



## Waipa District Council

### DRAINAGE

### BYLAW 1991

In pursuance and exercise of the Powers and Authorities vested in it by Part XLIII of the Local Government Act 1974, the Land Drainage Act 1908 and their respective amendments and of each and every other power and authority it thereto enabling the Waipa District Council makes and ordains this Bylaw.

#### 1.0 Title

This Bylaw may be cited or referred to as "The Waipa District Drainage Bylaw 1991".

#### 2.0 Interpretation

Except as to such sections or parts of this Bylaw as are declared to be limited or are by necessary implication limited in their application to particular areas or districts, this Bylaw shall apply to all parts of the Waipa District not included in a drainage district constituted under the Land Drainage Act 1908.

In this Bylaw unless inconsistent with the Context:

"Council" means the Waipa District Council.

"Drain" and "Drainage Works" have the respective meanings assigned to those terms by Section 2 of the Land Drainage Act 1908 or any statutory amendments or re-enactment thereof.

"Obstructions" includes earth stone timber and material of all kinds and trees plants weeds and growths of all kinds.

"Owner" means any person seized or possessed of or entitled to land, or to any estate or interest therein, whether such persons has or has not the power to sell or convey the same.

"Occupier" means the person by who or on whose behalf any land is actually occupied.

"Public Drain" means and includes every drain vested in or under the management of the Council.

"Private Drain" means any drain constructed by or vested in any owner not being a public drain.

"Noxious Weeds" has the meaning thereto assigned by the Noxious Weeds Act 1950 or any statutory amendment or re-enactment thereof.

#### 3.0 Private Drains

No owner or occupier shall connect a private drain with a public drain not being a natural water-course, without obtaining the previous consent of the Council.

An owner or occupier applying for such consent shall submit to the Council plans and specifications in duplicate showing the exact location of the private drain and branches (if any) giving details of length, size and construction and indicating the approximate area of land sought to be drained.

No owner or occupier shall extend or enlarge a private drain connected to a public drain or any branches thereof, or add a new branch drain thereto, without obtaining the previous consent of the Council after submitting in duplicate the like plans and specifications as under Section 5 thereof.

The Council may impose conditions upon the connection or continuance of the connection of private drains to public drains and such conditions may include the payment to the Council of (1) the cost of inspection and report in the matter of the private drain or proposed private drain, and (2) such annual or other charge as the Council thinks fit by way of contribution to the cost of construction maintenance or extension of the Council's drainage system.

The owner or owners of every private drain and branches thereof connected with the Council's drains, shall at any time upon and after one month's written notice given by the Council at once clear and clean out the said private drain and branches thereof and put the same in good order and repair to the satisfaction of the Council.

#### **4.0 Pollution**

No person shall discharge or cause permit or suffer to be discharged into a public drain or private drain connected therewith any fluid or solid matter which shall be or be likely to be a nuisance or injurious to health or which shall make the water in any public drain unfit for watering stock or which shall in any way impede the proper maintenance of the said drains.

No owner or occupier shall permit or suffer any dead animal or any part thereof to be or remain in any drain on his property, and no owner or occupier of the land on either side of any drain shall permit or suffer any dead animal or any part thereof being the carcass or remains of any animal strayed or fallen from his property into such drain to be or remain therein.

#### **5.0 Use as a Waterway**

No person shall without the previous consent of the Council and then only on such terms including payment for the privilege as may be imposed by the Council use any public drain or any private drain connected with a public drain for the purpose of floating down the stream thereof timber flax or any material or thing, or for any purpose of haulage propulsion, water carriage or navigation.

#### **6.0 Additional Waters**

No owner or occupier shall allow the overflow of any artesian well on property owned or occupied by him to fall, flow or percolate into any public or any private drain connected with a public drain without the previous consent in writing of the Council.

No person shall without the consent of the Council pump or release any water into any public drain or into any side drain flowing into any public drain.

No person shall construct or maintain any drain or system of drains which shall cause water to flow into a public drain from outside the Catchment Area of such public drain where in the opinion of the Council such water will over load the capacity of such public drain or will otherwise interfere with the proper functioning of such drain.

#### **7.0 Obstruction or Damage to Drains**

No person shall widen or deepen any public drain or stop or obstruct the same or alter the course thereof without the consent in writing of the Council.

No person shall stop obstruct or interfere with or divert the flow of water to any public drain or private drain connected with a public drain without the previous consent in writing of the Council.

No owner or occupier of the land on either side of any drain shall throw therein or cause or permit or suffer to be thrown therein any material or thing causing or likely to cause obstruction in the drain, or allow permits or suffer to grow therein or on the banks thereof any noxious weeds or willow growths or allow permit or suffer any horses cattle or other animals to damage or destroy the same.

No owner or occupier of land on either side of any drain shall allow permit or suffer any noxious weeds to grow within ten feet of such drain.

The Council may at any time give written notice to the occupier or owner of any land to remove any tree or part thereof that in the opinion of the Council is likely, by falling or otherwise, to obstruct or damage any drain vested in the Council or under its management, and in default of such removal within twenty-eight days of the service of such notice may cause such tree or part thereof to be removed and may recover the cost of such removal from such occupier or owner.

No person shall plant any tree hedge or other plant or erect any fence or structure on or within thirty-five feet from the banks of a public drain where they will obstruct or be likely to obstruct the free passage along the banks of the drain of machinery or apparatus used for the purposes of improving maintaining or clearing drains and the Council may be written notice served on him require the occupier or if there is no occupier the owner of any land on which trees or hedges are planted or fences or structures are erected in breach of this provision to remove the same within such reasonable time as shall be specified in such notice. In default of such removal the Council may execute the work and recover the cost thereof from such occupier or owner.

The Council may at any time give written notice to the occupier or owner of any land to remove any tree or part thereof that in the opinion of the Council is likely by failing or otherwise to obstruct or damage any drain vested in the Council or under its management and in default of such removal within twenty-eight days of the service of such notice may cause such tree or part thereof to be removed any may recover the cost of such removal from such owner or occupier.

No person shall construct or maintain any road or access way for the passage of stock machines or other vehicles along the bank of any drain under the control of the Council or within fifty feet thereof without having first obtained the consent of the Council which may impose any conditions it thinks fit if such consent is to be granted.

Where any drain is damaged by stock or otherwise the Council may require the owner or occupier responsible for such damage to repair such damage to repair such drain to the satisfaction of the Council and in default thereof the Council may have the necessary repairs executed and recover the cost thereof from the said owner or occupier.

No person shall injure destroy cause damage to or interfere with any dam reservoir headworks or building connected with drainage works.

No person shall injure destroy damage or interfere with any tree shrub or plant planted or permitted to grow by the Council for the purpose of protecting any dam reservoir stop-bank or other installation connected with drainage works and under the control of the Council or allow permit or suffer the same to be injured destroyed or interfered with.

## **8.0 Crossing**

No person shall cross or pass over any public drain with any horse or vehicle or drive any horse cattle sheep or other animals across or over any such drain, or convey any implement or machinery goods or material thereover, except at a crossing appointed by the Council.

No person shall construct any culvert bridge or crossing in upon or over any public drain without the consent of the Council first had and obtained.

Plans and specifications in duplicate of any such culvert bridge or crossings shall be submitted to the Council which may approve conditionally or unconditionally or disapprove of the same.

The Council may require the owner or owners of properties on or adjoining which there is any water courses or drain to construct maintain or renew crossings at places and in a manner approved by the Council and such owner or owners shall construct maintain or renew the same accordingly and in default thereof the Council may do and execute the works required and recover the cost thereof from such owner or owners.

No person shall use or maintain any bridge or elevated crossing except at such height and clearance from the bottom of the drain as will obviate all obstruction or danger of obstruction at any time to the flow of water in the drain.

No person shall drive any piles into the bottom of any public drain.

## **9.0 Watering Places**

No owner or occupier shall construct a watering place for horses cattle or other animals or maintain or use the same in any public drain without the previous consent in writing of the Council, which may impose such conditions for mode of construction and for fencing and otherwise as the Council decides, and the said consent may be recalled and revoked at any time.

The owners and occupiers of land adjoining watering places shall so use and maintain the same that no damage can result from their use. In the event of damage so resulting the Council may require the owner or occupier responsible to repair the same, and in default thereof may do and execute the work and recover the cost thereof from such owner or occupier.

## **10.0 Lighting of Fires**

No person shall within the Waipa District without the previous consent of the Council light or cause or permit to be lit any fire in the open air at any distance less than fifty feet from any public drain and the owner or occupier of any land adjoining a public drain shall at all times take reasonable steps to prevent any fire spreading from the lands occupied by him to a public drain and in case any public drain shall be damaged by fire by reason of the act neglect or default of any person such person shall forthwith repair and re-instate the same and in case such drain shall not be repaired and re-instated within fourteen days of such damage it shall be lawful for the Council to repair and re-instate such drain and to recover the cost of so doing from the person so in default by action at law or otherwise and such repair and re-instatement or the payment of the costs of the same shall not absolve any person from the payment of any fine or penalty he may have incurred by reason of any breach of the provisions of this Bylaw.

## **11.0 Stopbanks**

No person shall erect or cause or permit to be erected any stopbank or other defence against the waters which shall direct or cause such waters to flow on to the land of any other person.

Every owner upon whose land a stopbank is situated whether for the protection of that land or not shall maintain such stopbank according to the requirements of the Council and shall not remove it or suffer or permit it to be removed lowered or breached without the prior consent of the Council and shall not at any time plant or suffer to be planted any trees or other growths thereon or within fifty feet thereof or construct erect or place any installation building roadway fence or other structure thereon nor shall he allow permit or suffer any stock to have access pass graze or trespass thereon without the prior consent of the Council and then only upon such terms and conditions as the Council may impose.

Not owner occupier or person soever whether on private land or not shall obstruct any member agent or employee of the Council in the performance of anything which such person is or may be required to do in the discharge of his duties.

## **12.0 Penalty**

Every person who commits a breach of this Bylaw is liable to a fine not exceeding \$50.00 and where the breach is a continuing one to a fine not exceeding \$5.00 for every day or part of a day during which the breach has continued.

The Council may, after a conviction for any continuing breach of this Bylaw apply to any Court of competent jurisdiction for any injunction to restrain the further continuance of the breach by the person so convicted.

The continued existence of any work or thing in a state contrary to any provision of this Bylaw shall be deemed a continuing offence within the meaning of this section.

The foregoing Bylaw was made by the **WAIPA DISTRICT COUNCIL** by Special Order passed at a meeting of Council held on the 17th day of June 1991 and confirmed at a meeting of Council held on the 15th day of July 1991 and became operative on the 25th day of July 1991.

**IN WITNESS WHEREOF** the Common Seal of the **WAIPA DISTRICT COUNCIL** was hereunto affixed pursuant to a resolution of Council passed on the 15th day of July 1991 in the presence of:

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**General Manager**

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**Mayor**