



Drainage Bylaw 2019

Effective 1 September 2019



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Property of the Hauraki District Council	

1.0 Introduction

1.1 Purpose

The purpose of the Hauraki District Council Drainage Bylaw is to put controls in place to ensure land and urban drainage is effective. The bylaw enables the Council to:

- protect and maintain the Council's stopbanks, pumps and floodgates,
- protect and maintain Council drains in rural and urban areas,
- ensure drainage over private property is effective in both the rural and urban areas of the District.

1.2 Title

This bylaw is the Hauraki District Council Drainage Bylaw 2019.

1.3 Enabling enactments

This bylaw is made in accordance with section 517 of the Local Government Act 1974 and section 146 of the Local Government Act 2002.

1.4 Commencement

This bylaw comes into force on 1 September 2019.

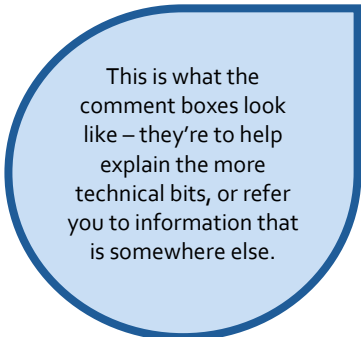
This bylaw revokes Part 7 (Land Drainage) of the Hauraki District Council Consolidated Bylaw 2007.

1.5 Review

The review of this bylaw will be undertaken no later than 10 years after the last review.

1.6 Related information

There is related information in comment boxes in this bylaw. Related information does not form part of this bylaw and may be inserted, changed or removed without any formality.



This is what the comment boxes look like – they're to help explain the more technical bits, or refer you to information that is somewhere else.

2.0 Definitions

For the purposes of this bylaw the following definitions apply.

Authorised officer	means any person delegated, appointed or authorised in writing by the Council to act on its behalf.
Catchment	means an area of land from which surface and sub-surface water flows into streams, drains, rivers and wetlands.
Council	means the Hauraki District Council or any person delegated or authorised to act on its behalf.
Council drain	means every drainage channel (on or under the ground) or watercourse (such as a river or stream) vested in or under the management of the Council or constructed by the Council as a drainage channel.
Construct	means to build, and includes alter, reconstruct or extend.
Crossing	means any means by which any vehicle, livestock, or person may go over, through, or under any drainage channel or water course or defence against water and includes a bridge, culvert or ford.
Defence against water	includes any dam, weir, bank, carriageway, groyne, or reservoir, and any structure or appliance of whatsoever kind which has or may have the effect of stopping, diverting, controlling, restricting, or otherwise regulating the flow or spread or subsidence, in or out of a watercourse, of water including flood waters. Note: A defence against water includes stopbanks, flood gates and flood pumps, but does not include a drain.
District	means the Hauraki District.
Drainage channel or channel	in summary means every passage or channel on or under the ground through which water flows, continuously or otherwise and is under the control of the Council, or is constructed by the Council as a drainage channel. Note: This includes drains used for stormwater in urban areas.
Earthworks	means any activity that exposes, disturbs, places or deposits soil other than routine cultivation of soil up to a depth of 300 millimetres in preparation for sowing grass or crops.
Excavation	means the removal of soil other than boring or digging of holes up to 1.5 metres in depth for immediate placement of posts or piles, or driving posts or piles or the drilling of boreholes for subsoil or groundwater investigations.
Gateway	means an opening that may be closed by a gate.
Permit	means the written authority issued by the Council granting approval to operate or act in terms of this Bylaw.

Private drain	includes every passage, watercourse, or channel on or underground through which water flows continuously or otherwise, except a navigable river, constructed by or vested in an owner and not being a drain vested in or under the management of the Hauraki District Council or Waikato Regional Council.
	Note: A private drain could be a stormwater drain on an urban property or a drain on a rural property.
Stopbank	means an embankment bordering one or both sides of a drainage channel, watercourse, or the Firth of Thames to contain flows of water.
Structure	means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.
Watercourse	includes every river, stream, passage, and channel on or under the ground, whether natural or not, through which water flows, whether continuously or intermittently.
Watershed	is the boundary of a catchment or sub-catchment, and may include: <ul style="list-style-type: none"> a) any earthen dam; or b) any artificial control structure generally constructed of concrete or timber; or c) any floodgate; or d) any manually operated sluice gate; constructed with the approval of the Council to divert the flow of water.

This bylaw does not apply to Waikato Regional Council assets. The Waikato Regional Plan contains policies and implementation methods for the management of its drainage and flood protection schemes.

3.0 Defences Against Water

3.1

Except with the prior written permission of the Council a person must not, in respect of any land, structure or infrastructure vested in or under the management of the Council:

A defence against water includes stopbanks, floodgates and pumps in our District. They are used for flood protection.

- a) Widen, raise, lower, reduce in width, or otherwise alter any defence against water.
- b) Damage, interfere with, or allow damage to occur to any defence against water.
- c) Allow stock access to any defence against water.
- d) Plant or allow to grow any shrub, hedge, tree or part thereof:
 - i) On any defence against water,
 - ii) Within 15 metres of the landward side of any defence against water, or
 - iii) Between the bank of any drainage channel or water course and any defence against water.
- e) Dump or deposit any thing:
 - i) On any defence against water, or
 - ii) Within 15 metres of the landward side of any defence against water, or
 - iii) Between the bank of any drainage channel or watercourse and any defence against water.
- f) Remove or interfere with any plant, equipment or machinery used or associated with any defence against water.
- g) Construct any structure:
 - i) On any defence against water,
 - ii) Within 12 metres of the landward side of any defence against water, or
 - iii) Between the bank of any drainage channel or watercourse and any defence against water.
- h) Carry out any excavation in, on or between the banks of any drainage channel or watercourse and any defence against water.
- i) Carry out any excavation, within 15 metres of any defence against water.

Our District Plan does not allow structures within 12m of stopbanks & floodways in our land drainage areas or adjacent to the Firth of Thames. See our [District Plan maps](#) for floodways.

- j) Excavate a drain or undertake earthworks in or on a stopbank or within 15 metres of the landward toe of a stopbank.
- k) Construct any crossing in, over, through, along or under any defence against water.
- l) Remove, damage or allow stock to damage any vegetation that has been planted adjacent to a drainage channel or water course by the Council or its predecessors.
- m) Adjust or interfere with any floodgate, pump station or pump station equipment.
- n) Remove, damage, or allow stock to damage any fence that has been erected by Council, or its predecessors, for the protection of vegetation on a riverbank.

3.2

Except with the prior written permission of the Council a person must not erect or permit to be erected any defence against water.

4.0 Drains

4.1 Private drains

The Council may provide notice¹ under section 459 of the Local Government Act 1974 that requires the owner or occupier of any land within the district to:

Opening a manhole without our permission is not allowed. You can read more in our Nuisance Bylaw 2019.

- a) provide, construct, and lay a private drain from any land which is not drained by some drain to the satisfaction of the Council, and to connect that private drain with any drainage channel or watercourse as the Council thinks fit;
- b) cleanse, repair, relay, or alter the course, direction, and outfall of any existing private drain in the land;
- c) connect any existing private drain with any drainage channel or watercourse other than the drainage channel or watercourse with which the private drain was previously connected;
- d) provide and affix all traps, methods of ventilation, and other fittings to any private drain as the Council directs;

¹ Every notice under this section of the LGA 1974 is to specify the works, materials, and things to be executed, provided, or done and the drainage channel or watercourse with which any private drain is required to be connected, and will limit a time within which the works, materials, and things shall be executed, provided, and done. If the owner fails to do any work specified in the notice 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 payment until paid.

- e) 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) do any works or provide materials which in the opinion of the Council are necessary or expedient for the efficient drainage of the land.

4.2 Restricted activities in council drains

Except with the prior written permission of the Council, a person must not in respect of any Council drain:

- a) Widen, deepen or otherwise alter any drainage channel or watercourse;
- b) Remove or interfere with any infrastructure or equipment relating to any drainage channel or watercourse;
- c) Allow any shrub, hedge, tree or part thereof to grow on or in a drainage channel or watercourse that may impede the flow of water in that drainage channel or watercourse or interfere with access along the drainage channel or watercourse for maintenance or inspection purposes;
- d) Plant or allow to grow any shrub, hedge, tree or part thereof within 15 metres of a drainage channel or watercourse (measured from the lip of the drainage channel or watercourse) that may impede the flow of water in that drainage channel or watercourse or interfere with access along the drainage channel or watercourse for maintenance or inspection purposes;
- e) Remove, damage or allow stock to damage any vegetation that has been planted adjacent to a drainage channel or watercourse, or any fence that has been erected to protect that vegetation by Council or its predecessors;
- f) Construct a bridge, culvert or crossing in or over any drainage channel or watercourse;

Remember a council drain includes a drainage channel (on or under the ground) or watercourse, which can be a river, stream, or passage, and channel under our control.

We encourage planting and maintenance of grasses to reduce erosion and sedimentation. If you want to plant something else within 15m of our drains, let us know and we'll assess the site and let you know what plants we can approve (if any).

You can plant crops closer than 15 metres to our drains, however we ask you still keep 5 metres clear so we can use our machinery without crushing your crops.

- g) Construct any structure within 15 metres of a drainage channel or watercourse;
- h) Construct, or form through repeated use, a road or race for the passage of vehicles or stock on a stop bank or within 15 metres of a drainage channel or watercourse;
- i) Damage, interfere with, or allow damage to occur to any drainage channel or watercourse;
- j) Allow stock access to any drainage channel or watercourse;
- k) Connect any private drain, pipe, channel or other conduit to any drainage channel or watercourse or private drain connected with a drainage channel or watercourse in breach of section 467 of the Local Government Act 1974;
- l) Deposit or allow to be deposited in a drainage channel or watercourse any material that is likely to obstruct the free flow of water;
- m) Deposit or allow to be deposited any material between a property boundary and a drainage channel or watercourse;
- n) Permit any dead stock or any part thereof to be or remain in any drainage channel or watercourse;
- o) Undertake any works that will interfere with the access of authorised officers to any drainage channel or watercourses.

The Waikato Regional Plan has rules that apply to artificial watercourses (like farm drains) in our drainage districts. You may need a resource consent if you want to undertake an activity within 15m of a land drain.

Keep Hauraki beautiful! We can fine up to \$400 for littering in a public place. Dumping grass clippings on property that is not yours is littering! For more information, see the Litter Infringement Policy on our website.

5.0 Crossings

5.1

Every owner and every occupier of land on which any crossing is situated must keep that crossing maintained to such a standard as will allow the safe passage over the crossing by authorised officers and contractors engaged by the Council and their plant machinery and vehicles; and must ensure that the area of the drainage channel or

An owner or occupier cannot deny access to land where it is necessary for drainage maintenance and has been notified.

watercourse where the crossing is located is maintained clear of any obstruction to the flow of water.

5.2

Except with the prior written permission of the Council, an owner or occupier of land on which a crossing is situated must not remove a crossing that enables maintenance on any drainage channel, watercourse or defence against water.

It's the land owner's responsibility to ensure the health and safety of visitors. If there are any hazards or unsafe crossings on a private property we're entering to work on drains, we need to know about it.

6.0 Fencing of drainage channels and defences against water

6.1

Every owner and occupier of land must at their own costs erect and maintain fencing to prevent stock entering any drainage channel, watercourse or defence against water vested in or under the management of the Council. The fencing must comply with the Council's guidelines on fencing adjacent to any drainage channel, watercourse or defence against water.

In drainage districts the Waikato Regional Plan requires fences next to watercourses to be no higher than 750 mm otherwise you will need a resource consent.

6.2

All fences that are constructed that would otherwise deny access along the drainage channel or watercourse margins for authorised officers must have a 4 metre wide (minimum) gateway to provide access for maintenance and inspection purposes.

7.0 Obstruction of drainage channel or watercourse

7.1

Except with the prior written permission of the Council, no person may stop, obstruct or interfere with or divert the flow of water in any drainage channel or watercourse vested in or under the management of the Council.

If permission is given by the Council to divert water an alternative and equal watercourse must be provided in accordance with the Land Drainage Act.

7.2

Every owner and every occupier of land on which any drainage channel or watercourse is situated is to remove any shrub, hedge, tree or part thereof that obstructs, or would be likely by falling or otherwise to obstruct, the free flow of water in that drainage channel or watercourse or maintenance to be carried out on that drainage channel or watercourse.

7.3

The Council may in accordance with section 468 of the Local Government Act 1974 require the owner or occupier of any land in the district by written notice to cut down or remove any tree, plant, weed or growth, the roots of which in the opinion of the Council enter or are likely to enter any drainage channel or watercourse.²

8.0 Drains through watersheds

Except with the prior written authority of the Council, no owner or occupier of land is to construct or maintain any private drain or system of private drains if such drain or system of drains passes through any raised level of land or watershed.

A watershed is the boundary of a catchment or sub-catchment - you cannot create a drain that crosses a land drainage catchment boundary without our permission.

9.0 Abstraction or addition of water

9.1

Except with the prior written permission of the Council no person may release any water into any drainage channel or watercourse vested in or under the management of the Council or into a private drain that is connected with such a drainage channel or watercourse other than by natural flow.

² The LGA 1974 provides that if the occupier or owner fails to do any such act in compliance within one month he or she commits an offence and is liable to a fine not exceeding \$5 for every day during which the failure has continued, and the Council may enter on the land and do that act and recover the cost from him. The cost will be a charge upon the land. The Council may remove or cut down any tree after the giving of oral notice by an authorised officer to the occupier or owner if life, property, or any road is in imminent danger. The cost of the work will be a charge against the land. The term cut down means cutting down or removing or controlling by chemical means the stem and roots of any tree.

9.2

Except with the prior written permission of the Council no person is to abstract any water from any drainage channel or watercourse vested in or under the management of the Council or from a private drain that is connected with such a drainage channel or watercourse.

10.0 Land entry

10.1 Inspection and maintenance works

Under sections 171 and 181(4) of the Local Government Act 2002 the Council has full powers, rights and authorities, upon giving notification of intent to the owner or occupier of any land not less than 24 hours prior, to enter upon that land for the purposes of inspection and carrying out mechanical cleaning, weed spraying and desilting of any drainage channel or watercourses and carrying out minor earthworks and repairs on any drainage channel or watercourses or structures that are vested in or under the management of the Council.

We don't need permission to inspect, clean or spray drainage channels on private land, but we will give at least 24 hours' notice.

11.0 Request to maintain Council drains without herbicide

11.1

Owners and occupiers of land with a Council drain adjacent to or through their properties may request that the Council maintains that drain or watercourse to a specified standard without the use of herbicide. The Council will do so on the payment of the fees required.

11.2

Owners or occupiers of land with a Council drain adjacent to or through their properties who wish to avoid the use of herbicide may, with the prior written permission of the Council, be authorised to maintain, or engage a contractor to maintain that Council drain, subject to the following:

- a) Signs are to be erected by the permit holder to clearly mark the areas where chemicals are not to be used.
- b) The work is to be carried out to a standard and within the time specified by the Council.

You can request to have the drain or watercourse placed on the 'no spray register', which means herbicides will not be used for maintenance. There'll be an additional cost as we'll need to use machinery for the clearing of drains.

- c) If the works are not carried out to the specified standard or time, the Council may give notice of its intention to maintain the drainage channel or watercourse in accordance with section 468 of the Local Government Act 1974, and following a period of ten days, may carry out the required maintenance using any method it deems efficient, including the use of herbicides.

12.0 Permits/consent

12.1

An application to the Council for permission must be made in writing.

12.2

When considering any application for permission the Council must have regard to good environmental practice.

13.0 Fees

13.1

Any relevant licence, permit, consent or approval fees are documented in the Council's Schedule of Fees and Charges.

13.2

Where the Council has been requested to maintain a drain or watercourse to a specified standard without the use of herbicide the Council requires the payment of the difference between the costs of maintaining the drain in the normal manner with herbicide and mechanical maintenance.

14.0 Notice to remedy

14.1

The Council may require any person who breaches or fails to comply with the conditions of a permit or provisions of this bylaw to remedy the breach or comply by giving such person a notice in writing which:

- a) Sets out the conditions or matters of the permit or provisions of this bylaw the person has breached or has failed to comply with, and

- b) If the breach or failure is capable of remedy gives the person a reasonable time within which to remedy it, and
- c) If the breach or failure relates to the conditions of a permit warns the permit holder that the Council may revoke the permit if the holder does not either:
 - i) Remedy the breach or failure within the time specified or within such further time as the Council may allow on application to be made within such time as specified in the notice or
 - ii) Make, within a time to be specified in the notice, a written submission to the Council setting out reasons why the permit should not be revoked.

14.2

The Council will not revoke any permit without providing the holder notice in writing.

15.0 Enforcement

15.1

The Council may use its powers under the Local Government Act 2002 and the Local Government Act 1974 to enforce this bylaw.

15.2

The Council may pull down, remove or alter or cause to be pulled down, removed or altered any work, material or thing erected or being in breach of this bylaw and recover costs of the removal or alteration from the person who committed the breach.

16.0 Offences and penalties

Every person who fails to comply with this bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Local Government Act 1974 and Local Government Act 2002.

17.0 Dispensations

The Council may at its discretion waive any of the requirements of this bylaw except any prescribed by statute if it believes good reason to do so exists.

Drainage Bylaw validation

This bylaw was adopted at a meeting of the Hauraki District Council on 28 August 2019, following public consultation.

The Common Seal of the Hauraki District Council was affixed in the presence of:

_____ Mr. John Tregidga, Mayor

_____ Mr. Peter Thom, Acting Chief Executive



For more information:

- **W** www.hauraki-dc.govt.nz
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