

NDCT response to flood group email 13th Oct

Email copy to John Scott and NCC

12-12-23

NDCT summarises its feedback on your questions as follows:

1. Overhanging branches and undergrowth (riverside).

Discussions took place between the Trust and SBC last year about clearing trees and vegetation from the riverside, including on Trust owned land. Have there been any further developments and does the Trust intend to carry out any work on the riverbank which is Trust property?

No trees are to be cleared on community land; trees need to be managed on the East side. It is desirable to clear loose overhanging vegetation but rooted vegetation needs to remain to mitigate further erosion. This work needs to be undertaken by volunteers when waters are at their lowest. There are no funds available to support this.

2. Communication with Community Trust.

In your email of 18/7 you state “ correspondence to the C.C, if relevant to community is published on the C.C page,” Would this apply to the Flood Group meeting minutes and, if so, what is the process for publishing on the Community Council page ?

Correspondence to the CC relevant to the community is shared at meetings and made available as part of the papers on the web page. Papers are added to relevant correspondence on <https://livenewcastleton.com/community-services/newcastleton-and-district-community-council/> prior to the CC meeting it will be discussed in. The flood minutes would appear there along with all the other papers in that month.

NDCT/CC trustees/members have worn two hats in the past it hasn't been necessary for the flood group to share paperwork beyond the CC as this has also been shared with Trustees however, going forward this will be necessary. BE is stepping back from her role on the CC, Greg resigned from the CC last year. Jim Lewis is the new chair designate.

3. “Ownership” and constitutional authority of Flood Group.

Following the inaugural meeting of the volunteer Flood Group on 15/3/21, via zoom, a group Chair, Vice Chair and Secretary were appointed. A Treasurer was not appointed at that time as there were no financial considerations. It was agreed that members of the Comm. Council and Comm. Trust would attend future meetings. It was also agreed that “ the group would develop and work with others to create solutions to the challenge but all outcomes must be shared with the community to seek endorsement of any proposals”. To achieve this the Flood Group determined that they were established under the auspices of the Comm. Council, and that their deliberations would be communicated to both the Comm. Council and Comm. Trust. Additionally the Flood Group would respond to issues raised by said Council and Trust. In discussions at the Flood Group meeting of 9/10 members were concerned about the ownership and liability issues raised by the Trust regarding the floodgate proposal. As the Community Trust own land and assets and the floodgate (if approved) is on Trust land is there any legal or constitutional reason why it cannot own the asset of the floodgate and its installation?

There is no legal reason why the Trust cannot own the floodgate and its installation, however, ownership implies responsibility and this has always been the concern of trustees. The Trust will not take on any ownership/liability given the potential risk in the event of a claim for damages due to flooding. SBC have also stated that whilst they won't stop any barrier, they will not accept any responsibility or liability for it. It isn't insurable.

Members of the Flood Group remain enthusiastic in their desire to assist the community in reducing the future risk of flooding in Newcastleton. Thanks, John (on behalf of the Flood Group)

NDCT Trustees hope this clarifies the current position. If there are any changes in approach to the flood risk challenges the community faces, please keep us informed.