



**LAND DRAINAGE
BYLAW**

2019

1. Title

This Bylaw is the Land Drainage Bylaw 2019

2. Commencement

This Bylaw comes into force on the 7^d day of October 2019.

3. Application

This Bylaw applies to land drainage areas identified in schedules to this Bylaw the Far North District.

4. Purpose

- 4.1 The purpose of this Bylaw is to regulate land drainage assets within land drainage areas identified in schedules to this Bylaw.
- 4.2 This Bylaw is made by the Far North District Council pursuant to section 145 and section 146(b)(iv) of the Local Government Act 2002, Part 29 of the Local Government Act 1974, the Land Drainage Act 1908, and every other enabling power and authority.
- 4.3 Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

5. Interpretation

- 5.1 In this Bylaw, unless the context otherwise requires -

Authorised Person means any person authorised in writing by the Council to act on its behalf.

Council means the Far North District Council. Note that this bylaw does not remove the need for any necessary resource consents (under the Resource Management Act 1991) from the Northland Regional Council.

Drain means that part of a Drainage Channel from the invert to the top of the bank on either side of the invert but does not include the land abutting the top of the banks of the drain.

Drainage Assets refers to land drainage works including drainage channels, stopbanks, flood storage areas, floodgates, overflow channels, channel throttling, and scour protection or riparian planting to throttle flows along waterways, which works are vested in the Council or acquired or constructed or operated under the control of the Council, as described in the attached Schedules and shown on the maps attached to this Bylaw and such other areas as may be included pursuant to the provisions of the Local Government Act 1974, Local Government Act 2002 and Land Drainage Act 1908.

Drainage Channel means every drain, passage or channel on or under the ground through which water flows, continuously or otherwise, and which -

- a) Immediately before the commencement of the Bylaw was a drainage channel under the control of the Council; or
- b) Is constructed by the Council as a drainage channel after the commencement of this Bylaw; or
- c) Is vested in the Council as a drainage channel; -

And includes the land occupied by the drain itself plus all that land abutting each side of the drain to a distance of 3.5 metres from the top of the banks of the drain, but does not include a water race.

Landowner means the owner of any property, or as applied to any land, building, or premises means any person for the time being entitled to receive the rack rent of such land, building, or premises, and where the content so requires or admits the expression shall include the habitant occupier of any such land, building or premises, and where such owner is absent from New Zealand the expression shall include his attorney or agent or any other person acting for him or on his behalf.

Obstruction includes earth, stone, timber and material of all kinds and trees, plants, rubbish, weeds and growths of all kinds.

Person includes a corporation sole, a body corporate, and an unincorporated body.

Private drain means any drain constructed by or vested in a private owner and not managed by Council.

5.2 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.

5.3 The Interpretation Act 1999 applies to this Bylaw.

6. Access to and Along Drains

6.1 Without the prior approval of Council and then only subject to such conditions as Council shall impose, no owner of any land on the banks of any drainage channel shall plant or permit to grow any tree, shrub or hedge, or erect or maintain any fence, building, bridge or other construction or make any excavation in such a position as to interfere with or obstruct the free access of Council's workmen or agents, plant or machinery along such drain or to any part thereof, for a distance of 10 metres from the edge of the drain, or such other distance as Council may specify in respect to any drain or part thereof.

6.2 No person shall construct or maintain any road or accessway for the passage of stock, machines or other vehicles along the bank of any drain under the control of Council, within 3.5 metres of the edge of the drain, without having first obtained the prior written approval of Council, which may impose any conditions it thinks fit if such consent is granted.

7. Private Drain Connection

7.1 No landowner shall connect a private drain with a drainage channel or enlarge a connected private drain or branches thereof, or add new branch drains thereto without obtaining the prior written approval of Council.

7.2 Any owner applying for such approval shall submit to Council such plans and specifications as may be required by Council showing the exact location of the private drain and branches (if any) giving details of the length, size and construction and indicating the approximate area to be drained.

7.3 Council may impose such conditions as it thinks fit upon the connection or continuance of the connection of private drains including the payment of a fee to cover the cost of inspection and report to Council relating to any such drain.

8. Obstruction to Flow

8.1 No person shall stop, obstruct, increase or interfere with or divert the flow of water in any drainage channel, without the prior written approval of Council.

- 8.2 No owner of the land on either side of any drainage channel shall allow, permit, or suffer to grow therein or on the banks thereof any plant growth that may be likely to impede the flow of any water in any drainage channel.
- 8.3 No owner of the land on either side of any drainage channel shall throw into the drain, or cause, permit or suffer to be thrown or to fall therein any material that may be likely to impede the flow of water in any drainage channel.
- 8.4 No person shall deposit any debris or rubbish, in or on land in the drainage channel on which, if no such impediment was created, flood water might encroach and cause a nuisance.
- 8.5 No person shall stop or obstruct any drainage channel or erect any barrier (other than required by law), buildings, structures or alter level or grades of landscapes (e.g. filling), or defence against water in or near any drainage channel; (e.g. fencing not to cause a barrier).
- 8.6 No person shall allow any private channel or watercourse to become blocked in a way which may endanger or become a hazard or impede the water flow of any drainage channel or watercourse under the control of Council.
- 8.7 No person shall allow animals, or machines or other vehicles to damage drainage assets. Grazing cattle are to be kept a minimum distance of 2 metres from any drain.
- 8.8 Any damage so caused by animals or machines shall be reported immediately to Council and any costs associated with repairing such assets shall be the responsibility of the landowner concerned.
- 8.9 Any permitted development affecting or likely to affect any drainage channel shall be designed and carried out so as to safely accommodate a 100 year storm flow, and without causing more than minor damage.

9. Removal of Obstructions

- 9.1 The Council may require the removal of any growth or other obstruction that is, or is likely to obstruct the free flow of any water in any watercourse - and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

10. Alterations to Drainage Channel

- 10.1 No person shall widen or deepen a drainage channel, or stop or obstruct the same or alter the course thereof or in any way interfere with any drainage channel or associated works or structures without the prior written approval of Council.

11. Pollution and Nuisances

- 11.1 No person shall discharge or cause, permit or suffer to be discharged onto a drainage channel or private drain connected therewith, any liquid, gaseous or solid matter which shall be likely to be a nuisance or injurious to health or to the proper care of the drainage channel.
- 11.2 No owner or occupier of the land on either side of a drainage channel or private drain connected therewith, shall permit or suffer any dead stock or animals or any part thereof, to be or remain in any drainage channel or private drain connected therewith.

12. Stopbanks

- 12.1 No person shall erect or cause or permit to be erected any stopbank, on or along any drainage channel, without the prior written approval of Council and in accordance with such terms and

conditions as Council may impose.

12.2 Every owner upon whose land a stopbank adjoining a drainage channel is located, whether for the protection of the land or not, shall not remove it or suffer or permit it to be removed, lowered or breached without the prior written approval of Council.

13. Crossings

13.1 No person shall cross or pass over a drainage channel with any vehicle, or drive any stock or convey any implement or machinery or goods or materials thereover except at crossings appointed by Council.

13.2 No person shall construct any culvert, bridge or crossing in upon or over any drainage channel without the prior approval of Council.

13.3 Council may require the owner or owners of properties on which there is a drainage channel, to construct, maintain or renew crossings at places and in such manner approved by Council and in default thereof Council may do the work required and recover the cost thereof from such owner or owners.

14. Watering Places

14.1 No owner shall construct in any drainage channel a watering place for stock or maintain or use the same without the prior approval of Council which may impose such conditions for mode of construction and for fencing and otherwise as it decides and such consent may be suspended or revoked at any time.

14.2 The owner or owners of land adjoining watering places shall use and maintain the same so that no damage to the drainage channel can result from their use. In the event of damage Council may call upon the owner or owners responsible to repair the same and in default thereof may do the work and recover the cost thereof from such owner or owners.

15. Damage, Maintenance and Repair

15.1 No person shall injure, destroy, cause damage to or interfere with any dam, reservoir, stopbank, headworks, building or any installation connected with drainage assets, or allow, permit or suffer any stock to damage or destroy the same.

15.2 Where any drainage channel is damaged by stock, or otherwise, Council may require the owner responsible for such damage to repair such drainage channel to the satisfaction of Council and on default thereof may have the necessary repairs executed and recover the costs thereof from the said owner.

16. Inspection

16.1 Council, members, officers, workmen or agents shall have the power, right, and authority to inspect any installation set up for the withdrawal or diversion of water from any drainage channel, whether authorised or not and the Council may direct any alteration or improvement to or replacement of such installation or request its removal or demolition at any time.

17. Obstruction to Officers

17.1 No person, whether on private land or not, shall obstruct any member, appointee, employee or agent of Council, with or without drain cleaning machinery or plant, in the performance of anything which such member, appointee, employee or agent is or may be required to do in the discharge of their duties.

18. Penalty

18.1 Any person who commits a breach of this Bylaw shall be liable to a fine not exceeding \$20,000 and in addition to any penalty imposed for breach of this Bylaw, Council may sue any person for the amount of damage done by them to the drainage assets and for any penalty fine or fee which is prescribed by any statutory enactment whatsoever.

19. Other Requirements

19.1 The provisions of this Bylaw do not remove the need for any resource or other consents required under the Resource Management Act 1991, Building Act 2004. Where consents are required under this chapter of this Bylaw and other acts or regulations, all shall be lodged with the Council at the same time.

20. Additional information to Land Drainage Bylaw 2019

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

Section 1: History of the bylaw

Action	Description	Date of decision	Commencement
Expire	The Land Drainage Bylaw 2009 automatically revoked in October 2016.	16 October 2016	1 December 2009
Make	Land Drainage Bylaw 2019	3 October 2019	3 October 2019

Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
Adoption of Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation	Statement of Proposal	27 June 2019
Submissions	Public submissions on the Statement of Proposal	Submissions	8 July 2019 – 9 August 2019; Hearing on August 22, 2019
Deliberations	Deliberations on submission issues raised		3 October 2019
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Document	Description	Location	Date
<i>Legislation</i>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw. Particularly sections 147A and 147B relating to the making of alcohol control bylaws.	www.legislation.govt.nz	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz	NA

