

# Kaipara District Council

# Consolidated General Bylaw 2020

Made by Kaipara District Council by Resolution in Council: 28 October 2020

Commencement: 1 December 2020



Kaipara te Orangahui

**KAIPARA  
DISTRICT**

Two Oceans Two Harbours

This Bylaw is made pursuant to the Local Government Act 2002 and the Land Transport Act 1998.

## Consolidated General Bylaw 2020

# Part 11 – Land Drainage

### Contents

1. Purpose	2
2. Interpretation	2
3. Private Drains	2
4. Access to Council drains	3
5. Obstruction to flow	3
6. Use as waterway	4
7. Drains through watersheds	4
8. Artesian overflow	4
9. Artificial obstruction or addition of water causing damage	4
10. Alteration to public drain	4
11. Pollution	5
12. Maintenance and repair	5
13. Obstruction of officers	5
14. Damage	5
15. Repairing damage	5
16. Defence against waters	6
17. Crossings	6
18. Watering places	6
19. Inspection	7

## 1. Purpose

- 1.1 This Part of the Bylaw regulates the use and maintenance of Council drains and stopbanks. The purpose of this Part is to:
- circumstances where a private drain may connect to a Council drain
  - what cannot be discharged into a Council drain
  - requirements for crossings and stopbanks
  - requirements for repairs to any damaged drains.

## 2. Interpretation

- 2.1 In this Part of the Bylaw, unless the context otherwise requires:

<i>Act</i>	means the Local Government Act 1974
<i>Board</i>	means a Board of Trustees for a district constituted under the Land Drainage Act 1908.
<i>Crossing</i>	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.
<i>Council drain</i>	means and includes every drain vested in or under the management or control of Council, and any canal or watercourse vested in, or under the jurisdiction of Council, or incorporated into its drainage system.
<i>Defence against waters</i>	includes any dam, weir, bank, carriageway, groyne, stopbank, 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.
<i>Private drain</i>	means any drain constructed by or vested in an owner and not being a Council drain.
<i>Stopbank</i>	means an embankment bordering one or both sides of a drainage channel or watercourse to contain flows of water.
<i>Watercourse</i>	includes all rivers, streams, and channels through which water flows
<i>Watershed</i>	Means the area that drains into a single river.

## 3. Private Drains

- 3.1 The owner of any property must obtain consent from the Council or the Board to:
- connect a private drain to a Council drain
  - connect a private drain to a private drain which is connected to a Council drain
  - extend a connected private drain
  - enlarge a connected private drain and any branches thereof
  - add new branch drains thereto.

- 3.2 Any owner applying for any such consent shall submit to Council or Board 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 length, size and construction and indicating the approximate area sought to be drained.
- 3.3 An Authorised Officer may impose conditions regarding the connection or continuance of the connection of private drains including the payment to Council of a reasonable fee to cover the cost of inspection and any reporting relating to any such drain.
- 3.4 Council may impose a charge or annual fee for a contribution to the cost of the construction, maintenance or extension to Council's drainage system, and the construction and maintenance of any associated bridge or crossing.
- 3.5 The owner of any property for which consent is given under this Bylaw to construct a private drain shall, if required by Council:
- construct and thereafter maintain a sufficient bridge or crossing over such private drain
  - ensure that any such bridge or crossing shall be placed to enable Council's workers, or agents and their plant and machinery to pass along the banks of such Council drain for the purpose of cleaning or maintaining the same
  - Council may enter into any agreement in respect of any such bridge or crossing as it decides is reasonable.

#### **4. Access to Council drains**

- 4.1 Without the prior consent of Council and then only subject to conditions as the Council may impose, no owner of any land on the banks of any Council drain shall:
- plant or permit to grow any tree, shrub or hedge
  - erect or maintain any fence, building, bridge or other construction
  - make any excavation

in such a position as to interfere with or obstruct the free access of any Authorised Officer, plant or machinery to or along such drain or any part thereof, for a distance of 15 metres from the bank of the drain, or such other distance as Council may specify in respect to any particular drain or part thereof.

- 4.2 A person must not construct or maintain any road, or access way for the passage of stock, machines or vehicles along the bank of any Council drain or within 15 metres thereof, except pursuant to a consent, and subject to any conditions imposed in the consent.

#### **5. Obstruction to flow**

- 5.1 A person must not stop, obstruct or interfere with or divert the flow of water in any Council drain or private drain connected with a Council drain without the prior consent of Council.
- 5.2 A person must not put into any drain, or cause, permit or suffer to be put or to fall therein any material or thing causing or likely to cause obstruction of the drain.

- 5.3 No owner of the land on either side of any drain shall allow, permit, or suffer to grow therein or on the banks thereof any trees, plants, weeds or growths that may be likely to impede the flow of water in any such drain.
- 5.4 A person must not permit or suffer any debris, plants, weeds, growths or other cleanings cut or removed from the bottom, side, or banks of any drain to float along such drain or into any other drain or watercourse.
- 5.5 Any person who breaches clause 5.4 shall on request by an Authorised Officer remove such obstruction or Council may remove the obstruction and recover the costs of such removal as a debt due to Council.

## **6. Use as waterway**

- 6.1 A person must not without the prior consent of Council, use any Council drain for the purpose of floating any timber, flax, or any other material or thing, or for any purpose of haulage, propulsion, water carriage or navigation. Any consent granted by Council may be subject to any conditions Council considers appropriate, including requiring payment of a charge for use of the Council drain.

## **7. Drains through watersheds**

- 7.1 Without the prior consent of Council, no owner or occupier shall construct or maintain any drain or system of drains if such drain or system of drains passes through any raised level of land or watershed.

***Explanatory note:** Cannot put in a new drain through a watershed or through raised land without Council consent.*

## **8. Artesian overflow**

- 8.1 No owner or occupier shall allow the overflow of any artesian well on property owned or occupied by them to fall, flow or percolate into any Council drain, or any private drain connected with a Council drain, without prior consent from Council.

## **9. Artificial obstruction or addition of water causing damage**

- 9.1 A person must not in any manner cause, allow or permit any damage to any Council drain or private drain connected with a Council drain to be caused by the release of any water into any such drains other than by natural flow or by the abstraction of water therefrom, without first obtaining the consent of Council and then only upon such conditions and in such manner as Council shall direct.

***Explanatory note:** The collection and release of water needs to be managed and directed by Council. Water stored then released on mass has the ability to cause catastrophic failure and erosion of the asset.*

## **10. Alteration to public drain**

- 10.1 A person must not make or cause to be made any Council drain wider or deeper than it is at the time, or stop or obstruct the same or alter the course thereof or in any way interfere with any public drain or associated works or structures without the prior consent of the Council.

## 11. Pollution

- 11.1 A person must not discharge, cause, permit or suffer to be discharged into a Council drain or private drain connected with a Council drain, any liquid, gaseous or solid matter which is likely to be a nuisance or cause injury to health or cause damage to the drain.
- 11.2 No owner or occupier shall permit or suffer any dead stock or any part thereof to be or remain in any drain on their property, and no owner or occupier of the land on either side of any drain shall permit or suffer to be or remain therein any dead stock or any part thereof which has strayed or fallen from their property into such drain.

**Explanatory note:** For clarity under clause 11.1 *injurious to health means to the health of people, the environment and to ecosystems.*

## 12. Maintenance and repair

- 12.1 An Authorised Officer may by notice:
- require the owner of the land through which any drain passes to clean, maintain and repair the said drain or any part thereof within such reasonable time as shall be allowed by an Authorised Officer
  - if the owner fails to comply with a request pursuant to clause 11.1, Council may execute the work and recover the cost thereof from such owner.
- 12.2 Notwithstanding the provisions of clause 11.1, an Authorised Officer may by notice:
- require the owner of the land through which a drain passes to remove from the banks all obstructions of any kind within such reasonable time as shall be allowed by an Authorised Officer
  - execute the work and recover the cost thereof from the owner.

In this clause obstruction shall include earth, stone, timber and materials of all kinds and trees, plants, weeds and growths of all kinds.

## 13. Obstruction of officers

- 13.1 A person must not, whether on private land or not, obstruct an Authorised Officer in the performance of any duty that the Authorised Officer is empowered to undertake under this part of the Bylaw.

## 14. Damage

- 14.1 A person must not destroy, cause any damage to or interfere with any dam, reservoir, stopbank, headworks or building or other installation connected with Council drainage works, or allow, permit or suffer any stock to damage or destroy the same.

## 15. Repairing damage

- 15.1 Where any drain is damaged by stock or otherwise an Authorised Officer may:
- require the owner or occupier responsible for such damage to repair such drain to the satisfaction of an Authorised Officer
  - may execute the necessary repairs and recover the costs thereof from the said owner.

## **16. Defence against waters**

- 16.1 A person must not erect or cause or permit to be erected any defence against waters without the prior consent of Council and in accordance with such terms and conditions as may be imposed.
- 16.2 Any owner or occupier upon whose property a stopbank is located whether for the protection of that land or not shall:
- maintain such stopbank according to the requirements of an Authorised Officer
  - not remove it or suffer or permit it to be removed, lowered or breached without the prior consent of Council
  - not at any time, plant or suffer to be planted, any trees or other growths thereon or within 15 metres thereof or construct, erect or place any installation, building, roadway, fence or other structure thereon
  - not allow, permit or suffer any stock to have access, pass, graze, or trespass thereon
  - without the prior consent of Council and then only upon such terms and conditions as an Authorised Officer may direct.

## **17. Crossings**

- 17.1 A person must not cross or pass over a Council drain with any horse or vehicle or drive any stock or convey any implement or machinery or goods or materials over it except at crossings appointed by Council.
- 17.2 A person must not construct any crossing in, upon or over any Council drain without the prior consent of an Authorised Officer and in accordance with any conditions imposed in the consent.
- 17.3 A person must not erect, build or maintain any elevated crossing over any Council drain except to such dimensions as will ensure there is no obstruction or danger of obstruction at any time to the free flow of water in the drain and only with the prior approval of an Authorised Officer.
- 17.4 An Authorised Officer may:
- require any owner of land which has or adjoins a Council drain to construct, maintain or renew crossings at places and in such manner required by Council
  - execute the works required and recover the cost thereof from any such owner.

## **18. Watering places**

- 18.1 No owner or occupier shall construct, maintain or use a watering place for stock in any Council drain without the prior consent of an Authorised Officer.
- 18.2 An Authorised Officer may impose such conditions for the mode of construction, for fencing and otherwise of a watering place as the Authorised Officer considers appropriate. Consent may be suspended or revoked if the conditions are breached.
- 18.3 The owner or occupier of any land adjoining any watering place shall ensure that the watering place is used and maintained so that no damage to the Council drain will result from their use. In the event of damage, an Authorised Officer may require the owner or occupier of any land adjoining the watering place to repair the Council drain and if the

owner or occupier defaults, Council may execute the work and recover the cost thereof from the owner.

## **19. Inspection**

- 19.1 An Authorised Officer shall have the power to inspect any installation set up for the withdrawal or diversion of water from any public or private drain or other watercourse within its district whether that installation has been given prior consent or not and may direct any alteration, improvement to, replacement of, removal or demolition of such installation at any time.