

Insurance Case Study - Floodwater vs. Stormwater

The solicitor noted that his submission was more concise than others that had previously been unsuccessful. Rather than attempting to recreate the insurer's decision on what they should have/not concluded, he focused on highlighting the specific areas where the insurer had made misjudgments and errors.

Background:

- John's house sustained damage during the 2022 flood event.
- John's insurance claim was rejected on the basis the damage was caused by floodwater rather than stormwater.
- The previous owner had complained to the local council about water runoff and sewer issues occurring at the property, but the council failed to action the complaints.
- The property had never experienced flooding before the 2022 flood event.

Expert Assessments:

- Photos taken by an assessor three days after the incident showed reasonably clear water, consistent with stormwater. There was a distinct absence of mud to indicate floodwater.
- A hydrologist's report from an onsite visit concluded that water levels during the flood event were approximately 10cm, consistent with stormwater.
- A second hydrologist, relying on a desktop analysis in Sydney, concluded that the water ingress was attributable to floodwater.
- Despite the available evidence, the insurer relied on the second hydrologist report and denied the claim.

Solicitors Submissions:

NRCLC assisted the client to make submissions to the Australian Financial Complaints Authority (**AFCA**) that:

- The water behaviour was typical of stormwater issues evidenced in the Lismore Urban Stormwater Management Plan.
- The Browns Creek stormwater catchment had well documented stormwater issues.
- The insurers depth and time for maximum concentration of water runoff was flawed and affected by many variables.

AFCA:

- AFCA found in favour of the client.

Cash Settlement Offer:

- The insurer subsequently settled the claim for \$230,000.00.