



Greater East Tamaki
Business Association Inc.

Proposed new Stormwater Bylaw

Submission of the Greater East Tamaki Business Association Inc. (GETBA)

Introduction and Background

The Greater East Tamaki Business Association ('Association') welcomes the opportunity to make this submission to the new Auckland Council Stormwater Bylaw.

The Association is a business improvement district for the East Tamaki Industrial Area, advocating for business and property owners in the economic development of the area.

East Tamaki is a manufacturing and distribution hub of some 2,000 businesses located close to the southern motorway, airport and port in the Manukau/Howick wards of Auckland. The area generates \$3 billion to the New Zealand economy each year, \$19 million in rates, and 30,000 jobs (with projected jobs of 45,000 on completion of the Highbrook Business Park).



Map of GETBA boundaries



Stormwater Catchment (in action) (5.12.13; Neales Road; Richard Poole; MiTek)

The East Tamaki Industrial Area – Stormwater Issues

As can be seen from the Map above, the East Tamaki Industrial Area mainly comprises commercial and industrial land-uses, with associated roading. However, there are large areas of open space remaining, some urban streams and the area adjoins the Tamaki Estuary coastal environment to the north-west. Of some significance for groundwater quality is Greenmount Landfill on the eastern boundary. While we have not been able to locate any specific studies of stormwater flows in the area, it appears that the East Tamaki Industrial Area (particularly the northern portion), forms its own sub-catchment, independent of the stormwater flows from residential areas to the east and south.

Stormwater issues in the East Tamaki area are as follows:

- the commercial and industrial areas (roofing and yards) and associated roads servicing the area create large impervious surfaces that increase the quantity of stormwater that runs off as surface flows;
- most natural 'streams' (particularly in the central sub-area) have been piped or modified to convey stormwater, although a number do remain (particularly in the northwestern sub-area). The quality of water in these streams is likely to be poor;
- some flooding of buildings does occur. The East Tamaki Industrial Area is in the Pakuranga Creek and Otara/Flat Bush zones which are identified by Council as having 'Very High Flood Risk to Buildings';
- the likely main causes of stormwater contamination from business activities will be run-off from galvanized roofing (zinc) and from yards. Our view is that poor yard practices, accidental spills, and inappropriate storage of products will be very much secondary causes to roofs and yards, with illegal stormwater connections being rarer still. Substances spilled will likely include petroleum products, heavy metals and synthetic organic contaminants.¹
- highly trafficked roads throughout the area are also, in our view, another major cause of stormwater contamination (petroleum products, heavy metals and synthetic organic contaminants), particularly the major arterials and SH1;
- the Greenmount Landfill is also likely to be a source of contamination. It was the only landfill in the Auckland region where hazardous wastes were accepted. While it has a low permeability liner and a leachate collection system, despite this "there is some evidence that leachate is reaching groundwater below the site". There have been proposals to upgrade the collection system.²

Proposed Stormwater Bylaw

As is becoming typical and unwelcome in these Bylaw review processes, the consultation documentation does not analyse or explain in any detail what the differences are between the current regulatory environment and that proposed under the Bylaw. We are also being over-consulted, with three significant bylaws all being consulted on in the space of a few months.

The effort involved in trying to do this for submitters is considerable. As we have had occasion to look at three Bylaws proposed by Auckland Council recently (Trading in Public Places, Signage and Stormwater), this is a recurring pattern and raises in our minds some serious issues about whether there has been adequate compliance with the bylaw-making provisions of the Local Government Act 2002, especially the requirement about whether a bylaw is the most appropriate way of addressing the perceived problem. There is no doubt in our view that Councillors have very little idea of what is being proposed at a detailed level.

In the case of this proposed Stormwater Bylaw and the GETBA area (ie within the legacy Manukau district), the Manukau City Council had considered it appropriate to base their stormwater management strategies on the drainage/stormwater provisions of national legislation, alongside their District plan. The Manukau City Council had no Stormwater Bylaw. In addition, the Manukau City Council (as well as all other six legacy territorial councils) had their own stormwater standards and operational practices and used a variety of non-regulatory approaches, including asset management planning and community education initiatives. Moreover, the legacy Auckland Regional Council regulated stormwater through its regional Air Land and Water Plan (which is still the operational plan applied in the GETBA area).

The proposal being put forward is that the Auckland Council is intending to make the new Stormwater Bylaw 2014, but only revoke the three legacy stormwater management bylaws (i.e. the Auckland City Council Bylaw and Papakura and Rodney District Bylaws).

While that will largely leave the legacy Auckland City, Papakura and Rodney District areas with a new Bylaw, we believe it may mean for areas, such as GETBA in Manukau, that the existing national legislation, Manukau District Plan provisions (which are not being revoked by this process and will remain in place until the new Unitary Plan is finalised), as well as the Manukau stormwater standards and operational practices (which do not appear to be proposed for revocation by this process) will

¹ <http://www.aucklandcity.govt.nz/council/documents/districtplanmanukau/text/pc12amendeddr.pdf>

² <http://www.aucklandcity.govt.nz/council/documents/districtplanmanukau/text/pc12amendeddr.pdf>

remain in place. The legacy Auckland Regional Council Air, Land and Water Plan also seems to be remaining in place until revoked by the Unitary Plan?

It seems that the GETBA area in Manukau will be faced with regulation through national legislation, the existing legacy Manukau District Plan, the existing Manukau stormwater standards and operational practices, as well as the new Stormwater Bylaw 2014.

Quite simply, this is excessive.

As you will understand, a Bylaw has the status of law. It must be complied with. While the Council officers may have a view that they will not be enforcing any of the legacy provisions (such as the Manukau District Plan)(although that has not been expressed to us), Auckland Council will be aware that businesses that do not comply will remain at risk. Compliance with Bylaws is also important in terms of insurance, property and environmental management.

High-Level Submission on Stormwater Bylaw 2014

Turning to the proposed Auckland Council Stormwater Bylaw 2014, an analysis comparing the new Bylaw with the legacy Auckland City, Papakura and Rodney District Stormwater Bylaws gives a bit of a view about 'what is new' in the proposal.

Starting with the legacy bylaws:

- the Auckland City Council Stormwater Management Bylaw 2008 provides for
 - the interpretation of a number of terms (these overlap with the proposed Bylaw)
 - requirements concerning stormwater drainage works (e.g. approvals for stormwater drainage works; design for drains and flow paths; and that these must be kept clear);
 - requirements concerning development and stormwater drainage (including provisions on erosion and water quality, retention of stormwater, ground soakage, soakage systems being maintained, the operation of on-site management systems and soakage systems being able to be demonstrated),
 - maintenance (no litter or rubbish, drains to be kept clear, vegetation is to be protected)
 - fees

- the Rodney District Council Stormwater Drainage Bylaw 1998 provides for
 - the interpretation of a number of terms (that overlap with the proposed Bylaw)
 - the general protection of the public stormwater drainage network (and a prohibition on materials being allowed into the system, and any works that might damage the system);
 - prohibiting obstructions;
 - approvals being required to connect to, or disconnect from a public stormwater drainage network;
 - careful definition of the point of discharge into the network;
 - a prohibition on works that might affect the network;
 - requirements concerning site development and management (including requirements for the installation of private stormwater detention mechanisms)
 - approvals required;
 - fees;
 - the storage of hazardous materials;
 - offences and penalties;
 - other requirements (e.g. under the RMA)

- the Papakura District Council Stormwater Drainage Bylaw 1998 provides for
 - the interpretation of a number of terms (that overlap with the proposed Bylaw)
 - the general protection of the public stormwater drainage network (and requirements for approvals);
 - prohibiting works in flood plains without approval;

- approvals being obtained for development and stormwater discharges;
- requirements for the maintenance of stormwater systems and quality;
- prohibitions on works that might affect the network;
- maintenance of and access to private stormwater/wastewater systems;
- urban stormwater;
- fees;
- breaches and remedies.

Turning to the proposed Auckland Council Stormwater Bylaw 2014, it provides for

- the interpretation of a number of terms (that overlap with the legacy Bylaws)
- provision for more detailed controls and codes of practice to be made under the Bylaw;
- the relationship to other legislation such as the RMA;
- approvals being required for stormwater network development and connections;
- approval being required for works and activities in close proximity to the stormwater network;
- prohibitions on obstructions and diversions of stormwater;
- requirements concerning alterations or damage to the public stormwater network;
- alterations or damage to the natural stormwater network;
- ground soakage systems;
- prohibitions on the discharge of contaminants to the stormwater system
- on-site stormwater management controls
- the maintenance and operation of private stormwater systems
- removal of redundant systems
- storage of hazardous materials
- approval and conditions on approvals, and non-compliance
- maintenance and construction requirements
- enforcement (including removal of works/constructions) and breaches
- exceptions.

Our overall impression (without having had time to get into the detail), is that the Auckland Council Stormwater Bylaw 2014 is more comprehensive and sets out more compliance requirements than the three existing legacy bylaws, but largely covers the same set of issues.

In other words, if you had a business in any of the three legacy areas with such bylaws (ie. Auckland City, Papakura and Rodney), you would likely find that the new Auckland Council Stormwater Bylaw 2014 had a similar regulatory impact on your business that the legacy bylaw had, but you may also find there were a number of new requirements at a detailed level.

However, it is often the case that the devil is in the detail and that there are important changes proposed that can only be identified by a thorough analysis.

Conclusions

Stormwater issues and the regulation of stormwater are important matters for the Greater East Tamaki Industrial Area.

Stormwater management is already comprehensively regulated in our area through legacy national legislation, the Manukau District plan, stormwater standards and operational practices, asset management planning and community education initiatives, as well as the legacy Auckland Regional Council Air Land and Water Plan.

None of this existing regulation is planned to be revoked, but instead our area will be faced with the imposition of an additional layer of regulation through the new Stormwater Bylaw 2014.

Quite simply, this is an excessive and inappropriate level of regulation.

In our view, this additional bylaw is not the most appropriate way of addressing the perceived problem (under section 155 of the Local Government Act 2002).

We are also concerned by the paucity of consultation information provided by which we are expected to make submissions. We do not believe this complies with the requirements in section 82 of the Local Government Act 2002, where persons being consulted must be provided with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons. The consultation documentation should clearly explain in some detail what the differences are between the current regulatory environment and that proposed under the Bylaw.

Moreover, we are also being over-consulted, with three significant bylaws all being consulted on in the space of a few months.

Finally, we do not believe this additional Stormwater Bylaw 2014 should apply in our area (or the whole of the legacy Manukau City area) until the legacy Manukau District plan and Auckland Regional Council Air Land and Water Plan are revoked.

For and on behalf of the Association

Jane Tongatule

General Manager

Greater East Tamaki Business Association