

3 LEGAL RESPONSIBILITY ASSOCIATED WITH COUNCIL ASSETS

3.1 Introduction

The purpose of this section is to clearly define responsibilities and obligations of any party involved in the design, construction and maintenance of a Council-owned asset, or asset to be vested in Council. In particular it addresses:

- (a) Matters concerning training and qualifications of any operator involved in the, construction and maintenance of a Council-owned asset (section 3.2);
- (b) Liability and responsibility for the quality of a Council-owned asset (section 3.3)
- (c) Legal and physical protection of an asset in terms of its location, ownership, access and responsibility, whether it is Council-owned or located on Council-owned land (section 3.4).
- (d) Standards controlling building work in proximity to or over an underground asset (section 3.5)

3.2 Training and Qualifications

This section sets out minimum requirements for contractors in the construction of assets that will be vested in Council. Note; Where Council pays for services from outside parties, then those outside parties are required to meeting health and safety requirements and be registered with Council and included on its database.

3.2.1 Qualifications and Experience

To ensure the highest standard of quality of construction works carried out on any asset vested or to be vested in the Tasman District Council, contractors must comply with the Training / Qualification Matrix appended:

- Contractors must be suitably experienced in the field of work to be undertaken. Council will request a schedule of qualifications in support of this in advance of any work being undertaken.
- Contractors who intend to work on Council's live systems will only be permitted to do so if they are authorised by Council or have submitted the appropriate application and gained approval.

Table 3-1 below sets out works usually carried out in the construction of assets. Council officers will assess the work involved once engineering plans have been received. Council will then advise the DPA the expected qualifications that a contractor will require to complete the works.

Table 3-1: Qualifications

Work or issues involved in the construction works	Qualification and time to complete required course
Health and Safety, Civil Plant Operation, Civil Construction Works, Road Construction, Road Maintenance, Traffic Control, Pavement Surfacing, Driving Endorsements, Driving Licences, Horticulture, Pest Management, Agrichemical Application, Water Generic, Concrete Construction, Production and Technology.	Civil Construction General Skills (GS) Level 2 12-15 months
Concrete Work, Concrete Kerb and Channel - Place, finish, cure, surface dressing, vehicle crossings, prepare, construct and reinstate site. Interlocking Pavers, Culverts and Drainage - set out and maintain, install, repair road drainage, subsoil, road drainage and piped stormwater, retaining structures, roadside amenities, road safety barriers, road construction, road maintenance and traffic signage - prepare, install, maintain and service structures alongside a road or road reserve.	Civil Construction Works (CCW) - Level 3 15-18 months
Earth Works - Health and Safety, foundation and sub-grades. Road Construction - design, construct and maintenance, Road Maintenance - Maintain road surfaces and maintenance of roadside amenities. Culverts Drainage - Install pipes, culverts and drainage systems, maintenance of road drainage systems, cleaning, repairing open drainage, subsoil drainage, road drainage or piped stormwater, operating a range of civil plant and equipment.	Civil Plant Operations (CPO) - Level 3 15-18 months
Locate and identify procedures, documentation, and equipment for various jointing procedures; prepare for and perform various jointing; and complete reporting and documentation.	Electrofusion jointing of polyethylene pipe Butt welding of polyethylene pipe Electrofusion jointing
Installing infrastructure pipes, fittings and associated structures in the road and elsewhere. Includes sanitary and stormwater, pipes, ducting for potable water, trenching and depth, health and safety, confined space, slinging, lifting and placing, locate and identify. Services, level and grade, open roads, excavate, backfill and compact, prepare surface reinstatement, install associated structures and carry out testing.	Infrastructure Pipe Laying (IPC) - Level 3 15-18 months
First aid; hazardous substances requirements; driver response to spillage, leakage or loss of load; roadmarking specifications. Industry calculations; maintain quality records; locate, set out, and manage simple roadmarking sites.	Roadmarking Operator with strands (RMO) Level 3 12-15 months
Knowledge of materials, processes and specifications for complex roadmarking work.	Roadmarking Skilled Operator (RMSO) - Level 3 and Level 4

Work or issues involved in the construction works	Qualification and time to complete required course
Manage health, safety, and environmental requirements; apply sustainable environmental management practices; utilise roadmarking maps and plans for plant operation.	15-18 months
Specialise in Water or Wastewater Reticulation, trenching and trenchless pipe installation, lay PVC pipes, enter, work in and exit a confined space, knowledge of civil plant operation, health and safety. Water Service - Clean, disinfect and restore mains/reservoirs or reticulation mains, materials and fittings. Wastewater Pipe Maintenance - Unblocking, collection systems and sewer systems and materials.	Water Reticulation Service Person (WR) - Level 3 15-18 months
Supervise maintenance and operations in water reticulation, including plant, equipment and vehicles. Supply and storage of materials, as built plans, communicate with sub-contractors and public, implement permits and maintain records, locate reticulation services, health and Safety. Water - Cleaning, disinfect, pressure zones and backflow prevention, quality monitoring and prevention. Wastewater - Sewer management, wastewater composition, corrosion in sewers and odour control, flows and flow measurement.	Water Reticulation Supervisor (WR Sup) - Level 4 15-18 months
Level 2 - Handwork skills for asphalt or chipseal surfacing, bitumen safety traffic control, operate small civil plant equipment. Level 3 - class 2 licence, health and safety incl fire safety, operating larger bitumen plant on surfacing sites, licences / endorsements, optional strand in health and safety supervision. Level 4 – Health and safety including fire, burns, emergency response, knowledge of bitumen, heating, blending, mixing and transferring bituminous liquids, gangbar spraying, handbar spraying. Level 4 paving machine – Health and safety including fire, burns, emergency response, paving and compaction for asphalt.	Roading - Bitumen Surfacing Levels 2, 3 and 4 12-18 months
Health and safety including fire, burns, emergency response, hazard ID, risk prevention, working with public, contract documents (supervision) supervising staff, asphalt of chipseal speciality, optional strand in level 2 and 3 roads.	Bitumen Surfacing Foreperson (Level 4) and Supervision (Level 5) (asphalt or chipseal) 18 months
Deals with all issues relating to operating construction equipment in any place the public has access to, includes bridges, culverts, beaches, riverbeds, reserve land, wharves and road shoulders.	Drivers Required to Operate Machinery Endorsement W, T & R

Note: Some courses may not be available at the time of writing but will be during the life of this document.

Table 3-2 below sets out the qualification matrix and the expected qualifications for the work performed.

Table 3-2: Qualification Matrix

															Council Maintenance Programme						
	ACTIVITY / QUALIFICATION	Concrete Work- Note 2	Earthworks	Road Construction	Road Maintenance	Laying Pipe	Laying Water Pipe	Install Culverts	Pipe Welding	Asphalt	Chipseal	Bitumen Spraying	Road Marking	Health & Safety	Water Service person	Sewer Service person	Water Utility Manager	Sewer Utility Manager	Road Maintenance Manager		
NC Civil Works L2															X						
Electives	Culverts & Drainage							X													
	Kerb & Channel	X																			
	Concrete	X																			
	Road Maintenance				X																
	Road Construction			X																	
NC Civil Plant Operation L3																					
Electives	Culverts & Drainage							X													
	Earthworks		X																		
	Road Maintenance				X																
	Road Construction			X																	
NC Infrastructure Pipe L3																					
Strands	NC WR (Service Person) L3																				
	Water						X								X						
	Sewer															X					
NC Health & Safety L3																					
NC Road Marking L3																					
NC Pavement Surf Plant Operation L3																					
NC Paving Machine Op L3																					
NC Bitumen Spraying L4																					
NC Supervisor L4 – Civil Construction																			X		
	Civil Works		X																		X
	Road Works			X	X																X
	Water Strand																X				
	Wastewater																	X			
	Road marking												X								X
	Asphalt								X												X
	Chip seal									X											X
Pipe Welding																					
	10980								X												
	10987								X												

Notes: 1 This covers all types of concrete construction works including kerb and channel, slip forming and finishing work.

3.3 Liability

3.3.1 Information

The following sets out matters of liability and responsibility for any works involving an asset that is vested in or is to be vested in Tasman District Council ownership.

- a) The Developer is responsible for complying with all statutes, standards, regulations, bylaws, requirements and obligations. The Developer is also responsible for giving all notices, obtaining all necessary consents and providing for the protection of other property from damage resulting from the development works.
- b) Plans held by Council are the best to their knowledge. Council takes no responsibility for inaccurate information or unknown infrastructure found on site.
- c) Council will not be liable for any damages or loss whatsoever suffered from the use of information held by Council.
- d) All contractors/consultants must undertake other (such that there is a duty) field investigations that are necessary for surveyors/designers/owners etc to investigate fully/pothole to verify designs and correct positions of services etc.
- e) The consent holders, their employees, contractors and agents are responsible for physically locating the position of pipes and other utilities and infrastructure owned by the Council before commencing works.

3.3.2 Indemnity

- a) All Designers or DPA's must have current professional indemnity insurance with run-off cover of at least two years.
- b) Any contractor undertaking excavation and reinstatement works within the road reserve shall hold public liability insurance for an amount not less than two million dollars (\$2,000,000) for any claim or series of claims arising out of the same occurrence.
- c) Compliance with any instruction of Council, or any person acting on its behalf, in performing what is considered to be necessary actions in terms of these standards shall not absolve the contractor from any legal liability that he would otherwise have had in regard to claims for damage or failure of work for the client.
- d) The Council shall not be held liable for a loss of income due to construction works or loss of services while Council's contractors or agents work on programmed works.
- e) The contractor shall be held responsible for any infrastructure maintenance work required as a result of the excavation and reinstatement operations for a minimum twenty-four (24) months and a maximum of five years (for low impact stormwater designs) after notification to Council that the final surfacing material has been applied. Note: These or any other time frames may or may not be specified in the consent conditions or set out in the contract.
- f) Any such maintenance work required by Council or agreed as a condition of resource consent shall be undertaken by the contractor at the contractor's cost within seven (7) days of being notified by Council to undertake repair works.

- g) If on the grounds of safety there is a need for more immediate action, this remedial work shall be completed within forty eight (48) hours or such other time as may be directed by Council.
- h) Should this not be complied with, Council reserves the right to arrange or undertake such maintenance work which will be at the cost of the contractor.
- i) In the case of wastewater pumping stations, the Developer shall retain responsibility for addressing defects arising from poor workmanship or faulty materials during the required maintenance period.
- j) In the event that such a defect arises the Developer shall be advised and, provided that the remedial work is not classified as urgent, given the opportunity to address the defect. Where urgent work is required to maintain service or where work on a 'live' system is required it shall be carried out by Council's contractor at the Developer's cost.

3.3.3 Performance Bonds

The Developer shall provide a performance bond (for work where Council's future infrastructure is involved) for unknown construction defects in cash or from a bondsman such as a registered bank (as defined in section 2 of the Reserve Bank of New Zealand Act 1989) or insurance company or other approved company, and meet the following conditions:

- a) The bond shall apply to all subdivision or development construction works involving three or more additional lots or three new residential sites or where roads or services are to be vested in the Council.
- b) The bond for maintenance shall be for the sum of \$1,300 per lot or residential site from a minimum of \$3,900 to a maximum of \$26,000.
- c) The term of the performance bond for defects liability shall be for a minimum period of twenty four (24) months and a maximum of five (5) years from the satisfactory practical completion of the works (for contracts), or the issue of a 224 certificate as required under the RMA.
- d) The performance bond for defects shall cover maintenance attributable to defects and the remedy of all defects arising from defective workmanship or materials. This shall cover the services and roading construction works that are to be vested in the Council and other civil and structural engineering construction works to serve the subdivision or development and including electrical supply and telecommunication cable systems.
- e) The Developer/consent holder shall be liable for the remedy of all asset defects arising before the end of the period of maintenance, together with Tasman District Council costs in administering the bond. The Developer will not be liable for damage by third parties.

The performance bond for maintenance shall not be required to cover general earthworks but shall be required to cover earthworks considered to be part of the civil engineering construction.

3.3.4 Delegations

The Council has the authority to enforce the provisions of the Engineering Standards & Policies and may delegate such authority to any officer of Council or its nominated consultant.

3.3.5 Engineering Manager's Discretion

The Engineering Manager's decision on the interpretation of any aspect of the Engineering Standards and Policies is final.

On application to the Engineering Manager for an alternative design, full supporting information shall be provided. This shall include all advantages and disadvantages of the proposal.

Council's interests will concentrate on the long-term public benefits to the ratepayer and limited maintenance costs for the future, rather than a short-term benefit for private individuals or Developers.

3.4 Ownership and location of services

This section deals with the location of services, and ownership responsibilities associated with all and any part of the service on privately-owned land, or privately-owned services on Council-owned land

3.4.1 Services on Public Land

Stormwater, water supply and wastewater reticulation shall be located in accordance with the following general requirements:

- a) The preferred location of services to be vested in Council is on Council-owned land;
- b) All services shall be aligned in accordance with the requirements of each section of this document.
- c) All services shall be easily accessible for maintenance and repair works, so as to minimise disruption during excavation.
- d) Diagonal crossing of other services, including kerb lines and boundaries or fence lines, at acute angles less than 45 degrees shall be avoided wherever possible.
- e) A minimum of 200mm vertical separation distance to all other underground services is required.
- f) Must meet the specific conditions of Table 3-3.

Table 3-3: Location of services

Service	Drawing or Standard Reference	Requirements
Stormwater	<p>Stormwater infrastructure shall be located and aligned together with demarcation lines of responsibilities in accordance with TDC Drawing 700.</p> <p>Both primary and secondary stormwater systems shall be physically and legally protected.</p> <p>Direct connection of a stormwater pipe into the wastewater system is not permitted under any circumstances.</p> <p>Secondary flow paths shall be identified in all instances and located (in preference) in:</p> <ul style="list-style-type: none"> • roads/reserves • public land, or • private land (protected by suitable easements, and on a limited basis). 	<p>Design of overland flow paths through private property will not be permitted in new developments unless approved by the Engineering Manager.</p> <p>Where a flow path is approved through private property it shall be clear of building sites and protected by an easement in favour of Council or private landowner and/or a consent notice which prohibits ground reshaping and the erection of barriers or any features that may compromise the functioning of the secondary flow path system.</p> <p>Ponding and overland flow on roads is permitted in 1% AEP events, but shall allow the passage of light vehicles and large 4WD vehicles respectively.</p>
Water supply	See TDC Drawings 609 and 610.	See TDC Drawing 911 for private connections to properties and meter and lateral location requirements for water services.
Wastewater	<p>Wastewater pipework shall generally be aligned in the centre of the road carriageway.</p> <p>The extent of the Council's responsibility for public wastewater is defined on TDC Drawing 800.</p> <p>Sewer mains shall be aligned within public areas such as roads wherever possible.</p> <p>Sewers in roads shall be aligned parallel to kerb lines within the carriageway to ensure that they do not clash with other services or occupy the full carriageway width.</p> <p>Adequate clearance from other services and kerb lines shall be maintained to allow for: excavation on existing services; the future relaying of the drains; the provision</p>	<p>To be classified as a public wastewater sewer a line must have been inspected, approved, and designated as such by Council. (Council responsibility does not extend to private pumping systems and rising mains which remain the responsibility of the users they serve)</p> <p>Minimising the possibility of surface water infiltration of the wastewater system by ensuring that surface openings are not located in flood routes.</p> <p>Wastewater manholes shall not be located with the manhole cover closer than 2.0m from the channel or edge of seal (in the carriageway) or at low points in the finished ground surface, ie, secondary flow path or ponding areas.</p> <p>In curved roads, sewers shall generally follow the road alignment in straight lines between manholes on such alignment that they do not occupy the full carriageway width.</p>

Service	Drawing or Standard Reference	Requirements
	of additional future services. This responsibility terminates at the property boundary, or, in the case of public sewers on private property, at the last manhole or mini manhole provided for a service connection.	

3.4.2 Services on Private Land

The preferred location of services is on public land.

However, this cannot be achieved in all circumstances, due to the location of existing infrastructure networks, land ownership and the topography of the landscape. The following matters guide the placement of services on private land:

- (a) Where services are to be located on private land, consideration shall be given to:
 - i. Preserving access to the pipelines for maintenance purposes;
 - ii. Preserving the route for relaying services in the future; and
 - iii. Avoiding likely positions for buildings, garages, carports and retaining walls.

- (b) The preferred alignments of piped reticulation on private property shall be:
 - i. Within rights-of-way (ROWS) or driveways;
 - ii. Outside probable building envelopes;
 - iii. Clear of fence lines and kerb lines;
 - iv. Clear of large trees or heavily vegetated areas;
 - v. Adjacent to boundaries;
 - vi. Parallel to boundaries.

- (c) Where a service (not water reticulation) is located on private land access for repairs and maintenance shall be maintained, and the following conditions met:
 - An easement shall be required in favour of the Council, where as part of a subdivision or development proposal, pipes greater than or equal to 150mm diameter (wastewater) and 300mm diameter (stormwater) will be located in private property. The minimum width of easement shall be 3.0m plus the pipe diameter (ie, 1.5m either side of the pipe).
 - The standard wording required on engineering plans in the “notes” section, shall be: “Memorandum of Easement in Gross shall be provided in favour of Tasman District Council to convey stormwater and/or wastewater in a pipe and to provide unrestricted access along the line of the pipe for maintenance and renewal work and to protect secondary flow paths”.
 - Similar easements may be required over private common drains in favour of the lots served.
 - Pipelines deeper than 2.5m may require easement widths greater than 3.0m plus pipe diameter to allow for wider than normal trench widths needed to access the pipe in the future.

- (d) Where any construction work is required on another property, the owners consent shall be endorsed on the original drawing in opaque black ink (not biro) that will permit satisfactory scanning reproduction together with gaining easements over the respective land – see section 2.3.4.

3.4.3 Drainage of Right-of-Way (ROW) Driveways

The Designer shall design a stormwater control method such that the primary stormwater flows are prevented from discharging:

- a) Across the footpath (existing or proposed) where the ROW falls towards the road/street and the right of way catchment is greater than 20 m².
- b) Across private property where the ROW falls away from the road/street, or at any low point within the ROW. If the only disposal system are via soakpits then there shall be over designed by a factor of 2.

3.4.4 Licence-to-Occupy

The preference is for all service infrastructure assets to be both owned by (vested in) Council and located on public land. However, in some circumstances part of the infrastructure necessary to serve a private development may be located on public land with the approval of Council. Refer to section 2.3.14 for details.

3.4.5 Private Wastewater/Stormwater Pumping Stations

Council will not accept the individual discharge of sewage/stormwater from small private pumping stations unless prior approval has been obtained from Council and complies with the specific design criteria as follows:

- a) Properly designed wet well pumping stations with macerator pumps servicing industrial/commercial sites which employ permanent staff capable of ensuring that adequate maintenance is carried out.
- b) Adequate emergency procedures and storage shall be established which precludes the possibility of uncontrolled overflow for whatever reason, eg power failure, pump failure.
- c) Self-contained miniature pumping systems may be approved providing the pump is only to serve a secondary amenity on a lot where the primary service shall be a gravity sewerage system.
- d) Separate power supply and meter board.
- e) Any private pump station and rising main remains the responsibility of the users and shall be located entirely on private property, ie, discharge to gravity lateral at the boundary. This may require an appropriate odour control system to be installed at that point.

Where a private wastewater pumping station is located on public land, a licence-to-occupy agreement shall be obtained in accordance with Section 2.3.14.

3.4.6 Retaining Walls and Structures

- a) Retaining walls and structures required for the primary purpose of retaining/supporting the public legal road (including footpaths and berm areas) shall be positioned entirely within legal road.
- b) Retaining walls and structures required for the primary purpose of retaining/supporting private land adjacent to the road shall be positioned outside of legal road reserve and entirely within the private property that is retaining.

3.4.7 Subsoil Drain

Subsoil drains are becoming increasingly important in regional to ongoing stability of land and roads. Their monitoring and maintenance needs are required to be maintained and protected via appropriate easements and certifications. The following criteria shall be required prior to the issue of 224 certificate or practical completion certificates.

- Detail “As Built” plans of their location and conditions of use.
- Drains above 100 mm diameter size (.0078 m²) will require a specific design certificate from a specialist CP Engineer including:
 - (i) Consent notices on the titles;
 - (ii) Ownership responsibilities whether private, body corporate, Council or other entity;
 - (iii) Maintenance and monitoring regime and submission of ongoing review to Council;
 - (iv) Appropriate easements (width dictated by depth).

3.5 Structures Alongside or Over Services

3.5.1 General

Building over or alongside any common private or public drain or water main is only a Permitted Activity if it complies with the rules in the appropriate zone section of the Tasman Resource Management Plan.

The engineering requirements for building over or alongside drains or water mains are as follows:

- a) Structures
 - (i) Must be located no closer than 1.0 metre measured horizontally from the near side of any public or common private pipe or drain where the pipe or pipe equivalent (in the case of a drain) is less than or equal to 300 mm in diameter.
 - (ii) Must be located no closer than 1.5 metres measured horizontally from the near side of any public or common private pipe or drain where the pipe or pipe equivalent (in the case of a drain) is greater than 300 mm in diameter.
 - (iii) May overhang the line of the pipe or drain, provided the structure is cantilevered or is an eave and the height to the underside of the structure above ground level is not less than 1.8 m and will not be enclosed.
 - (iv) Which are located within 3 metres measured horizontally from the outside of the pipe or drain must have the base of the foundations deeper than a line drawn at 30 degrees from the horizontal from the invert (bottom) of the pipe or drain (or between 30 degrees and 45 degrees if the design has been certified by a suitably qualified engineer).

- b) Carports may be constructed over pipes or drains provided that:
- (i) The foundations are located in accordance with b) iv) above; and
 - (ii) The fixture to the ground/floor is a bolt-down type design which permits quick and easy removal of the structure; and
 - (iii) The carport is not closed in; and
 - (iv) The floor is not concreted to a depth greater than 150 mm and is not reinforced.

Table 3-4: Acceptable techniques for building over pipes or drains

Technique A Applicable in the following zones: Industrial, Suburban Commercial, Open Space and Recreation and CBD	Technique B Applicable in the following zones: Industrial, Suburban Commercial, Open Space and Recreation, CBD and Residential
Structures may be located over common private or public drains or pipes, if:	Structures may be located over common private or public drains or pipes, if:
<ul style="list-style-type: none"> • There are no changes in direction or junctions in the portion built over; and • The pipe is proven to be in good condition by internal inspection or a water test; and • The floor is constructed with lift out sections, and all foundations are designed to allow the entire drain or pipe to be readily exposed for maintenance and replacement work; and • Where the diameter of the pipe is 300 mm or less, the design and use of the structure is such that an appropriate sized excavator could readily gain access along the line of the pipe for maintenance and replacement work, or appropriate access is available for hand digging; or • Where the diameter of the pipe is greater than 300 mm, the design and use of the structure is such that a 12 tonne excavator and truck could readily gain access along the line of the pipe for maintenance and replacement work; and • Overland stormwater flow paths are maintained or redirected around the structure. 	<ul style="list-style-type: none"> • The diameter or width of the pipe is 150 mm or less; and • The length of pipe built over is no more than 6 metres; and • There are no changes in direction or junctions in the portion built over; and • The length of pipe built over is relaid using a continuous length of pipe without joints, sleeved inside a 225 mm diameter class 4 concrete pipe; and • There is practical access and the foundations are designed to allow the pipe to be readily exposed at both ends of the sleeve for maintenance and replacement work; and • There is a minimum 6 metre clear length at one end of the sleeve to allow replacement of the pipe; and • Overland stormwater flow paths are maintained or redirected around the structure.
<ul style="list-style-type: none"> • Detailed Engineering Drawings of the proposed work are required. 	