No person shall as a result of development discharge any stormwater into a stormwater drain or any drain leading to a stormwater drain unless such development includes provisions to ensure siltation and erosion are not increased and that water quality is not reduced. This shall include the installation of adequate silt control measures to the satisfaction of Council to prevent the discharge of silt laden water directly or indirectly to any stormwater drain.

Such provisions shall be made before development causing such discharges is started. These control measures shall be maintained and regularly cleaned out until ground cover has been reinstated on the site.

2109.6 Diverting Public Stormwater Pipes

Subject to specific approval in writing by Council, a developer may divert a public stormwater pipe (including any ancillary structures) in accordance with any engineering requirements specified by Council, and the developer shall meet the cost of such diversion work.

2110 APPROVAL TO CONNECT TO A PUBLIC STORMWATER DRAINAGE NETWORK

No person may make a connection to, or otherwise interfere with the public stormwater drainage network without prior approval of the Council.

2110.1 Application

Every application for connection to the public stormwater network shall be made in writing on the standard Council form accompanied by the prescribed charges. The applicant shall provide all the details required by Council.

On receipt of an application Council shall, after consideration of the application and other matters relating to the application and the stormwater drainage network, either:

- (a) approve the application and inform the applicant of the size of the connection and any particular conditions applicable; or
- (b) refuse the application and notify the applicant of the decision giving the reasons for refusal.

Failure to comply with any of the terms and conditions constitutes interference with the public stormwater drainage network without prior approval and is a breach of this Bylaw.

Any such connection shall be carried out by a registered drainlayer under the supervision of Council.

Any new connection shall be dimensioned from the immediate downstream manhole to the centre of the newly installed connection, and an as-built plan showing the connection shall be provided to Council within 7 days of installation and acceptance by Council.

The applicant shall have the authority to act on behalf of the owner of the premises for which the connection is sought, and shall produce written evidence of this if required.

An approved application which has not been actioned within six months of the date of application will lapse unless a time extension has been approved. Any refund of fees and charges shall be at the discretion of Council.

2110.2 Prescribed Charges

Charges applicable at the time of connection may include:

- (a) payment to Council or an approved contractor for the cost of the physical works required to provide the connection;
- (b) a development contribution charge determined in accordance with the Local Government Act 2002;
- (c) a financial contribution charge determined in accordance with the Resource Management Act 1991.

2110.3 Point of Discharge

The point of discharge from a premises shall be the point on the public stormwater drainage network which marks the boundary of responsibility between the owner and Council.

Unless otherwise approved there shall be one point of discharge only for each premises.

Where a private pipeline discharges into a public stormwater network on that same private property, the point of discharge shall be the upstream end of the pipe fitting which forms the junction with the public pipeline.

2110.3.1 *Single Ownership*

For individual owners the point of discharge shall be located as shown in figures 1, 2 or 3 or as close as possible where fences, walls, or other permanent structures make it difficult to locate it at the required position. Other positions shall require specific approval.

No connections shall be made on the private drain to supply other premises.

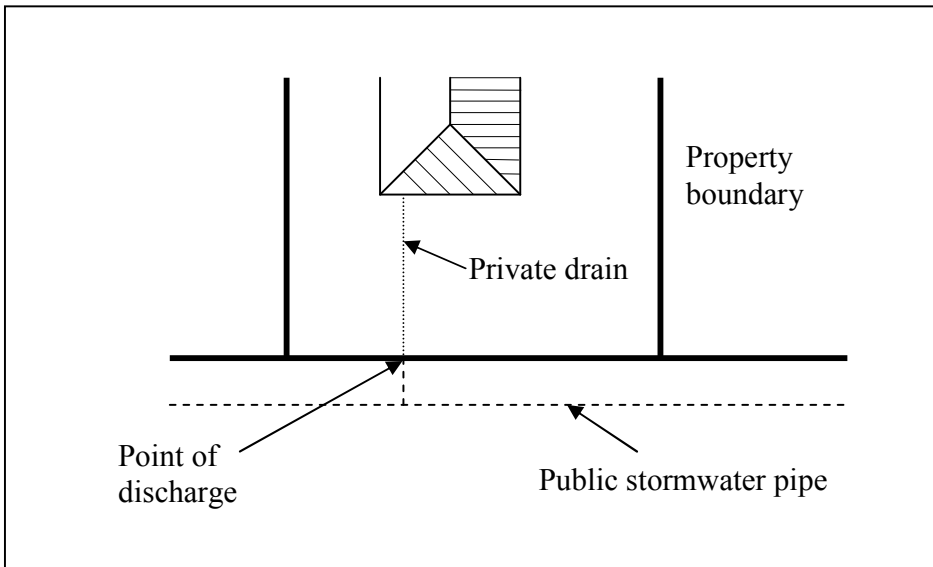


FIGURE 1 - POINT OF DISCHARGE LOCATION - WITH STREET FRONTAGE

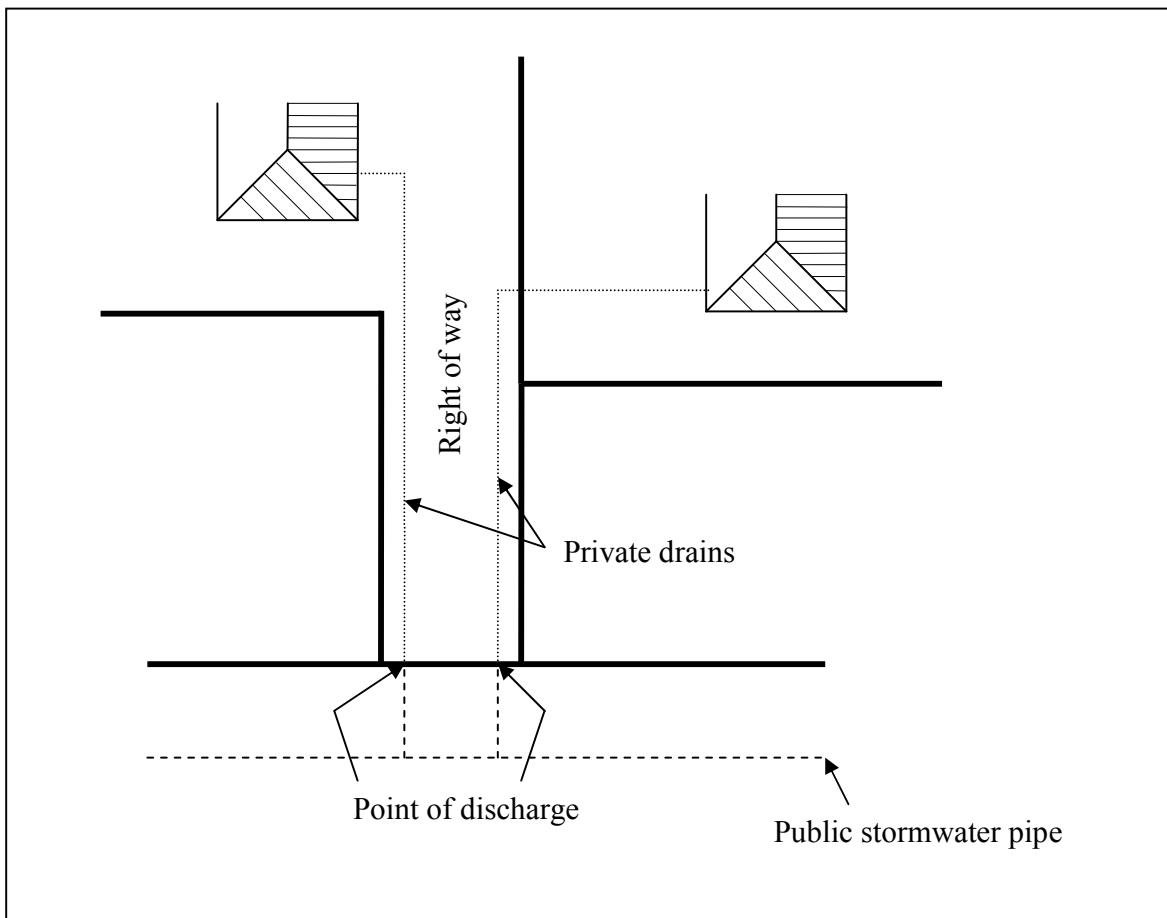


FIGURE 2 POINT OF DISCHARGE LOCATION - REAR LOTS

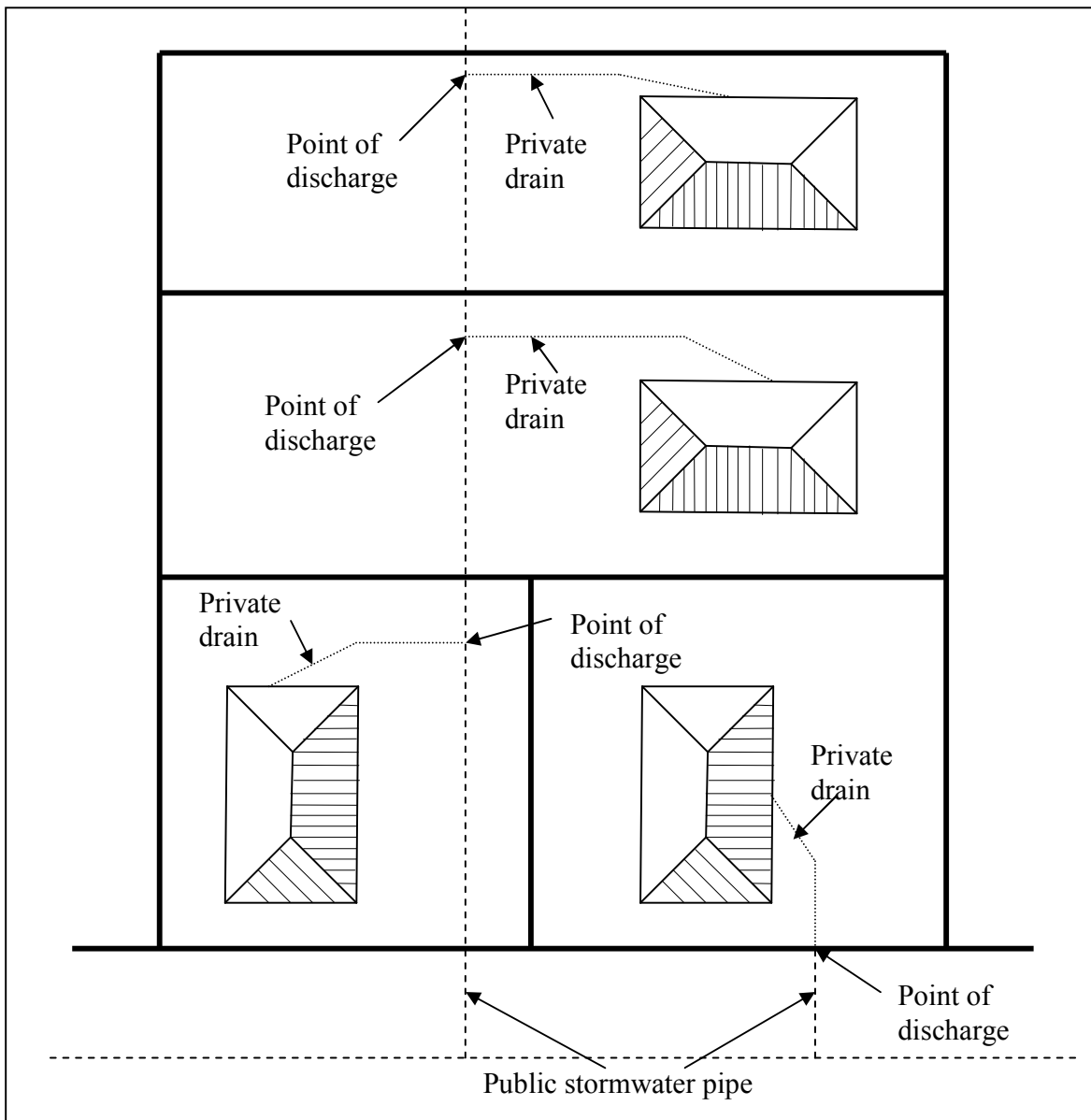


FIGURE 3 - POINT OF DISCHARGE LOCATION - PUBLIC STORMWATER PIPE ON PRIVATE PROPERTY

2110.3.2 Multiple ownership

The point of discharge for the different forms of multiple ownership of premises and / or land shall be:

- (a) for Company Share / Block Scheme (Body Corporate) - as for single ownership;
- (b) for Leasehold / Tenancy in Common Scheme (Cross Lease), Strata Title, Unit Title (Body Corporate) and any other form of multiple ownership - each owner shall have an individual pipe with the point of discharge determined by agreement with Council. In specific cases other arrangements may be acceptable, subject to individual approval by Council.

For a multiple ownership private drain which was in existence prior to the coming into effect of this Bylaw, the point of discharge shall be the arrangement existing at that time, or as determined by agreement with Council for any individual case.

2110.3.3 Layout

The physical drainage layout at a point of discharge shall be as per the New Zealand Building Code, the New Zealand Standard NZS4404: Land Development and Subdivision Engineering, and as Council approves.

2111 ACCESS FOR MAINTENANCE, REPAIR AND INSPECTION

Subject to the provisions of the Local Government Act 2002, the owner or occupier shall allow Council with or without equipment, access to any area of the premises for the purposes of carrying out any work on the public stormwater drainage network including inspection and survey, and for determining compliance with the requirements of this Bylaw.

Wherever practical Council shall make every reasonable attempt to notify the owner or occupier of any scheduled work on the public stormwater drainage network before the work commences. Where immediate action is required and notification is not practical, work will be carried out without notice.

2112 LEVEL OF SERVICE

Council shall provide stormwater disposal services in accordance with the level of service contained in the Long Term Council Community Plan (LTCCP). For those periods where the level of service allows noncompliance with the specified values, Council will make every reasonable attempt to achieve the specified values.

2113 LIABILITY

Council shall endeavour to meet the level of service requirements of Section 2112, but shall not be liable for any loss, damage or inconvenience which any person may sustain as a result of deficiencies in the stormwater drainage network.

2114 PAYMENT

The owner shall be liable to pay for stormwater disposal services in accordance with Councils fees and charges and / or rating requirements prevailing at the time.

Council may recover all unpaid fees and charges and rates as prescribed in the Local Government (Rating) Act 2002, sections 57 to 82.

2115 BREACHES AND INFRINGEMENT OFFENCES

Every person who fails to comply with the requirements of this Bylaw, commits an offence and is liable, on summary conviction, to a fine not exceeding \$20,000 or as set out in Section 242 of the Local Government Act 2002.

The Council may apply to the District Court under section 162 of the Act for an injunction restraining the person from committing a breach of this Bylaw.

Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of Council, provide his / her full name, and address.

2116 SUMMARY PROCEEDINGS

In addition to enforcement of infringements of this Bylaw, the Local Government Act 2002 provides for prosecutions by way of summary proceeding as another means of enforcing the requirements of the Local Government Act 2002. Council can lay information (a summons) under the Summary Proceedings Act 1957 to initiate a prosecution against someone in the criminal courts for a breach of the Local Government Act 2002.

Council may also follow proceedings under provisions of the:

- Local Government Act 1974
- Land Drainage Act 1908.

2117 BYLAW APPROVAL DATE

The Common Seal of the Central Hawke's Bay District Council was attached, under Resolution (*Reference - CHBDC:Part21:2008*) passed at a meeting of the Central Hawke's Bay District Council held on (Day) (Month) (Year).

DATE CONFIRMED : ____/____/____