

DRAFT PRIVATE DRAIN UPGRADE POLICY

This draft Policy relates to the upgrade of privately owned sewer drains within Hutt City Council's (the Council's) Leighton Avenue Catchment.

Section 1 Objectives and background

Policy objectives

Need for the Policy

Layout of the Policy

Scope and review

Consistency with other planning instruments

Definitions

Section 2 Council's approach to upgrading private drains

Costs of inspection

Costs of drain upgrade

Section 3 Council's process for upgrading private drains

Phase 1 – Inspection

Phase 2 – Assessment of results of inspection

Phase 3a – Upgrade required – Agreement reached

Phase 3b – Upgrade required – No agreement reached

Phase 4 – Upgrade work carried out – Performance verified

Proposed operational structure

Appendix 1 Map of Leighton Avenue Catchment

Appendix 2 Statutory provisions

Local Government Act 2002, Section 171

Health Act 1956, Section 23

Local Government Act 1974, Section 459

Appendix 3 Sample Notice to Remedy Defective Private Drains

Section 1 Objectives and background

Policy objectives

- 1.1 The objectives of this Policy are to:
- Provide for the inspection of privately owned sewer drains within the Leighton Avenue Catchment; and
 - Provide for the upgrade of privately owned sewer drains within the Leighton Avenue Catchment, where inspection shows that those drains are not satisfactorily watertight.
- 1.2 This Policy is a component of Council's strategy to address overloading of Lower Hutt City's wastewater network during periods of high rainfall.
- 1.3 The Council is required to consider a policy with the objectives set out above by condition 12 of discharge permits WGN040293 [23548] and WGN040293 [23549], which were granted to the Council by the Wellington Regional Council on 5 October 2004.

Need for the Policy

- 1.4 Hutt City's wastewater system is made up of a network of sewer drains, pumping stations, storage tanks, the Seaview treatment plant and the outfall at Pencarrow. The Seaview treatment plant, commissioned in 2001, has produced significant improvements for the city's environment.
- 1.5 The Council has an ongoing programme for the maintenance and upgrade of the city's wastewater system. Currently, parts of the wastewater network are subject to overloading during periods of heavy rain. Two significant factors that contribute to this overloading are the inflow of stormwater and the infiltration of ground water into privately owned sewer drains. Overloading of the system can result in overflows of diluted wastewater into waterways or onto land. These overflows can have adverse health, environmental and social effects. They are also culturally unacceptable.
- 1.6 Overflows of this nature require discharge consents from the Wellington Regional Council, in accordance with the Resource Management Act 1991. During the five-year period from 1999 to 2004, overflows occurred 4 times a year on average within the Leighton Avenue Catchment. The conditions of the discharge consent granted to the Council on 27 October 2004 require the Council to work towards limiting overflows to periods of wet weather that have a 1-in-5 year return cycle.
- 1.7 Council has a strategy for reducing the likelihood of overflows in wet weather. This involves:
- 1.7.1 Decreasing the volume of wet weather flows, by reducing:
- Infiltration into Council drains. There are ongoing programmes to replace every public drain in the city over the life-cycle of each pipe.
 - Inflow from private drains. There is an ongoing programme to correct direct connections from rooftop stormwater drains to sewer pipes, direct connections of stormwater drains to sewer pipes, and low gully traps in private properties.
 - Infiltration from private drains. The programme for the reduction of infiltration from private drains is set out in this Policy.
- 1.7.2 In addition to decreasing the volume of wet weather flows, the Council's strategy includes the provision of increased storage capacity within the wastewater system to accommodate high flows during wet weather. This has already commenced, with the provision of extra storage at the Seaview Treatment Plant, the Wainuiomata pumping station and within the Leighton Avenue catchment. The installation of further storage facilities is also planned for Silverstream in the 2005/2006 financial year.

Layout of the Policy

- 1.8 This Policy is divided into three sections:

- Objectives and background
This section identifies the objectives the Council is aiming to achieve in the development and implementation of this Policy and the reasons why the Policy is required.
- Council's approach to upgrading private drains
This section describes the Council's broad approach to achieving the upgrade of private drains in a comprehensive and timely manner.
- Council's process for upgrading private drains
This section outlines the process by which Council will contact property owners within the Leighton Avenue Catchment and the options available for the execution and funding of private drain upgrades.

Scope and review

- 1.9 The Policy applies in respect of all properties in the Leighton Avenue Catchment.
- 1.10 The Policy will be reviewed no later than 3 years from the date of its adoption (DD-MM-YYYY) or as is otherwise required.
- 1.11 The Policy does not limit the Council's discretion to require the upgrade of privately owned sewer drains in areas other than the Leighton Avenue Catchment, whether by operation of law or private agreement.

Consistency with other planning instruments

- 1.12 This Policy is consistent with the community outcomes identified in the Long Term Council Community Plan 2004-2014 (the LTCCP). Notably, these outcomes include:
 - Clean air, water and land;
 - A healthy balance between natural and built environments;
 - A built environment that is attractive, safe and healthy.
- 1.13 It is conducive to the wastewater aims stated in support of this outcome in the Group Utility Services section of, namely:
 - To contribute to the health of the community through the efficient collection, treatment and disposal of wastewater in an environmentally sustainable manner; and to
 - Provide a high quality, cost-effective wastewater system supporting development in the City.
- 1.14 This Policy is also consistent with the Hutt City Council Asset Management Plan (also contained within the LTCCP), which notes that the Council's approach to reducing overflow incidents involves the reduction of infiltration into Council drains and that:

...Private drains are a significant contributor to wet weather overloading and community cooperation is required to resolve the issue.
- 1.15 Finally, this Policy is consistent with and will compliment the Upper Hutt City Council's existing programme that requires property owners to upgrade defective private drains, as discussed in the Hutt Valley Waste Management Plan.
- 1.16 A targeted rate will be used to recover some of the costs that the Council will incur. These costs will become more clearly known as upgrade work progresses. The Council will at that time consider the implications for the Council's Revenue and Financing Policy and its Funding Impact Statement, which will reflect the targeted rate as required.

Definitions

The following definitions apply for the purposes of this policy:

Drain'	means a sewage drain primarily for the reception and discharge of pollutants, and 'drainage' has a corresponding meaning
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'Infiltration'	means the entry of water into a wastewater network through faults in the network's drains, such as cracked pipes or faulty joints.
'Inflow'	means the entry of water into a wastewater network directly, including entry through: direct roof connections; illegal or improper connections between stormwater and sewer pipes; or through the draining of surface water into improperly sealed or raised gully traps.
'Inspection'	means the physical testing of a private drain, by any means, to determine the vulnerability of that drain to infiltration.
'Leighton Avenue Catchment'	means the wastewater catchment comprised of the <u>Malone Road, Whites Line East and Leighton Avenue Gravity sub-catchments</u> .
'Private drain'	means a drain owned by any person other than a local authority, whether or not part of that drain runs through someone else's land.
'Property owner'	means the person who, whether jointly or separately, is seized or possessed of, or entitled to, any estate or interest in land constituting a rating unit.
'Public drain'	means a drain owned by a local authority.
'Ratepayer'	means the person who is named as the ratepayer in the rating information database and the district valuation roll in respect of a rating unit.
'Upgrade'	means to repair or to replace to a satisfactory standard of watertightness, to be determined by testing in accordance with the <u>New Zealand Building Code</u> .

Section 2 Council's approach to upgrading private drains

- 2.1 The private drain upgrade process can be divided into two conceptual segments:
- Inspection; and
 - Upgrade (if inspection shows that this is necessary).
- 2.2 Council's preferred approach is to take responsibility for administering both of these aspects of the process (the issue of cost is addressed separately below).
- 2.3 The advantages of this approach are:
- Increased efficiency, as Council can effectively programme work across the Leighton Avenue Catchment; and
 - Improved quality assurance, as Council will control the contractual terms and standards that govern the upgrade work.
- 2.4 Notwithstanding Council's preferred approach, property owners have the option of independently arranging for upgrade work to be carried out by a registered drainlayer.

Costs of inspection

- 2.5 Council will bear the cost of the initial inspections carried out to determine whether a private drain needs to be upgraded.
- 2.6 Where Council is responsible for arranging for upgrade work to be carried out, the contractor appointed to carry out the work will certify that performance criteria specified in the contract documents have been achieved.
- 2.7 Where a property owner arranges for upgrade work to be undertaken, that property owner will need to demonstrate to Council that the upgrade work has met the standard in paragraph 3.5 below.

Costs of drain upgrade

- 2.8 The cost of upgrading a private drain will be borne by the property owner of the property affected.

- 2.9 Where Council arranges for upgrade work to be carried out (whether by agreement or under section 459 of the Local Government Act 1974, the cost of that work will be recovered either:
- 2.9.1 as a debt to Council (to be repaid as a one off lump sum within 3 months);
 - 2.9.2 via the rates payable for the property. (The Council will set a targeted rate which will be set at a level to repay the cost of the repair, plus administration costs and interest on the total for that particular property over a 5 year period.)

Section 3 Council's process for upgrading private drains

- 3.1 The process of achieving the upgrade of private drains in the Leighton Avenue Catchment can be divided into four distinct 'phases'. These are set out below.

Phase 1 – Inspection

- 3.2 Council will be responsible for arranging the inspection of private drains. Inspections will be carried out in accordance with section 171 of the Local Government Act 2002 and section 23 of the Health Act 1956.
- 3.3 Council will give at least 24 hours written notice to the occupier of a property and (if a different person from the occupier) the property owner before inspecting a property's drains.
- 3.4 Any Council officer or agent authorised by Council to enter private land for the purpose of carrying out an inspection will carry a written warrant under Council's seal as evidence of that fact.

Phase 2 – Assessment of results of inspection

- 3.5 Private drains must achieve a standard of watertightness performance equivalent to that of a new drain, as set out in the New Zealand Building Code. This requires water loss of no greater than 2ml / mm internal diameter / m of pipeline / hour.
- 3.6 If inspection reveals that a private drain performs satisfactorily, no upgrade work will be required.
- 3.7 If inspection reveals that the performance of a private drain is deficient, upgrade work will be required.
- 3.8 The Council reserves the right to waive the requirement for upgrade of a deficient private drain, or to accept a standard of performance lower than that required of a new drain, where it is satisfied that such a waiver or acceptance is appropriate. One of the factors that will be considered by the Council is the estimated cost of the upgrade work (including reinstatement work) relative to the benefit to be obtained.

Phase 3a – Upgrade required – Agreement reached

- 3.9 If a defect is detected a written notice will be issued to the property owner which will detail the required upgrade work, to be carried out by a registered drainlayer.
- 3.10 This notice will also serve as a notice under s459(1) of the Local Government Act 1974. View a sample notice.
- 3.11 Council will seek to reach agreement with the property owner that:
- i. The Council will arrange for the required upgrade work to be carried out, subject to conditions regarding:
 - recovery of the cost of the upgrade work from the property owner in the manner selected by the property owner, either as a debt or via the rates for the property; and
 - access to the property for Council officers and/or agents (including contractors); and
 - ii. Alternatively, the Council will seek agreement that the property owner will arrange for the upgrade work to be carried out, subject to conditions:

- That the upgrade work must be completed within 2 months of the date of the notice; and
- Acknowledging that the Council may arrange for the work to be undertaken (subject to standard terms as set out under point 'i' above) in the event that the work is not completed within the required timeframe or if the property owner otherwise defaults on the agreement; and
- Confirming the process for verification (at the property owner's cost) that the upgraded private drain meets the performance standards.

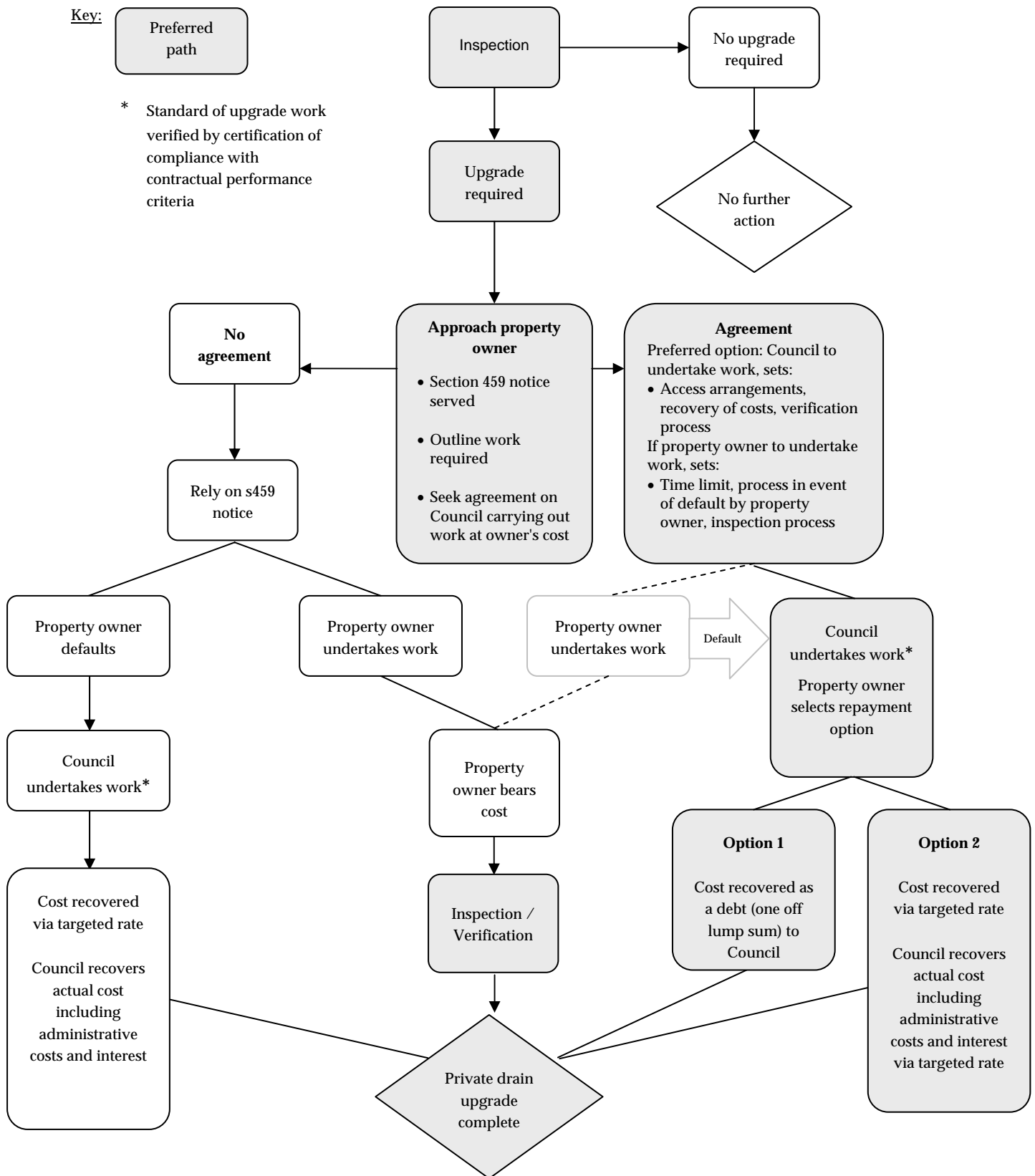
Phase 3b – Upgrade required – No agreement reached

- 3.12 It is likely that not all property owners will agree to the upgrade of their private drains, regardless of who is responsible for arranging the work. Others may fail to respond to Council's notice.
- 3.13 If no agreement is reached, or if the Council receives no response from a property owner within 2 months of an upgrade notice being issued, Council will arrange for the work to be carried out at the property owner's expense (comprising the actual cost of the work, plus administration expenses, plus interest on the total sum at a rate set by the Council).
- 3.14 Council will recover these costs (the cost of the work, administration and interest) via the rates payable for the property concerned.

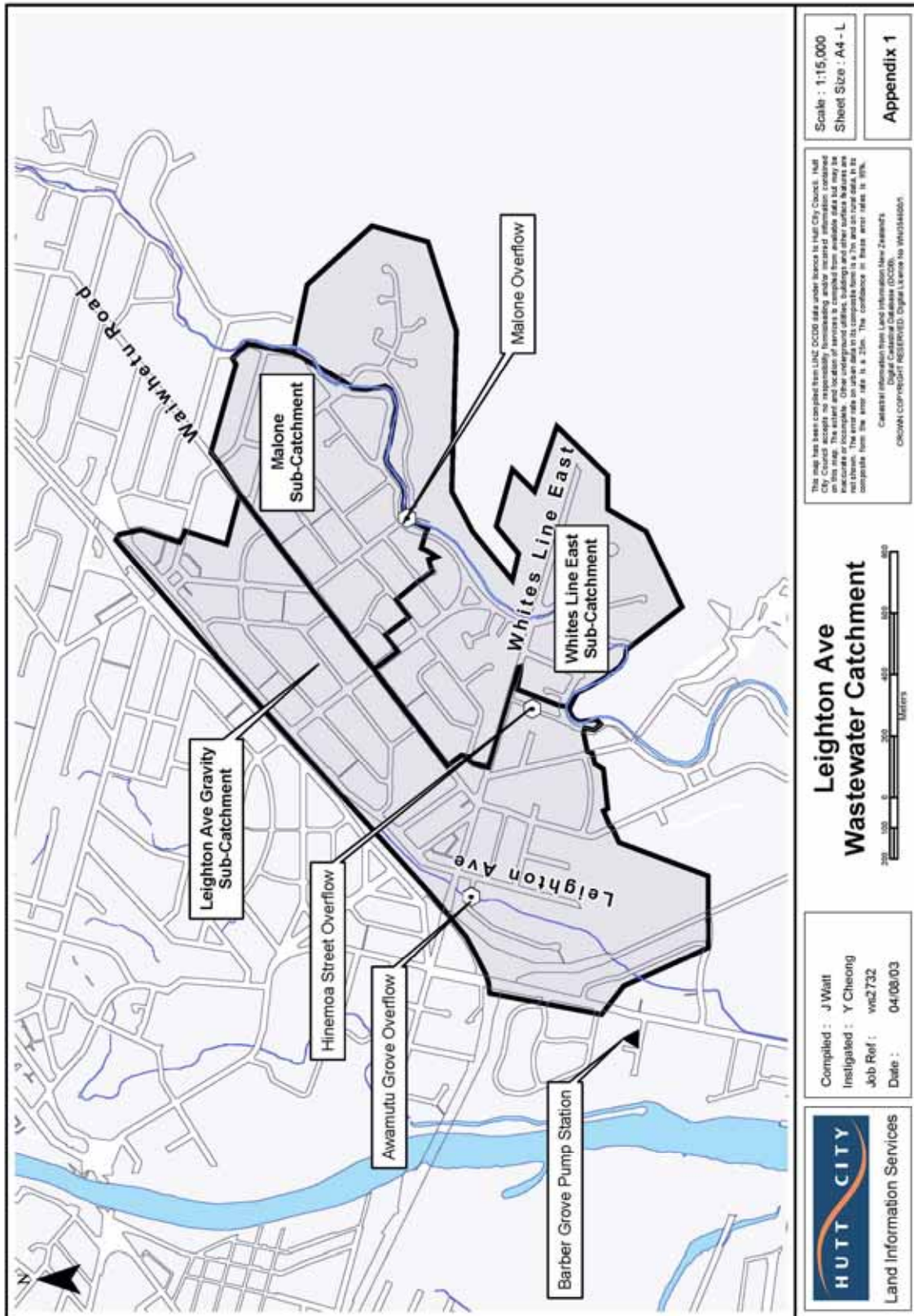
Phase 4 – Upgrade work carried out – Performance verified

- 3.15 Once upgrade work is carried out, the performance of the upgraded private drain will be verified.
- 3.16 If the private drain performs satisfactorily, no further upgrade work will be required.
- 3.17 If the performance of the private drain is still deficient, a further notice will be issued to the property owner detailing the work required to bring the private drain up to a satisfactory standard.
- 3.18 The Council reserves the right to waive the requirement for the further upgrade of a deficient private drain, where it deems such a waiver to be appropriate and at its absolute discretion.

Policy for upgrading private drains – Proposed operational structure



Appendix 1 Map of Leighton Avenue Catchment



Scale : 1:15,000
 Sheet Size : A4 - L
Appendix 1

This map has been compiled from LINZ OCOB data under licence to Hutt City Council. Hutt City Council accepts no responsibility for misreading and/or incorrect information contained on this map. The extent and location of features is compiled from available data but may be subject to change. The error rate on urban data is 1:250 and on rural data is 1:500. The confidence in these error rates is 95%.
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**Leighton Ave
 Wastewater Catchment**

0 100 200 300 400 500
 Meters

Compiled : J Watt
 Instigated : Y Cheong
 Job Ref : vnc2732
 Date : 04/08/03



Appendix 2 Statutory provisions

Local Government Act 2002, Section 171

General power of entry—

- (1) For the purpose of doing anything that the local authority is empowered to do under this Act or any other Act, a local authority may enter any land or building other than a dwellinghouse.
- (2) If a local authority exercises the power under subsection (1) to enter occupied land or occupied buildings, it must give reasonable notice of its intention to enter—
 - (a) to the occupier, which notice must be given not less than 24 hours in advance; and
 - (b) to the owner, if the occupier is not also the owner,—
 - (i) as early as reasonably practicable before entry; or
 - (ii) as soon as reasonably practicable after entry has been made.
- (3) In determining how to exercise the power of entry under subsection (2) and what notice is reasonable in the circumstances, the local authority must have regard to—
 - (a) the interests and convenience of persons who may be affected; and
 - (b) the requirements of any business utilising the land or buildings.
- (4) If a local authority exercises the power under subsection (1) to enter unoccupied land or unoccupied buildings, the local authority must notify the owner—
 - (a) not less than 24 hours in advance of the intended entry if it is reasonably practicable to do so; or
 - (b) as early as reasonably practicable, whether before or after entry has been made.
- (5) This section does not limit section 172 or section 173.

Health Act 1956, Section 23

General powers and duties of local authorities in respect of public health—

Subject to the provisions of this Act, it shall be the duty of every local authority to improve, promote, and protect public health within its district, and for that purpose every local authority is hereby empowered and directed—

- (a) To appoint all such Environmental Health Officers and other officers and servants as in its opinion are necessary for the proper discharge of its duties under this Act:
- (b) To cause inspection of its district to be regularly made for the purpose of ascertaining if any nuisances, or any conditions likely to be injurious to health or offensive, exist in the district:
- (c) If satisfied that any nuisance, or any condition likely to be injurious to health or offensive, exists in the district, to cause all proper steps to be taken to secure the abatement of the nuisance or the removal of the condition:
- (d) Subject to the direction . . . of the Director-General, to enforce within its district the provisions of all regulations under this Act for the time being in force in that district:
- (e) To make bylaws under and for the purposes of this Act or any other Act authorising the making of bylaws for the protection of [public health]:
- (f) To furnish from time to time to the Medical Officer of Health such reports as to diseases and sanitary conditions within its district as the Director-General or the Medical Officer of Health may require.

Local Government Act 1974, Section 459

Council may require owners of land in certain cases to provide private drains—

- (1) In respect of any land or building within the district, the council may, subject to sections 283 and 294(9) of this Act and to subsection (7) of this section, by notice in writing, require the owner thereof to do all or any of the following things:
 - (a) To provide, construct, and lay a private drain from any land or building which is not drained by some drain to the satisfaction of the council, and to connect that private drain with any public drain or watercourse or the sea, as the council thinks fit:
 - (b) To cleanse and repair or to relay or alter the course, direction, and outfall of any existing private drain of or belonging to the premises:
 - (c) To connect any such existing private drain with any public drain or watercourse other than the public drain or watercourse with which the private drain was previously connected:
 - (d) To provide and affix in and to any such existing private drain, and in and to any such new private drain, all such traps, methods of ventilation, and other fittings whatever as the council directs:
 - (e) To connect or disconnect any existing or new private drain with or from any water closet, urinal, bath, sink, grease trap, or other sanitary appliance:
 - (f) To execute, provide, and do generally any works, materials, and things which in the opinion of the council are necessary or expedient for the efficient drainage of the premises and every part thereof.
- (2) The council may, in the exercise of the powers conferred upon it by subsection (1) of this section, instead of requiring several owners each to provide, construct, and lay a private drain, and to connect that private drain with any public drain, or watercourse, or the sea as provided in that subsection, require those owners—
 - (a) Jointly to provide, construct, and lay a common private drain through such of the separately owned lands as the council thinks fit, and to connect that private drain with any public drain, watercourse, or the sea as aforesaid; and
 - (b) Severally to provide, construct, and lay a private drain from the land or building of which each is the owner, and to connect that private drain with the common private drain.
- (3) The powers conferred upon the council by paragraphs (b) to (f) of subsection (1) of this section may also be exercised with respect to private drains provided, constructed, and laid under subsection (2) of this section, and to similar private drains heretofore provided, constructed, and laid in the district.
- (4) Every notice under this section shall specify the works, materials, and things to be executed, provided, or done thereunder, and the public drain or watercourse with which any private drain is required to be connected, and shall limit a time within which the works, materials, and things shall be so executed, provided, and done.
- (5) The foregoing powers shall, among other things, enable the council to require any owner of premises to cause any pollutant and any water that does not contain any pollutant to be drained respectively by sewerage drains and stormwater drains to separate outfalls:

Provided that the council shall not in any such notice require any pollutant to be drained into any open drain.
- (6) If the owner fails to do any work specified in the notice and as therein directed, the council may, if it thinks fit, cause the work to be done, and may recover from him the costs and expenses of the work together with 10 percent of those costs and expenses for supervision by the officers or agents of the council, and interest at a rate per annum, as fixed by the council . . . , on the total sum until payment thereof. Where any work done by the council pursuant to this subsection is on account of several owners, the council may apportion the total amount as aforesaid between

those owners, and the amount so apportioned to each such owner shall be the amount recoverable from him.

(7)

No owner shall be required—

- (a) To construct any private drain, other than a common drain, to connect with any public drain or the sea at a point more than 30 metres from his land; or
- (b) To construct any private drain for the drainage of a building if the nearest part of the building is situated more than 60 metres from the public drain, or watercourse, or sea to which it is required to be connected.

Appendix 3 Sample Notice to Remedy Defective Private Drains

Notice to Remedy Defective Private Drains

(Notice issued under section 459 Local Government Act 1974)

To: [Property owner]
[Address]

Property this notice relates to:

[NB: This is required as in many instances the property owner will not live at the property.]

Purpose of This Notice

Hutt City Council (**the Council**) inspected the private sewer drains on your property on [.....]. The inspection showed that:

- [insert]
-
-

As the property owner you are legally responsible for upgrading the drain to the standard required by the Council.¹

Work Required

The work required for the drain to meet the standard required by the Council is as follows:

- [insert]
-
-

Estimated Cost

The estimated cost of the work required is [**\$ XXX.XX**].²

Options For Getting the Work Required Done

On [.....] the Council adopted a policy for the upgrade of private drains in the Leighton Avenue catchment. Under this policy the Council committed to an approach that will see private owners meet the cost of upgrading their drains. The policy sets out the approach that it is the Council's preferred option to take responsibility for administering the upgrade works so that:

- Private owners get the benefit of the increased efficiency and cost savings of the Council programming work across the catchment; and
- The Council will have greater control through the contractual terms and standards that govern the upgrade work and therefore improved quality assurance of the upgrade work.

¹ Private drains must achieve a standard of watertightness performance equivalent to that of a new drain, as set out in the New Zealand Building Code. This requires water loss of no greater than 2ml / mm internal diameter / m of pipeline / hour [**Note: the approved document for clause G13 of the Building Code refers to NZS 7643:1979 with regard to watertightness testing – need to check that the performance standard quoted above is correct**].

² Actual cost may vary.

More information on the Council's approach is included in the document entitled '[.....]'.

You have two options:

- 1 Agree for the Council to undertake the work at your cost within 2 months of receiving this Notice.
- 2 Arrange for the work to be done yourself within 2 months of receiving this Notice.
(If you take this option you will be required to use a registered drainlayer and produce certification that the work has been done to the standard required by the Council.)

More information on the cost of the work required and payment options is included in the document entitled '[.....]'.

Failure to Agree for Council to do the Work at Your Cost or to do the Work Yourself

If you do not agree for the Council to do the work (at your cost) or if you do not do the work required, within 2 months of receiving this Notice, the Council will exercise its rights under section 459(6) of the Local Government Act 1974 which involves:

- (a) The Council will arrange for the work to be done.

The Council will then recover the cost of doing the work, plus administration and interest charges from you via a targeted rate.

Notice issued [dd-month-yyyy] by the Hutt City Council

By

.....
[Name and title]

What You Need to do Now

You need to respond to the Council and advise as follows:

Options for Getting the Required Work Done

I agree for the Council to undertake the work at my cost.

If you have selected this option, please check one of the following payment boxes:

I am interested in payment option (a) – one off lump sum to be repaid within [??] months of the work being completed.

I am interested in payment option (b) - the total sum plus administration costs and interest to be repaid as part of the rates on my property over the next 5 years.

I want to make my own arrangements for the work to be done. I agree that I will use a registered drainlayer and that once the required work is completed I will provide certification of the same to the Council.

Please complete and sign one copy of this form and return it to the Council in the prepaid envelope provided. Keep the other copy for your records.

Name:

Date:

Signature:

What Will Happen Next

Once you complete and return this form to us, we will contact you to arrange for:

- Access to your property;
- The carrying out of the required work;
- Payment.

If You Have Any Questions

Please direct your queries to [.....] at the Council. [Contact details.]