

Proposal to Amend the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013

CRC Officer's Report to the Hearing
August 2018

Prepared by
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1. Introduction

1.1 Report Author

My name is Amy May Bennetts. I hold the qualifications of Bachelor of Laws and Bachelor of Arts (Anthropology) from the University of Otago. I am currently employed as the River Engineering Planning and Advisory Officer with Canterbury Regional Council (the Council). I provide planning advice to the River Engineering team, advocate for River Engineering interests, and process and issue Gravel Authorisations and Bylaw Authorisations. In the past year of my employment with the Council, I have also worked as a Consent Planner where I focused on activities the beds of lakes and rivers. I am have worked closely with River Engineering staff in the development of the Proposal to Amend the Flood Protection and Drainage Bylaw 2013 (the Proposal).

My role in preparing this report is that of a policy planner. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note dated 1 December 2014. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.

1.2 Content and purpose of the officer's report

This report is prepared as part of the special consultative procedure set out in section 83 and 86 of the Local Government Act 2002 (LGA) and which has been adopted for amending a bylaw under this Act. This procedure requires that every person who makes a submission is given a reasonable opportunity to be heard in respect to their views and this obligation is being discharged through a Hearing.

By Minute 1, dated 17 August 2018, the Hearing Panel directed Council Officers to prepare and circulate a report outlining the amendments proposed, submissions received and relief sought, and recommendations. This report addresses the matters as directed. The report also includes background to the Flood Protection and Drainage Bylaw 2013 (the Bylaw) and the legal framework under which the Bylaw is made for the purpose of assisting the Hearing Panel and Submitters.

The report contains the following attachments:

- Appendix 1: Technical Engineering Report
- Appendix 2: Summary of submissions and staff recommendations
- Appendix 3: Bylaw showing proposed amendments following submissions

1.3 Introduction

Public notification of the Proposal to Amend the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013 (the Proposal) occurred on 26 May 2018 for a period of submissions closing on 2 July 2018. 11 submissions and two late submissions were received.

A total of thirteen submissions were received. The key themes raised in the submissions included:

- comments on the status of existing activities;
- requests to increase rating areas;
- requests to improve levels of service; and
- specific comments on the increased scope of certain provisions.

1.4 Process to amend the Bylaw under the Local Government Act 2002 (LGA)

Section 149 of the Local Government Act (LGA) 2002 gives specific powers to regional councils to make bylaws in relation to flood protection and flood control works. Consequently, this Bylaw was made under the LGA and s158 requires that any new bylaw made under the Act be reviewed within five years of the date it was made operative.

The Council undertook this review on 15 February 2018 and determined in accordance with s155 that a bylaw is the most appropriate way of addressing problems relating to the protection and effective management of flood protection and control schemes and drainage network assets owned or controlled by the Council and that the 2013 Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990. The Council also determined that the 2013 Bylaw is not the most appropriate form of the bylaw and amendments should be made to improve the substance of the Bylaw.

The Bylaw concerns river control and drainage infrastructure, identified by Council policy as a strategic asset, and amendments to the bylaw will have some impact on land owners and occupiers. Consequently, the Council resolved to adopt the special consultative procedure in accordance with sections 83, 86, and 156 of the LGA, the obligations of which should be discharged through public notification of the Statement of Proposal and a period for submissions and the hearing and consideration of those submissions.

Public notification of the Proposal to Amend the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013 (the Proposal) occurred on 26 May 2018 for a period of submissions closing on 2 July 2018. At the time of public notification letters were also sent to interested and potentially affected parties including owners and occupiers of land over which the Bylaw applies. Due to a database error, owners and occupiers of land within the Little River - Wairewa rating district and next to the Chatterton stopbank were not sent a letter at the same time as other parties. Letters were sent to owners and occupiers of land within the Little River – Wairewa rating district and next to the Chatterton stopbank on 10 July 2018 advising those parties that if they wished to lodge a submission, this could be done up until Monday 30 July. The extension of the submission period for these potentially affected property owners was confirmed by the Hearing Panel in its Minute 1.

The Hearing Panel will now hear and consider submissions on the Proposal. The hearing will commence on Monday 17 September with an opening presentation from the Council. Following the hearing, the Hearing Panel will make recommendations to Council as to Council's decision on the proposed amendments to the Bylaw. Council will make a final decision on the Bylaw at a subsequent Council Meeting.

Before making the Bylaw, the Council will need to again determine, in accordance with section 155(2) of the LGA whether the Bylaw:

- (1) is the most appropriate form of bylaw; and
- (2) gives rise to any implications under the New Zealand Bill of Rights Act 1990.

1.5 Background to the proposed amendment of the Bylaw

The Soil Conservation and Rivers Control Act 1941 (SCRCA) gave the former catchment boards, and subsequently the Canterbury Regional Council, the statutory function to manage land use within the region to prevent and mitigate damage caused by floods and erosion. Targeted rating districts were established for communities prepared to pay to receive the benefits of this function. In response, the Council and its predecessors developed a system of flood protection and flood control works including stopbanks, groynes, vegetation plantings, floodways and drainage schemes.

These assets, owned and/or managed by the Council, are valued at \$508M and have an annual maintenance expenditure of approximately \$11M. They protect floodplain assets valued at around \$130B (2017 estimates).

In 2013, the Council adopted the Canterbury Regional Council Flood Protection and Drainage Bylaw to ensure these flood protection and control schemes (including drainage networks) were appropriately protected from damage caused by third parties.

The intent of the current Proposal is to ensure the Bylaw is in a form which is the most appropriate way of addressing the perceived problem. The problem, as stated above, is the protection of flood protection and flood control works. To achieve this the following amendments were proposed:

- a. The protection of the rivers associated with the Wairewa/Little River Rating District. This Rating District was established after the 2013 Bylaw came into effect. This change is achieved by adding the scheme to the Map Schedules.
- b. Amendments to the definition of flood protection vegetation to clarify that both deliberately planted and self-seeded vegetation are included in the Bylaw.
- c. Amendments to the dumping or deposition of material within setback distances of drains and small watercourses and plant debris in drains and small watercourses.
- d. Amendments to the application form for Bylaw Authority.
- e. Wording amendments and the inclusion of advice notes and diagrams to ensure the content is clear, concise, and consistent.
- f. Map corrections to reflect changes that have occurred to the extent of flood protection and flood control assets and schemes identified since 2013.

The reasons for these proposed amendments are set out in Section 4.0 and Appendix 2 of the Statement of Proposal.

Staff would like to thank submitters for the constructive comments and suggestions for improving the Bylaw. As a result, a number of further improvements have been recommended, these are discussed

below and have been incorporated in the track change version of the Bylaw in Appendix 3. Staff consider that the recommendations will improve the appropriateness of the form of the Bylaw and will not give rise to any implications under the New Zealand Bill of Rights Act 1990.

2. Key issues raised

Submitters have raised a range of issues, many of which relate to the provisions and matters in the Bylaw, and some which are outside the scope of the Bylaw. A summary of the submissions and staff recommendations in response to each submission point is included in Appendix 2. Without derogating from the details contained in the submissions, the following are considered to be the key issues arising from the submissions.

2.1 Access and notification of owners/occupiers

Two submitters addressed this issue.¹

Bylaw Authority is required for activities listed in Section 5 of the Bylaw which are located on, in, or within a certain distance of flood protection and drainage infrastructure. This infrastructure is located in Rating Districts established by land owners willing to pay for a level of service. Most of this infrastructure is not secured through any formal agreement, and with the exception of the Waimakariri and Ashley Rivers, is on land that is not owned by the Council. This situation is not unique to Canterbury. To protect the interests of land owners and occupiers, there are limits on the powers of the Council to make decisions or carry out work on private land.

Bylaw authorities are not granted without land owner approval, and in the case where a different occupier is also known to the Council, their approval will also be required. Staff acknowledge that occasionally a person other than the landowner may apply for a Bylaw Authority but does not provide land owner approval. This is recognised by checking the applicant's name against the land owner and occupier information stored on the Council's GIS database. If the applicant is not the land owner, the authority will not be granted without the land owner's written permission. To clarify this, amendments have been proposed to the application form (Appendix 1 and Section 2 of the Proposal).

Ms Hindmarsh submitted in support of the Bylaw only where there is communication between the Council and land Owners and Occupiers. Ms Hindmarsh submitted that surveying should be carried out on all properties where the Council intends to issue a Bylaw Authority to ensure all relevant parties are informed.

Due to the substantial resources involved in the survey process, staff consider it unnecessary to obtain survey information for every Bylaw Authority application. The Council holds land owner and occupier information against which each application is assessed. In the rare case that this may be out of date, it states on the Bylaw Authority that the authority does not grant access to the site and landowner approval should be sought. No change is recommended as a result of the submission.

¹ Jack Allan Stott (1) and Gwenda Hindmarsh (2).

The Bylaw also provides for and regulates entry onto private land by the Council. The reason staff need to enter private property includes the maintenance and assessment of essential infrastructure. The Land Drainage Act 1908 and Soil and Rivers Control Act 1941 give the Council the powers to access land provided appropriate notice is served. Section 7 of the Bylaw requires the Council to give the owner or occupier of any land reasonable notice of not less than 48 hours for survey work or drain maintenance and 5 working days' notice for maintenance of defences against water, unless for emergency works.

Mr Stott submitted against the ability for Council staff to enter private property at any time and requested that staff be trained on how to handle people and better communicate with property owners. No change is recommended as staff consider Section 7 to adequately address the issue. Staff will be reminded of the notice requirements for land entry in accordance with the Bylaw to ensure compliance.

2.2 Service provided by the Council to Rating Districts

Four submitters addressed this issue.²

A common theme in the submissions was recognition for the importance of flood protection and flood control work and a request that a higher level of service be provided by the Council either through new work or more frequent maintenance on existing infrastructure.

Rating Districts are established by land owners willing to pay for a level of service. The extent of flood protection and flood control works in an area corresponds to the level of service for which that rating district is willing to pay. This level of service is set out in the Long-Term Plan and Asset Management Plan, the objectives of which are set in consultation with the rating district at rating district liaison committee meetings. The Bylaw does not determine what works are done, nor how these works are maintained. Rather it protects the works from damage caused by third parties. The level of service provided is therefore outside the scope of issues to consider in relation to the Bylaw.

The way work is carried out, both maintenance and construction, is determined by the Canterbury Regional Council Code of Practice for Defences Against Water and Drainage Schemes (June 2015) and Canterbury Regional Council Engineering Specifications (June 2017), not the Bylaw. The way the Council carries out work, including maintenance, is therefore also outside the scope of issues to consider in relation to the proposal to amend the Bylaw.

2.3 The status of existing activities

Three submitters addressed this issue.³

The intent of the Bylaw is not to negate any lawfully established commitments, activities or structures. Bylaw Authority is not required for activities authorised by the Council prior to the 2013 Bylaw

² Alex O'Neill (3), Ashley Gorge Farming Company Ltd (4), Pam Richardson (5) and Sue Wolczuk (6).

³ Gwenda Hindmarsh (2), Erralyn Farm Limited (7), D L Parkinson & R D Parkinson Estates (12).

becoming operative, nor any fully discretionary consents granted since. Such activities have deemed authority in accordance with Section 8.3 of the Bylaw. The right to undertake routine maintenance is also provided for in Section 5.1 and the wording of Section 5 is such that it captures actions rather than continuing states of being.

Bylaw Authority is required only where the activity has potential to impact on the integrity or effective operation of flood protection or flood control works. This does not mean necessarily the activity will be blocked or restricted (in practice, applications for Bylaw Authority have rarely been declined), but it does ensure that the activity will be carried out in a way that protects the works. This approach is in line with the purpose of the Bylaw.

2.4 The extent of Rating Districts

Four submitters addressed this issue.⁴

It was commonly submitted that it would be beneficial to add to the flood protection or flood control works owned and/or managed by the Council. General areas submitted to be at risk and in need of flood protection and flood control work included Leeston, Irwell, Banks Peninsula, the Selwyn River and the Ashley River above the confluence with the Okuku River. As mentioned above, Rating Districts are established by land owners willing to pay for a level of service. This is determined in consultation with communities in a process that is separate to what is managed by the Bylaw. The Bylaw does not determine levels of service or Rating District boundaries, rather it protects the associated infrastructure once the rating district, level of service, and infrastructure is in place. The area of land within rating districts and the extent of works is therefore outside the scope of issues to consider in relation to the Bylaw and no changes are recommended in response to these submissions.

2.5 Addition of Little River – Wairewa

Two submitters addressed this issue.⁵

The Proposal included the addition of a map to Schedule 1 of the Bylaw to include the drainage scheme in Little River – Wairewa that is managed by the Council. Both submissions were supportive of the addition as it means flood protection benefit provided to the community will be protected from damage. Staff recommended that the addition be retained.

2.6 Definition for ‘owned or controlled by the Canterbury Regional Council’

One submitter addressed this issue.⁶

⁴ Alex O'Neill (3), Ashley Gorge Farming Company Ltd (4), Pam Richardson (5), Sue Wolczuk (6).

⁵ Pam Richardson (5), Banks Peninsula Community Board (13).

⁶ Pam Richardson (5).

The Bylaw does not apply to all flood protection and flood control works, only those owned or controlled by the Council, the majority of which are mapped in Schedules 1-3. I consider that the phrase ‘owned or controlled by the Canterbury Regional Council’ is sufficiently clear and commonly understood. Further, it is clear when referring to the definition of ‘Flood protection and flood control works’ and associated definitions what flood protection and flood control works are covered by the Bylaw. Therefore I do not consider the inclusion of a definition necessary. Further, given the interrelationship between the definition of flood protection and flood control works and associated definitions of defences against water, drains, small watercourses, floodways and flood protection vegetation that the inclusion of a definition of ‘owned or controlled by the Canterbury Regional Council’ will give rise to further uncertainty as to what is covered by the Bylaw.

2.7 Increased scope of Section 5.1(b)(ii)

One submitter addressed this issue.⁷

Section 5.1(b)(ii) prohibits the dumping or deposition of any thing within 7.5 metres of any drain or small watercourse that may interfere with access for inspection or maintenance purposes. The problem with the current wording, is that the provision does not protect the drains and small watercourses from the adverse effects caused by the dumping or depositing of things which may not interfere with access, but that do adversely affect bank stability or the flow of water in high flow conditions. To address this, staff proposed that the requirement that the activity interfere with access be deleted.

Hilton Haulage Limited Partnership submitted against the proposed amendment on the grounds that it will become unnecessarily broad and the amendment changes the underlying intention of the rule. Staff acknowledge that the proposed deletion would make the application of the provision too broad. However, there is an intention to broaden the application of the provision to capture any activity which may have an adverse effect on the integrity or effective operation of the drains or small watercourses. To achieve protection of the drains and small watercourses without making the application unnecessarily broad, staff propose to retain the original wording of the Bylaw with additions, to read as follows:

“5.1(b) Dump or deposit any thing ...

ii within 7.5 metres of the top of the bank of any drain or small watercourse that may affect bank stability, or the effect of a defence against water, or interfere with access for inspection and maintenance purposes.”

The effects of defences against water are specified in the definition for ‘Defence against water’ in Section 4.

⁷ Hilton Haulage Limited Partnership (8).

2.8 Increased scope of certain subsections to Section 5.3

Two submitters addressed this issue.⁸

Section 5.3 applies to activities which may affect defences against water. Some of the activities listed in section 5.3 of the 2013 Bylaw capture not only activities directly affecting the stopbank, but also those activities “between the bank of any watercourse and any adjoining defence against water”.

Defences against water can include a variety of structures, predominantly they refer to stopbanks. Activities between the watercourse and any adjoining defence against water are captured by the Bylaw because of the potential that such an activity could affect the performance of the defence against water by changing the flow path of water, and in the case of stopbanks, may affect the flood level that stopbank is designed to accommodate. These reasons apply not only to activities on the berm of the river, but can also apply to activities done within the active bed. As such the 2013 Bylaw fails to protect the defences against water from some activities which may have an adverse effect. The technical engineering report in Appendix 1 contains further information as to why the river bed ought to be covered by these sections. Consequently, amendments were proposed to include the bed of the river. This was achieved by extending the area to “in on or between a defence against water and the opposite bank of any watercourse”.

Harewood Gravels Company Limited and Isaac Conservation and Wildlife Trust submitted against this change on the basis that it will create a broader application of these provisions than intended and such a result is unjustified, unnecessary, and in some situations may create uncertainty. A key concern was that in no longer defining the relationship between the defence against water and watercourse as “adjacent”, the proposed amendments would capture large tracts of land between the Waimakariri River and its secondary or tertiary stopbanks.

The submissions are correct in that the proposed amendments were intended only to include the bed of the river and were not intended to extend the application to land between the river and secondary or tertiary stopbanks. This area was not covered by the 2013 Bylaw. Staff recognise that the proposed wording requires some amendment to clarify their application, and in accordance with the submissions, also recommends the addition of another diagram to demonstrate the application of Section 5.3 where there is a secondary or tertiary stopbank.

Staff propose that the word adjoining be inserted into subclause (ii) of Section 5.3(d), (e), (g) and (h) as follows:

- iii Between ~~the~~ a defence against water and the opposite bank of ~~any~~ the adjoining watercourse ~~and any adjoining defence against water.~~”

The intent is that the word “adjacent” will define the relationship required between the defence against water and the watercourse as one of proximity and therefore exclude secondary and tertiary stopbanks in the same way they have been excluded under the 2013 Bylaw. For further clarity, the

⁸ Harewood Gravels Company Limited (10) and Isaac Conservation and Wildlife Trust (11).

diagram in figure 1 below is also recommended to be included in Appendix 1 of the Bylaw to demonstrate the application of Section 5.3 where there is a secondary or tertiary stopbank.

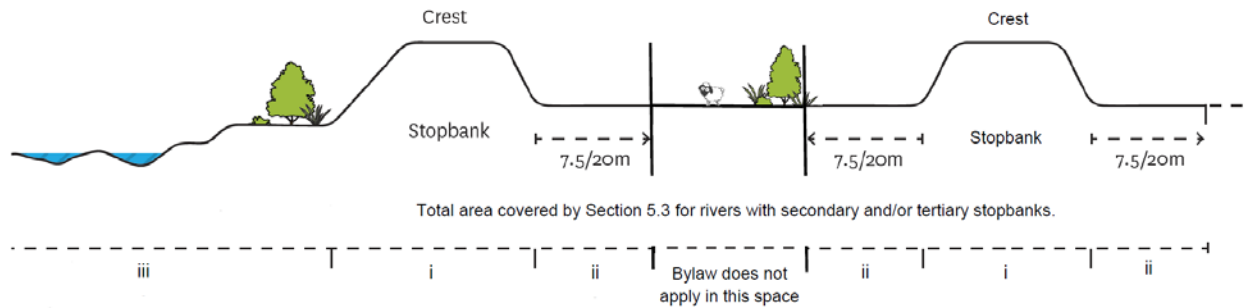


Figure 1: Total area covered by Section 5.3 for rivers with secondary and/or tertiary stopbanks.

Staff note that secondary and tertiary stopbanks cannot be excluded from Section 5.3, nor can secondary or tertiary stopbanks be excluded from the definition of defence against water, as the stopbank itself needs to be covered by the section. Neither can the provisions specify the closest adjacent defence against water because in some cases there may be multiple defences against water adjacent to the river that need to be considered.

Appendix 1: Technical Engineering Report

**EVIDENCE OF SHAUN MCCRACKEN
CANTERBURY REGIONAL COUNCIL
AUGUST 2018**

Under the Local Government Act 2002

In the matter Proposal to Amend the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013

QUALIFICATIONS AND EXPERIENCE

1. My full name is Shaun Peter McCracken. I am employed by the Canterbury Regional Council (CRC) as the Regional Lead, River Engineering and I have been employed by CRC since 2011.
2. My qualifications are Bachelor of Engineering with Honours (Natural Resources). I am a Chartered Professional Engineer, and I am a Chartered Member of Engineering New Zealand.
3. My role largely includes the planning and the implementation of flood protection, erosion control and drainage measures on the Canterbury region's rivers in what are referred to as river rating districts. I am also regularly called upon to provide expert advice to our consents department and other stakeholders as part of any consent application or associated processes. The advice or comment I give is in relation to the likely river engineering, bank erosion and flooding related effects of the proposed works in riverbeds and waterways.
4. I have read, and agree to comply with, the Code of Conduct for Expert Witnesses contained in the Environment Court of New Zealand Practice Note 2014. Other than where I state that I am relying on the advice of another person, I confirm that the issues addressed in this evidence are within my area of expertise. I have not omitted to consider material facts known to me that alter or detract from the opinions that I express.

TECHNICAL EVIDENCE

5. The purpose of my evidence is to:
 - Provide context to the Flood Protection and Drainage Bylaw 2013 and proposed amendments.
 - Provide a technical basis and rationale for the proposed amendments; and,
6. The River Engineering Section of the CRC manages 59 river and drainage rating schemes within the region. Each of these was formed in response to community demand (many pre 1990 with government subsidy), and the service level for each scheme reflects the level of protection from risk that its community is prepared to fund.
7. Bylaws are an effective tool used by a number of Regional Councils to reduce the risk of damage to their infrastructure and to enable access for maintenance of their river or drainage schemes.
8. The 2013 Bylaw was prepared to enable the CRC to provide the agreed levels of service for each rating district through preservation of access, and prevention of damage to river and drainage infrastructure. The proposed amendments are intended to;
 - Provide clarity; and,
 - Add and update details of infrastructure protected by the Bylaw.
9. The total asset value of the rating district infrastructure is \$508 million (2017). This is made up of:
 - \$222m stopbanks, groynes, and rock
 - \$252m trees
 - \$26m drains, culverts, and floodgates
 - \$8m tracks and fences
10. Over \$300m of this infrastructure is on land not owned by CRC and much of this is not secured through any formal agreement with the landowners. This land is a mix of private title, Crown land administered by Land Information New Zealand or Conservation Estate managed by the Department of Conservation. This situation is not unique to Canterbury.

11. Additionally, an amendment to section 5.3 is proposed to the definitions section of the Bylaw which clarifies that the full width of the riverbed is covered by the Bylaw. This is in recognition that certain activities, such as the installation of underground pipes, proposed to be undertaken within the central river fairway have the potential to change the main braid alignment or effect bed level elevations and therefore could increase the risk of damage to the flood protection and drainage schemes. Maintaining the central corridor of the river, which we refer to as the river fairway, is an essential part of each flood protection scheme.
12. After the 2013 Bylaw was adopted, the Canterbury Land and Water Regional Plan made it a permitted activity to install pipes under rivers. This is a significant change with the potential to affect river alignment and bed degrade within rating districts. As an example, we have had an instance where 2.4 diameter pipes have been installed as a permitted activity outside of rating districts. We were fortunate that the designers chose to contact us to advise on the pipe depth below the riverbed. There is no requirement to do so. If this was within a rating district, the potential effect on flooding and erosion would not have been required to be assessed on behalf of the rating district.
13. It is essential to stress that the Bylaw does not give Council staff any permission to undertake maintenance or to construct new flood protection or drainage works. The permission the Bylaw gives is the right for council staff to enter private property, subject to advance notice, in order to carry out this work. The majority of physical work itself is undertaken according to permissions granted under the Canterbury Land and Water Regional Plan or associated resource consents.
14. New rating districts, such as the Wairewa / Little River Rating District, are only established after extensive public consultation. It is essential that once rating districts are set up, or when the nature (e.g. - location) of existing infrastructure changes, that it is legally protected from damage and provision for ongoing maintenance access is made. In particular, the Little River Rating District was set up after a series of floods in 2013 and 2014 highlighted the fact that due to no tree maintenance being conducted in the Little River catchment, the waterway capacity was significantly compromised. There was a high level of community consultation required for Council to approve the formation of the rating district. The changes proposed in relation to Little River are to

protect the waterways on which works are undertaken within the catchment and to provide for ongoing access to these sites.

15. The proposed amendments to the 2013 Bylaw, including the changes recommended following the submission period, are in my opinion a fair and reasonable means of achieving the purpose of the Bylaw and are the most appropriate form of Bylaw.

Dated: 21 August 2018



Shaun McCracken

Appendix 2: Summary of submissions and staff recommendations

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
1.1	7.0	Mr Jack Allan Stott	Oppose	Opposes access to private property at any time. Decision requested: Requests training staff how to handle people and better communication when entering people's property.	No change required.	The Land Drainage Act 1908 and Soil and Rivers Control Act 1941 give Canterbury Regional Council (the Council) the powers to access land provided appropriate notice is served. Section 7 of the Bylaw regulates land entry and requires the Council to give the owner or occupier of any land reasonable notice of not less than 48 hours for survey work or drain maintenance and 5 working days' notice for maintenance of defences against water, unless for emergency works. Staff will be reminded of the notice requirements for land entry in accordance with the Bylaw to ensure compliance.
1.2	4.0 Erosion Protection Planting	Mr Jack Allan Stott	Support	Supports the proper use of erosion protection but does not agree with using carpet nailed to people's properties as a solution. Decision requested: The Council should not use carpet as a form of erosion protection.	No change required.	Maintenance work is carried out in accordance with the Canterbury Regional Council Code of Practice for Defences Against Water and Drainage Schemes (June 2015) and Canterbury Regional Council Engineering Specifications (June 2017), not the Bylaw. The way the Council carries out work, including maintenance, is therefore outside the scope of issues to consider in relation to the proposal to amend the Bylaw.
2.1	3.0	Ms Gwenda Hindmarsh	Support	Supports purpose of Bylaw if all communication between ECan, the Owners and the Occupiers are well informed before work proceeds. (Refer also to submitter's comments under Sections 5.3(h)(i-iii), 5.5, 5.5 Note, and 5.6 Note of the submission.) Decision requested: No specific decision or wording provided.	No change required.	See response to submission point 1.1. Bylaw authorities are not granted without land owner approval. The proposed amendments to the application form (Appendix 1, Section 2) are intended to clarify this.
2.2	4.0 Definitions	Ms Gwenda Hindmarsh	Oppose	'Deeming authority' is not in the list of definitions. (Refer also to Submitter's comment under Section 8.3(a), 8.3(b) of the submission.) Decision requested: No specific decision requested.	No change required.	Deeming authorities are defined in Section 8.3 of the Bylaw.
2.3	4.0 Erosion protection planting	Ms Gwenda Hindmarsh	Oppose	A lot of shrubs and trees are causing more flooding on the land areas as they are blocking the flow of the rivers. Decision requested: No specific decision requested	No change required.	The Bylaw guards and protects against any unwanted effects that may result from the planting of vegetation or loss of plant debris close to waterways in Sections 5.1(c) and 5.1(d) of the Bylaw.
2.4	4.0 Flood protection vegetation	Ms Gwenda Hindmarsh	Oppose	A lot of shrubs and trees are causing more flooding on the land areas as they are blocking the flow of the rivers. Decision requested: No specific decision requested	No change required	Flood protection vegetation is protected by the Bylaw and appropriate riparian planting often promoted as it mitigates against bank erosion and can also act to reduce flow should water enter the planted area. See response to submission point 2.3.
2.5	5.1(b)(ii)	Ms Gwenda Hindmarsh	Support	A lot of plant leaves are washed down the rivers when flooding happens. Decision requested: The cleaning of planted flood areas should be included.	Reject, no change required.	The support for the amendment is acknowledged, however the decision sought is not recommended as it is already covered by other sections of the Bylaw. See responses to submission points 2.3 and 2.4.
2.6	5.3(e)(iii)	Ms Gwenda Hindmarsh	Oppose	Waste material should be dumped at a waste management plant or collected by Councils as part of their commitment for the payment of rates. Decision requested:	No change required.	The provision and proposed amendment do not allow the dumping of waste, rather it requires authority be sought before any thing is dumped or deposited. It is unlikely that a Bylaw Authority would ever be granted to dump waste in a drain.

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				No specific decision or wording provided.		Authorisations granted under the Bylaw do not preclude the application of any district or regional plan rules or other planning instruments. Consequently, the dumping of waste will also have to comply with these rules.
2.7	0.0	Ms Gwenda Hindmarsh	Oppose	<p>The Bylaw applies to land which may not be owned by the Council and where the owner or occupier has taken responsibility for maintaining the land. Submitter does not support the operation of the Bylaw where it will affect existing land use activities carried out by the owner or occupier.</p> <p>(Refer to submitter's comments under Sections 5.1(d), 5.2(b), 5.2(c), 5.2 Explanation, 5.3(d)(ii).)</p> <p>Decision requested: Surveying should be carried out on all property where the Council intends to issue a Bylaw Authority.</p>	Reject, no change required.	<p>The majority of rating district infrastructure, with the exception of the Waimakariri and Ashley Rivers, is on land that is not owned by the Council and most of the infrastructure is not secured through any formal agreement with the landowners. This situation is not unique to Canterbury. Rating districts have been established by the willingness of landowners to pay for a level of service. Given this good will, formal arrangements were not necessary at the time of establishment.</p> <p>Bylaw Authorities are not granted without landowner approval. See response to submission point 2.1.</p> <p>The intent of the Bylaw is not to negate any lawfully established commitments, activities or structures. Lawfully established activities are provided for in Section 8.3 of the Bylaw, the right to undertake any routine maintenance is also provided for.</p> <p>The Bylaw applies only to activities which have the potential to impact on the integrity of flood protection works. The Bylaw doesn't necessarily restrict all activities where it applies (in practice, applications for a Bylaw Authority have rarely been declined), but the Bylaw does require that any such activities are undertaken in ways that do not impact on the integrity or effective operation of the works.</p>
2.8	5.1 Explanation	Ms Gwenda Hindmarsh	Oppose	<p>The inhabitant occupier has been maintaining this land for decades. The structures should remain.</p> <p>Decision requested: No specific decision or wording provided.</p>	No change required.	<p>The intent of the Bylaw is not to negate any lawfully established commitments, activities or structures, nor does it restrict all activities where it applies. See response to submission point 2.7.</p> <p>The effects of an activity (including of its maintenance) are assessed at the time it is established. A structure can be long lived and over time changes to maintenance requirements and/or the environment may result in new adverse effects. It is proposed that authority be required where maintenance is an activity listed in 5.1 and where it causes a new adverse effect. This is the same reasoning as applies when requiring authority to change the scale of, relocate, or replace a structure.</p>
2.9	5.3(g)iii	Ms Gwenda Hindmarsh	Oppose	<p>If construction was prior to the Bylaw, then the structure should remain.</p> <p>Decision requested: No specific decision or wording provided.</p>	No change required.	All activities requiring Bylaw Authority relate to an action proposed to be taken, or taken from the date the Bylaw became operative. It does not require structures pre-dating the Bylaw be removed. See response to submission point 2.7.
2.10	5.7(b)	Ms Gwenda Hindmarsh	Oppose	<p>If the owner or occupier had these in before the Bylaw then these should remain or come to an agreement with the Council on how to correct the situation.</p> <p>Decision requested: No specific decision or wording provided.</p>	No change required.	See response to submission points 2.7, 2.8, and 2.9.
2.11	5.4 Note	Ms Gwenda Hindmarsh	Oppose	<p>The inhabitant occupier has been maintaining this land for decades. If there has been no issue prior to the Bylaw there should be no change.</p> <p>Decision requested: Planting should be maintained by the Council and the Council should pay for fencing to stop stock. Planting in these areas should be with the permission of the owner and occupier.</p>	Reject, no change required.	<p>The purpose of this amendment is to maintain existing flood protection vegetation by protecting it from overgrazing by stock. See also, response to submission point 2.7.</p> <p>Rating districts pay for a level of service and rating district liaison committees have made it clear that rate increases are not favourable. The expense that would be incurred should the Council carry out protective work or fencing to enable activities primarily for private interest cannot be justified.</p>
2.12	9.3	Ms Gwenda Hindmarsh	Oppose	Where a structure or activity existing prior to the Bylaw being made operational requires remediation, this should not be at the cost of the owner.	Reject, no change required.	The proposed amendment places the cost of remediation on the person who committed the offence. This may or may not be the owner.

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				Decision requested: There should be no ability to charge the owner.		Commitments, activities, and structures existing prior to the Bylaw coming into force only breach Bylaw provisions in limited circumstances. See response to submission points 2.4 and 2.6.
2.13	0.0	Ms Gwenda Hindmarsh		Opposition to Map Volumes 1-3, Appendix 1 (Application Form), and Appendix 2 (Diagrams) noted due to inability to locate information. Decision requested: No specific decision or wording provided.	No change required.	Both appendices can be found in the Statement of Proposal document immediately following the proposed Bylaw text. All information can be found online at https://haveyoursay.ecan.govt.nz/flood-protection-drainage-bylaw-review , via email to bylawreview@ecan.govt.nz , or at any of Environment Canterbury's offices in Kaikoura, Christchurch, or Timaru.
3.1	3.0	Mr Alex O'Neill	Support	Drains are a major part of the lower Selwyn area as there is a large amount of water coming into the Leeston/Irwell area from above. These drains need to be greatly improved to help with drainage of farmland on heavier low lying areas and be improved in a way that takes into account the management of cleaning Lake Ellesmere. Current drains have not been maintained to a good level resulting in severe flooding in times of high rainfall, as on 15 July 2017, causing unneeded contamination of water, which then further contaminates Lake Ellesmere. Decision requested: Improvements be made to the drainage networks and level of maintenance in the lower Selwyn area, particularly Leeston/Irwell.	No change required.	Support for the inclusion of drainage networks is noted. The extent of flood protection and flood control works in an area is determined by the level of service for which that rating district is willing to pay. This level of service is set out in the Long-Term Plan and Asset Management Plan, the objectives of which are set in consultation with the rating district at rating district liaison committee meetings. The Bylaw only protects these works. The level of service is therefore outside the scope of issues to consider in relation to the Bylaw. The Council does not own or manage any drains in Leeston or Irwell. Therefore, they are not covered by the Bylaw.
3.2	4.0 Defence against water	Mr Alex O'Neill	Support	Including erosion protection structures will result in less sediment loss and contamination. Decision requested: No specific decision requested.	Accept, no change required.	The support of the submitter is acknowledged.
3.3	5.1(b)(ii)	Mr Alex O'Neill	Support	Drain banks should be kept clear. Decision requested: No specific decision requested.	Accept, no change required.	The support of the submitter is acknowledged.
3.4	5.1(d)	Mr Alex O'Neill	Support	Hanmer Drain and Brookside Irwell drain, which run along the submitter's farm boundary, often fill with hedge or tree clippings causing un-needed flooding events or worsened flooding during a flood. Decision requested: No specific decision requested.	Accept, no change required.	The support of the submitter is acknowledged. The Bylaw will not apply to the drains mentioned as they are not owned or managed by the Council.
3.5	5.2(b), 5.2(c), and 5.2 Explanation 5.6 Note	Mr Alex O'Neill	Support	Objects that deflect water can cause erosion and damage drains. Decision requested: No specific decision requested.	Accept, no change required.	The support of the submitter is acknowledged.
3.6	0.0	Mr Alex O'Neill		Submitter is particularly concerned with increased flooding caused by overflow of the Selwyn River and notes the need for gravel extraction and greater protection of adjacent land from flooding. See submission for details. Decision requested: No specific decision requested.	No change required.	See response to submission point 3.1. Staff acknowledge there is an issue with gravel build up in the Selwyn River – Waikirikiri and it is being addressed this through alternative means. However, this is outside the scope of the Bylaw.
4.1	0.0	Ashley Gorge Farming Company Ltd	Support	General comment of support for the proposed amendments. Decision requested: No specific decision requested.	No change required.	The support of the Submitter has been acknowledged.
4.2	0.0	Ashley Gorge Farming Company Ltd	Oppose	Submitter is concerned with the absence of flood protection and flood control works between the Ashley Gorge and confluence with the Okuku River. Proposes that both the Waikuku and Rangiora communities are at	Reject, no change required.	The Bylaw protects existing flood protection and flood control works belonging to or under the control of the Council and therefore this issue is outside the scope of the Bylaw. See response to submission point 3.1. The Council is aware that some of the community wish to extend rating districts

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				<p>risk as well as adverse effects along the frontage of the submitter's property. See submission for details.</p> <p>Decision requested: Two new river rating districts be formed, one each side of the Ashley upstream of the confluence with the Okuku River, or a river rating district for the entire catchment flowing into that section of the Ashley River.</p>		within the Ashley River - Rakahuri catchment.
5.1	Schedule 1, Map 39	Ms Pam Richardson	Support	<p>The Little River – Wairewa Rating District is the result of the community working together following the 2014 floods and was supported by a range of agencies and organisations. Many in the community are talking about the positive work to date. The Little River – Wairewa Rating District should be preserved.</p> <p>Decision requested: Little River Wairewa Rating District be preserved and that the rating continue and the programme be expanded if it is agreed to by the community. The liaison committee needs to be strengthened and provide the feedback to the community.</p>	No change required.	<p>The support of the submitter has been acknowledged.</p> <p>In each rating district, a public meeting for all ratepayers is held every three years to seek feedback on the scheme and elect the liaison committee. This is outside the scope of the Bylaw.</p>
5.2	0.0	Ms Pam Richardson		<p>Comments regarding the need for further flood protection and flood control works in Banks Peninsula. See submission for details.</p> <p>Decision requested: Additional flood protection and flood control works be included and flood protection and drainage schemes be extended.</p>	Reject, no change required.	See response to submission point 3.1.
5.3	0.0	Ms Pam Richardson		<p>Advocates for whole catchment planning and working together with Christchurch City Council, local Rūnanga, and Land Information New Zealand.</p> <p>Decision requested: No specific decision or wording provided.</p>	No change required.	Liaison with stakeholders is undertaken by the Council when setting an annual works plan, reviewing the Code of Practice for Defences Against Water and Drainage Schemes (June 2015), drafting the proposed amendments to the Bylaw etc. This is an operational matter that is outside the scope of issues to consider in relation to the Bylaw.
5.4	4.0 Definitions	Ms Pam Richardson	Oppose	<p>There should be a definition for under control of Canterbury Regional Council and what this means.</p> <p>Decision requested: Include definition for under control of Canterbury Regional Council</p>	Reject, no change required.	<p>The phrase “owned or controlled by the Canterbury Regional Council” is used many times through the Bylaw in reference to the flood protection and flood control works to which the Bylaw applies.</p> <p>The flood protection and flood control works owned or controlled by the Council are mapped in Schedules 1-3 of the Bylaw. This is reflected in the definitions for defence against water, flood protection vegetation, floodway, and small watercourse.</p> <p>The Bylaw does not apply to all flood protection and flood control works, only those owned or controlled by the Council, the majority of which are mapped in Schedules 1-3.</p> <p>It is clear when referring to the definition of ‘Flood protection and flood control works’ and associated definitions what flood protection and flood control works are covered by the Bylaw.</p> <p>Given the interrelationship between the definition of flood protection and flood control works and associated definitions of defences against water, drains, small watercourses, floodways and flood protection vegetation that the inclusion of a definition of ‘owned or controlled by the Canterbury Regional Council’ will give rise to further uncertainty as to what is covered by the Bylaw.</p>
5.5	0.0	Ms Pam Richardson		<p>There is no reference to downstream weed control – it may be that gorse seeds are transported downstream and may need to be considered.</p> <p>Decision requested: No specific decision or wording provided.</p>	No change required.	The purpose of the Bylaw does not extend to pest management or ecological concerns, rather it is to maintain the effective operation of the flood protection and flood control works. The adverse effects on these works as a result of poor weed control, such as blockage of drains, will be covered by section 5.1(d)(i).

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5.6	0.0	Ms Pam Richardson		Any work needs to be undertaken as best practice to cause as little disturbance e.g. prevent sedimentation of streams and address fish passage. Decision requested: No specific decision or wording provided.	No change required.	In regard to activities authorised by the Bylaw: The Bylaw does not preclude any other district or regional rules; however, this may not necessitate best practice. A Bylaw Authority cannot require a person to follow best practice except as it relates to the purpose of the Bylaw which is to ensure the effective operation and integrity of the flood protection and flood control works. In regard to flood protection and flood control work done by the Council, see response to submission point 1.2.
6.1	Schedule 1, Map 51	Ms Sue Wolczuk	Oppose	The proposed new stopbank by the Manse Bridge on the Waitohi Temuka Road may cause extra flooding on Submitter's property which has had substantial flooding in 1st 2 years where have lost animals (Refer to submitter's comment under Section 3 of the submission.) Decision requested: Construction of a stopbank or some form of additional protection next to Submitter's property.	No change required.	There is no new stopbank proposed by the Manse Bridge. There are however four sections of stopbank proposed to be deleted from the map on this section of river. The reasons for these deletions are that two of the stopbanks are managed by Timaru District Council and two are not official stopbanks – they were not built by nor have they been managed by the Council. Therefore they do not fall within the control of the Canterbury Regional Council and therefore do not fall within the ambit of the Bylaw. Regarding the extent of the scheme, see response to submission point 3.1.
6.2	4.0 Definitions	Ms Sue Wolczuk	Support	General comments of support for work that will protect submitter's and/or neighbouring property. Decision requested: Requests confirmation that protection work will happen.	No change required.	See response to submission point 3.1.
6.3	0.0	Ms Sue Wolczuk		No work has been done on Submitter's property in the nine years they have lived there. Pays rates and feels more protection is required as conditions have been getting worse. Decision requested: No specific decision or wording provided.	No change required.	See response to submission point 3.1.
7.1	Schedule 1, Map 37	Erralyn Farm Limited	Oppose	The flood protection vegetation line on the submitter's property crosses land farmed by the submitter. Submitter seeks to ensure that the location of the flood protection line will not affect currently held resource consents or the existing and historic use of the property. Decision requested: Flood protection vegetation line be amended to more accurately describe the true vegetation line which is maintained by ECan for the purpose of flood protection – and that it reflects existing authorisations and the Land and Water Regional Plan rules and definitions.	No change required. The Council is satisfied the line is in the correct place.	Any existing resource consent is considered a deemed authority in accordance with Section 8.3 of the Bylaw. Therefore, the submitter's resource consents are not affected by the Bylaw. The flood protection vegetation line follows a line of vegetation adjacent to the Rakaia River that is mapped due to the erosion and flood control benefit of vegetation within this line. The Bylaw will have no effect on land use unless the activity involves removal or damage to the flood protection vegetation inside this line. Where this is the case, the Bylaw will not necessarily restrict the activity, but will require that any such activities are undertaken in ways that do not impact on the integrity or effective operation of the flood protection vegetation, as evidenced in the submitter's existing consents. Any effects of this line under Land and Water Regional Plan are outside the scope of issues to consider in relation to the Bylaw.
8.1	5.1(b)(ii)	Hilton Haulage Limited Partnership	Oppose	The proposed changes will potentially impact on the operational nature of the existing Hilton Haulage yard that adjoins the Washdyke 1A Drain. This rule change has the potential to impact on the wider Washdyke area which is under development and intersected by a network of Environment Canterbury drains. The proposal changes the underlying intention of the rule which was to protect access to the drain for monitoring and maintenance purposes. It is acknowledged that the proposed amendments would not affect the subject site if the 1A Drain was piped under the site, or moved to align with the sites northern boundary. There is potential for the Bylaw to include provision for the movement or piping of drains when agreement as to the design and location can be reached between landowners and Environment Canterbury. However, it would be beneficial if ECan	Accept in part. Retain original wording with additions, to read as follows: "5.1(b) Dump or deposit any thing ii within 7.5 metres of the top of the bank of any drain or small watercourse that may <u>affect bank stability, or have the effect of a defence against water, or interfere with access for inspection and maintenance</u> purposes."	The purpose of the Bylaw is to manage regulate and protect flood protection and flood control works. It is not the Council's intention to require written authority for activities which will not impact on the Council's assets. However, the original provision does not protect against activities next to drains or small watercourses that may adversely affect bank stability or compromise the effective operation of the drainage system. Staff recognise in accordance with the submission, that the proposed amendment would make the provision unnecessarily broad and capture unintended activities. It is accepted that another way to achieve protection of the drain or small watercourse is to retain the original wording and increase the range of effects captured.

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				<p>could provide clarity to landowners who have sites intersected by the Council drains.</p> <p>The submitter stresses the importance of being able to move the drain or pipe it within the site in the future. The proposed bylaw should ensure the existing drainage network within Washdyke is able to respond to landowner requirements as future development drives changes.</p> <p>Decision requested: Original wording of the provision be retained, or additional clarification be provided as to the intent of the rule, or setback distance be reduced to allow for some works within closer proximity to drains such as the deposition of hard fill to create vehicle manoeuvring areas. A reduction in the setback to protect the drain from sedimentation through erosion from the deposition of hard fill would also be an option.</p>		
9.1	Schedule 1, Map 19	Mr Anthony O'Donnell	Oppose	<p>Submission on the proposed amendment to the Waimakariri secondary stopbank at Rushmore Drive.</p> <p>Decision requested: Update Land Information Memorandums (LIMs) along Rushmore Drive to reflect changes in stop bank and remove all landscaping/planting restrictions from the stopbanks.</p>	Reject.	<p>The proposed amendment moves the stopbank line on the map to more accurately reflect the position of the existing stopbank.</p> <p>LIM reports are managed by local councils. This matter is outside the scope of this Bylaw.</p> <p>The growth of shrubs, hedges or trees on or within 7.5 metres of a stopbank may adversely affect its integrity and/or operation. The ideal cover for a stopbank is grass as it provides a uniform surface and protects against bare earth which is more prone to erosion. Growth of non-uniform vegetative cover, plants with larger root systems, or plants that may shade the stopbank can create preferential flow paths, weakness in the bank, and/or increase erosion and scour. This may ultimately cause the stopbank to fail in flood conditions. The Bylaw does not prevent any person from planting on or next to a stopbank, but it does require that any such activities are undertaken in ways that do not impact on the integrity or effective operation of the works. It would not be appropriate to make an exception for any stopbank as there is a strategic purpose for their protection.</p>
10.1	4.0	Harewood Gravels Company Limited	Support	<p>The definition of watercourse is supported on the understanding that it, in effect, excludes the application of clauses 5.3(d)(iii), 5.3(e)(iii), 5.3g(iii) and 5.3(h)(iii) of the Bylaw to streams, such as the Otukaikino and other named and unnamed streams and tributaries, in respect of which there are no flood protection and/or flood control works.</p> <p>Decision requested: Retain definition without amendment.</p>	No change required.	The support of the submitter is acknowledged.
10.2	5.3(d)(iii)	Harewood Gravels Company Limited	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There is a tertiary stopbank for the Waimakariri River on the submitter's property. It is submitted that the proposed amendment will result in the need for Council authority to plant on the Waimakariri River side of the tertiary stopbank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p>	<p>Accept. Provision should specify "adjoining" watercourse.</p> <p>To read as follows: "5.3(d) Plant or allow to grow any shrub, hedge, tree, or part thereof; ... iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water."</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word "opposite" and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word "adjoining" be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p>

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				<p>Applicant is also concerned that the provision could also be interpreted to apply between the tertiary stopbank and watercourses other than the Waimakariri River to which the stopbank relates.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(d)(iii) to read as follows: “Between the bank of any watercourse and the closest adjoining defence against water.”; and/or Diagrams be included to demonstrate the above; and/or The definition of “defence against water” be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>Use of the term “closest” is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
10.3	5.3(e)(iii)	Harewood Gravels Company Limited	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There is a tertiary stopbank for the Waimakariri River on the submitter’s property. It is submitted that the proposed amendment will result in the need for Council authority to dump or deposit any thing on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between the tertiary stop bank and watercourses other than the Waimakariri River to which the stop bank relates.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(e)(iii) to read as follows: “Between the bank of any watercourse and the closest adjoining defence against water.”; and/or Diagrams be included to demonstrate the above; and/or The definition of “defence against water” be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>Accept. Provision should specify “adjoining” watercourse.</p> <p>To read as follows: “5.3(e) Dump or deposit any thing; ... iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water.”</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word “opposite” and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word “adjoining” be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term “closest” is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
10.4	5.3(g)(iii)	Harewood Gravels Company Limited	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There is a tertiary stopbank for the Waimakariri River on the submitter’s property. It is submitted that the proposed amendment will result in the need for Council authority to construct or locate any structure on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p>	<p>Accept. Provision should specify “adjoining” watercourse.</p> <p>To read as follows: “5.3(g) Construct or locate any structure; ... iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water.”</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word “opposite” and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word “adjoining” be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p>

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				<p>Applicant is also concerned that the provision could also be interpreted to apply between the tertiary stop bank and watercourses other than the Waimakariri River to which the stop bank relates.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(d)(iii) to read as follows: “Between the bank of any watercourse and the closest adjoining defence against water.”; and/or Diagrams be included to demonstrate the above; and/or The definition of “defence against water” be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>Use of the term “closest” is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
10.5	5.3(h)(iii)	Harewood Gravels Company Limited	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There is a tertiary stopbank for the Waimakariri River on the submitter’s property. It is submitted that the proposed amendment will result in the need for Council authority to carry out earthworks or excavation on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between the tertiary stop bank and watercourses other than the Waimakariri River to which the stop bank relates.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(h)(iii) to read as follows: “Between the bank of any watercourse and the closest adjoining defence against water.”; and/or Diagrams be included to demonstrate the above; and/or The definition of “defence against water” be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>Accept. Provision should specify “adjoining” watercourse.</p> <p>To read as follows: “5.3(h) Carry out any earthworks or excavation, including for construction of a drain or for building foundations; ... iii Between the a defence <u>against water and the opposite</u> bank of any the <u>adjoining</u> watercourse and any adjoining <u>defence against water.</u>”</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word “opposite” and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word “adjoining” be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term “closest” is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
11.1	4.0	Isaac Conservation and Wildlife Trust	Support	<p>General comment of support for the definition of watercourse.</p> <p>Decision requested: Retain definition without amendment.</p>	No change required.	The support of the submitter has been acknowledged.
11.2	5.3(d)(iii)	Isaac Conservation and Wildlife Trust	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p>	<p>Accept. Provision should specify “adjoining” watercourse.</p> <p>To read as follows: “5.3(d) Plant or allow to grow any shrub, hedge, tree, or part thereof; ... iii Between the a defence</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word “opposite” and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p>

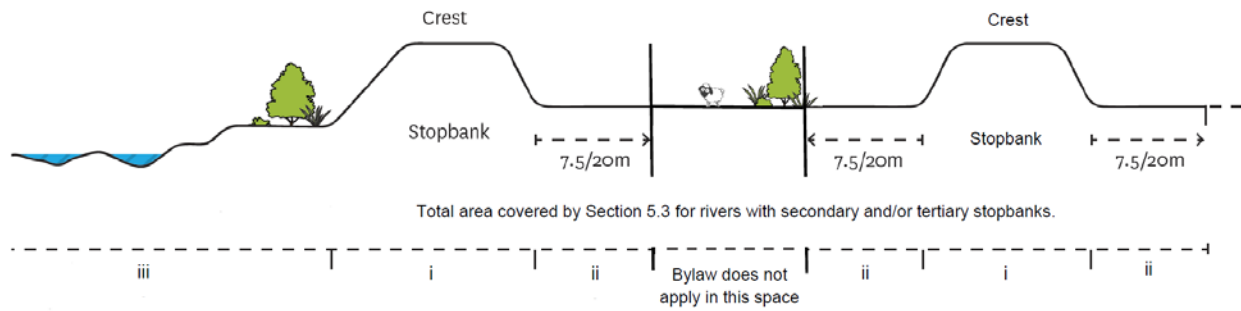
Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				<p>There are secondary and tertiary stopbanks for the Waimakariri River on the submitter's property. It is submitted that the proposed amendment will result in the need for Council authority to plant on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between a secondary or tertiary stop bank and watercourses other than the Waimakariri River, to which the stop banks relate.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(d)(iii) to read as follows: "Between the bank of any watercourse and the closest adjoining defence against water."; and/or Diagrams be included to demonstrate the above; and/or The definition of "defence against water" be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water."</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word "adjoining" be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term "closest" is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
11.3	5.3(e)(iii)	Isaac Conservation and Wildlife Trust	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There are secondary and tertiary stopbanks for the Waimakariri River on the submitter's property. It is submitted that the proposed amendment will result in the need for Council authority to dump or deposit any thing on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between a secondary or tertiary stop bank and watercourses other than the Waimakariri River, to which the stop banks relate.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(e)(iii) to read as follows: "Between the bank of any watercourse and the closest adjoining defence against water."; and/or Diagrams be included to demonstrate the above; and/or The definition of "defence against water" be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>Accept. Provision should specify "adjoining" watercourse.</p> <p>To read as follows: "5.3(e) Dump or deposit any thing; ... iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water."</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word "opposite" and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word "adjoining" be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term "closest" is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
11.4	5.3(g)(iii)	Isaac Conservation and Wildlife Trust	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p>	<p>Accept. Provision should specify "adjoining" watercourse.</p> <p>To read as follows: "5.3(g) Construct or locate any structure; ...</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word "opposite" and including the diagrams proposed in Appendix 2.</p>

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				<p>There are secondary and tertiary stopbanks for the Waimakariri River on the submitter's property. It is submitted that the proposed amendment will result in the need for Council authority to construct or locate any structure on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between a secondary or tertiary stop bank and watercourses other than the Waimakariri River, to which the stop banks relate.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(g)(iii) to read as follows: "Between the bank of any watercourse and the closest adjoining defence against water."; and/or Diagrams be included to demonstrate the above; and/or The definition of "defence against water" be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water."</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word "adjoining" be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term "closest" is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
11.5	5.3(h)(iii)	Isaac Conservation and Wildlife Trust	Oppose	<p>Submitter opposes the proposed amendment because it creates uncertainty about the area to which the provision applies and has potential to change the application of the Bylaw, particularly where there are multiple defences against water opposite to a bank of a watercourse.</p> <p>There are secondary and tertiary stopbanks for the Waimakariri River on the submitter's property. It is submitted that the proposed amendment will result in the need for Council authority to carry out any earthworks or excavation on the Waimakariri River side of the tertiary stop bank and that such a result is incredibly onerous and an unintended consequence of the amendments.</p> <p>Applicant is also concerned that the provision could also be interpreted to apply between a secondary or tertiary stop bank and watercourses other than the Waimakariri River, to which the stop banks relate.</p> <p>Decision requested:</p> <ol style="list-style-type: none"> Clause 5.3(h)(iii) to read as follows: "Between the bank of any watercourse and the closest adjoining defence against water."; and/or Diagrams be included to demonstrate the above; and/or The definition of "defence against water" be amended to exclude secondary or tertiary stopbanks; and/or Any other additional or alternative relief that achieves the same or similar outcome. 	<p>Accept. Provision should specify "adjoining" watercourse.</p> <p>To read as follows: "5.3(h) Carry out any earthworks or excavation, including for construction of a drain or for building foundations; ... iii Between the a defence against water and the opposite bank of any the adjoining watercourse and any adjoining defence against water."</p> <p>The diagram at the end of this summary document should be included in Appendix 2. The additional diagram shows the area covered by Section 5.3 when there is a secondary and/or tertiary stopbank.</p>	<p>The proposed amendment is intended to provide clarification that the bed of the watercourse is included and is not intended to otherwise broaden the application of the provision. This is achieved by inserting the word "opposite" and including the diagrams proposed in Appendix 2.</p> <p>The purpose for including the bed of the watercourse is to capture activities in the bed of the watercourse which may deflect water, cause erosion, reduce flood carrying capacity etc.</p> <p>It is not intended the land between a watercourse and secondary or tertiary stopbank be included as a result of the proposed amendment. To avoid this result, staff recommend that the word "adjoining" be inserted to clarify that where stopbanks are involved, it is only the adjoining / primary stopbank which is covered by the provision.</p> <p>Use of the term "closest" is not recommended as this may exclude unintended areas, e.g. in the situation where there is both a groyne and a stopbank adjacent to the watercourse.</p> <p>Neither is it recommended that the definition of defence against water be amended to exclude secondary and tertiary stopbanks as other sub-sections within Section 5.3 must still apply for the protection and management of secondary and tertiary stopbanks.</p>
12.1	Schedule 1, Map 29	D L Parkinson & R D Parkinson Estates	Oppose in part	<p>The proposed changes will result in a Mangels drain being covered by the Bylaw. As a result, the paddocks alongside the drain will not be able to be worked.</p>	<p>Reject, no change required</p>	<p>The amendment includes a section of Mangel's drain and is intended to correct the map to show which section of the drain is managed by the Council in practice. The Bylaw does not restrict the working of paddocks alongside the drain unless it involves an activity listed in Section 5.1 of the Bylaw.</p>

Sub point	Provision	Submitter	Support/Oppose	Summary of submission point and decision requested	Recommendation	Reasons for recommendation
				<p>Access to the culvert is via bridge and current bridge would not be able to sustain the weight of equipment including diggers to undertake the work.</p> <p>ECan would need to maintain the drain yearly.</p> <p>There is a flapped culvert at end of Mangels Drain and a well at beginning of the drain, the well is used by the submitter for the purpose of stock water.</p> <p>Submitter has been maintaining the drain but note that a few years ago ECan did enter onto the property and cleared around the drain.</p> <p>Decision requested: Adopt the proposed amendment on the basis that the Council will maintain the drain yearly, preserve the stock water well and replace the flapped culvert at Mangels drain.</p>		The flapped culvert and drain are not assets owned by the Council and therefore not maintained by the Council. The level of service and maintenance carried out on drains is also outside of the scope of issues to consider in relation to the Bylaw. See submission point 3.1.
13.1	Schedule 1, Map 39	Banks Peninsula Community Board	Support	<p>The Board would like to support the proposed changes to the Bylaw. In particular, supports the addition of the Little River – Wairewa Rating District to the map schedules. This is a positive step towards managing and improving the drainage outcomes within this catchment.</p> <p>Decision requested: The proposed addition of Little River – Wairewa be accepted.</p>	No change required	The support of the submitter is acknowledged.

Recommendation to submission points 10.2, 10.3, 10.4, 10.5, 11.2, 11.3, 11.4, 11.5.

5.3 Defences against water



Appendix 3: Bylaw showing proposed amendments following submissions

Canterbury Regional Council Flood Protection and Drainage Bylaw 2013

2 April 2013



This is a true and correct copy of the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013, by the Canterbury Regional Council.

The Common Seal of the Canterbury Regional Council was fixed in the presence of:

**Bill Bayfield
Chief Executive
Canterbury Regional Council**

**Dame Margaret Bazley, ONZ, DNZM, Hon DLit
Chairperson
Canterbury Regional Council**

14 March 2013

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Explanatory Note

This note does not form part of the Bylaw.

The Canterbury Regional Council Flood Protection and Drainage Bylaw 2013 has been prepared under the Local Government Act 2002 to provide for the ongoing management and efficient operation of flood protection and flood control works that are owned or controlled by the Canterbury Regional Council. These include drainage schemes, flood protection schemes, floodways and areas of flood protection vegetation constructed and managed to prevent damage, danger, or distress to the community from river flooding and poor drainage. It is crucial that these works function properly when needed.

People undertaking activities within the vicinity of these flood protection and flood control works will require authority from the Council under this Bylaw where the activity could impact on the integrity or efficient operation of the works.

The Bylaw does not apply to any privately owned/managed drainage or flood protection schemes, or those that are managed by other local authorities.

The Bylaw replaces previous bylaws for the management of watercourses under the control of the former North Canterbury and South Canterbury Catchment Boards, prepared under the Soil Conservation and Rivers Control Act 1941, and which ceased to have effect in November 2011 when the Natural Resources Regional Plan became operative. [This Bylaw originally came into effect on 2 April 2013 and underwent its first review in 2018.](#)

Compliance with the Bylaw does not remove the need for activities to comply with the Resource Management Act 1991, and the relevant regional and district plans. Activities within the beds of lakes and rivers may be subject to rules in regional plans in accordance with section 13 of the RMA. Any activity occurring within the Coastal Marine Area ~~will~~may require resource consent under section 12 of the Resource Management Act.

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CANTERBURY REGIONAL COUNCIL FLOOD PROTECTION AND DRAINAGE BYLAW 2013

The Canterbury Regional Council, pursuant to the powers contained in the Local Government Act 2002, makes the following Bylaw.

1. Title

This Bylaw shall be known as the Canterbury Regional Council Flood Protection and Drainage Bylaw 2013.

2. Commencement

This Bylaw shall come into force on 2 April 2013.

3. Purpose

The purpose of this Bylaw is to manage, regulate and protect flood protection and flood control works (including drainage networks) belonging to or under the control of the Canterbury Regional Council from damage or misuse.

This Bylaw only controls activities that may affect the integrity or effective operation and maintenance of the flood protection and flood control works.

4. Definition of Terms

Authority	Means any permit issued by the Council in respect of the requirements of this Bylaw.
Construct	Includes erect, alter, reconstruct, replace, extend, remove and demolish.
Council	Means: a) The Canterbury Regional Council; and b) includes any person duly authorised by the Council to exercise any of the powers conferred upon the Council by this Bylaw.
Crossing	For the purposes of this Bylaw means any bridge, culvert, set of pipes or ford across a watercourse which provides passage for people, stock, vehicles or equipment.
Defence against water	<p>Means any structure or equipment, including any dam, bund, weir, spillway, floodgate, bank, stopbank, retaining wall, rock, protection structures <u>(including erosion protection structures)</u>, groyne, anchored tree protection or reservoir, that is designed to have the effect of stopping, diverting, controlling, restricting or otherwise regulating the flow or spread of water, including floodwaters, in or out of a watercourse, for the purpose of flood mitigation and/or drainage.</p> <p>For the purposes of this Bylaw, means any defence against water that is owned or controlled by the Canterbury Regional Council. This includes all defences located between the flood protection vegetation lines, the floodway lines, and along the drains and small watercourses as shown in Schedules 1-3.</p>
Drain	<p>Means a channel, either artificially constructed or a modified watercourse, which is used to either lower the water table or divert water.</p> <p>For the purposes of this Bylaw, means any drain as shown in Schedules 1 and 2.</p>
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.
Equipment	Means any equipment, devices or machinery associated with managing drains, small watercourses or defences against water. For example floodgates, pump stations and water level recorders.
Erosion protection planting	Means any tree or shrub or part thereof planted, buried or tied within or on any bank of any watercourse, for the purpose of protecting against bank erosion.
Excavation	Means the removal of material, which results in a hole or cavity, other than boring or digging of holes up to 1.5 metres depth for immediate placement of posts or piles, or driving posts or piles.
Flood protection vegetation	Means all trees and shrubs, <u>including those deliberately planted, or self-seeded</u> , owned or controlled by Council for flood <u>or erosion</u> protection purposes occurring between the “Flood protection vegetation” lines on the Schedule 1 maps and any other specific areas of vegetation plantings for flood protection outside these lines that are identified in Schedule 1. Where only one Flood protection vegetation line is shown, the area of vegetation to be managed for flood protection will be the area between the line and the adjacent edge of the active channel. Farm shelter belts are excluded from this definition.
Flood protection and flood control works	Includes defences against water, drains, small watercourses, floodways and flood protection vegetation.
Floodway	Means any floodway as shown in Schedule 3.
Occupier	In relation to any property, means the inhabitant occupier of that property including persons who have legal right to undertake activities on that property.
Owner	In relation to any property, means the person or persons entitled to receive the rack rent thereof, or who would be entitled if the property were let to a tenant at a rack rent.
Person	For the purposes of this Bylaw does not include any person duly authorised by Council in the exercise of any powers or duties conferred upon Council under this Bylaw.
Small watercourse	For the purposes of this Bylaw means any small watercourse as shown in Schedule 1.
Stock	For the purposes of this Bylaw means any land grazing animal managed for recreational or agricultural purposes.
Structure	Means any building, crossing, equipment or other facility made by people and which is fixed to land; and includes but is not limited to, any fence, gate, line, raft, pipeline, cable, wire, rock, headwall, bridge or culvert, but excludes fishing nets placed temporarily within a watercourse.
Watercourse	For the purpose of this Bylaw, means all rivers, streams, floodways, drains and small watercourses through which water flows permanently or intermittently, and in respect of which there are flood protection and flood control works.

5. Activities Requiring Bylaw Authority

Note 1: *Bylaw Authority only applies to activities undertaken within the vicinity of flood protection and flood control works owned or controlled by the Canterbury Regional Council, and where those activities have the potential to adversely affect the integrity or effective operation and maintenance of the flood protection and flood control works (including drainage networks).*

Note 2: *Resource consent or further authorisation may also be required from the Canterbury Regional Council, relevant ~~territorial~~ local authority, ~~or the Department of Conservation, New Zealand Historic Places Trust, or other relevant regulatory agencies~~ to carry out these activities.*

Note 3: *Diagrams are included in Appendix 2 to illustrate the relevant areas covered by sections 5.1-5.3.*

5.1 Drains and small watercourses

No person shall, without the prior written authority of the Council -

- (a) Widen, deepen, infill, or otherwise alter any drain or small watercourse;
- (b) Dump or deposit any thing;
 - i. into a drain or small watercourse; or
 - ii. within 7.5 metres of the top of the bank of any drain or small-watercourse that may affect bank stability or have the effect of a defence against water or interfere with access for inspection or maintenance purposes;
- (c) Plant or allow to grow, any vegetation within 7.5 metres of the top of the bank of any drain or small watercourse that may interfere with access for maintenance or inspection purposes;
- (d) Plant or allow to grow any vegetation or leave cut plant debris in, or allow plant debris to enter, any drain or small watercourse that may;
 - i. impede the flow of water; or
 - ii. interfere with access for maintenance or inspection purposes;
- (e) Construct or locate any structure;
 - i. in, over, through or under any drain or small watercourse; or
 - ii. on or within 7.5 metres of the top of the bank of any drain or small watercourse;
- (f) Remove, adjust or interfere with any structure, or equipment relied on for the operation of any drain or small watercourse;
- (g) Connect any pipe, channel or other flow conduit, to any drain or small watercourse; (h) Remove, damage, or allow stock to damage;
 - i. any vegetation adjacent to a drain or small watercourse that has been planted or is required for erosion protection purposes; or
 - ii. any fence that has been erected to protect that vegetation; or
 - iii. any drain or small watercourse, or the banks of those watercourses.

Explanation: Routine maintenance of structures in and beside drains and small watercourses that existed prior to this Bylaw becoming operative does not require authority under this Bylaw, unless that maintenance causes a new adverse effect on the integrity or effective operation and maintenance of the drainage network, flood protection and flood control works. Authority will however be required if the scale of the structure changes or it needs to be replaced or relocated.

5.2 Floodways

No person shall, without the prior written authority of the Council -

- (a) Widen, deepen, infill, divert or otherwise alter any floodway;
- (b) Place or allow to be placed in any floodway any material or object that could impede or deflect flood or drainage flows;
- (c) Plant or allow to grow any vegetation in any floodway that may;
 - i. impede or deflect the flow of water; or
 - ii. interfere with access for maintenance or inspection purposes;

- (d) Construct or locate any structure in, over, through or under any floodway.

Explanation: Fences in, over or through drains and floodways do not require authority if they are constructed and maintained at all times so that they do not impede or deflect the flow of water or block access for maintenance.

5.3 Defences against water

No person shall, without the prior authority of the Council -

- (a) Alter or otherwise interfere with any defence against water;
- (b) Damage or allow damage to occur to any defence against water;

Explanation: The intent of the Bylaw is to control direct forms of damage inflicted on the flood protection or flood control works owned or controlled by the Council. Indirect forms of damage resulting from flow modification or the operational conveyance of water by hydroelectricity infrastructure are not activities controlled by this Bylaw.

- (c) Allow stock to damage or overgraze vegetation on any defence against water;
- (d) Plant or allow to grow any shrub, hedge, tree, or part thereof;
 - i. On any defence against water; or
 - ii. Within 7.5 metres of the landward side of any defence against water; or
 - iii. Between ~~the a defence against water and the opposite~~ bank of the adjoining watercourse ~~and any adjoining defence against water~~;
- (e) Dump or deposit any thing;
 - i. On any defence against water; or
 - ii. Within 7.5 metres of the landward side of any defence against water; or
 - iii. Between ~~the a defence against water and the opposite~~ bank of the adjoining watercourse ~~and any adjoining defence against water~~;
- (f) Remove, adjust, or interfere with any equipment including pump stations, relied on for the operation of any defence against water;
- (g) Construct or locate any structure;
 - i. On, in, under, over or through any defence against water; or
 - ii. Within 7.5 metres of the landward side of any defence against water; or
 - iii. Between ~~the a defence against water and the opposite~~ bank of the adjoining watercourse ~~and any adjoining defence against water~~;
- (h) Carry out any earthworks or excavation, including for construction of a drain or for building foundations;
 - i. On, in, under, over or through ~~Within 7.5 metres of~~ any defence against water; or
 - ii. Within 7.5 metres of the landward side of any defence against water, or within 20 metres of the stopbanks for those parts of the lower Ashley/Rakahuri and lower Waimakariri Rivers shown in Schedule 1; or
 - iii. In, on or between ~~the a defence against water and the opposite~~ bank of the adjoining watercourse ~~and any adjoining defence against water~~;
- (i) Construct any crossing in, over, through, along or under any defence against water;
- (j) Remove, damage, or allow stock to damage any fence, gate, sign, track, or ford that is owned or controlled by the Council in relation to any defence against water;
- (k) Construct, or form through repeated use, a road, track or ford for the passage of vehicles, people or stock, on any defence against water.

5.4 Flood protection vegetation

No person shall, without the prior authority of the Council, remove, damage, or allow stock to damage any flood protection vegetation that is managed, or has been planted adjacent to, on the banks, or within, a river by the Council or its predecessors. The extent of this vegetation is defined as the area between the Flood protection vegetation lines as shown in Schedule 1 and any other areas of vegetation outside these lines that is specifically identified in Schedule 1.

Note: Stock within these mapped areas have the potential to damage flood protection vegetation, therefore Bylaw Authority

shall be sought by the manager of those stock.

5.5 Hydrological devices and equipment

No person shall, without the prior authority of the Council, remove, damage, or interfere with hydrological devices or other equipment, or undertake works that would affect the effective operation of hydrological devices or other equipment, such as rain gauges and water level recorders.

Note: All CRC Hydrological devices and equipment are protected by this Bylaw. The location of these devices and equipment may be found using www.CanterburyMaps.govt.nz.

5.6 Survey benchmarks

No person shall, without the prior authority of the Council, remove, damage, or interfere with survey benchmarks established to monitor river bed levels and defences against water.

Note: All CRC Survey benchmarks are protected by this Bylaw. The location of these benchmarks may be found using www.CanterburyMaps.govt.nz.

5.7 Unauthorised defences against water

No person shall, without the prior written authority of the Council, erect, or permit to be erected, any defence against water -

- (a) Between any stopbanks or ~~f~~lood protection vegetation lines as shown in Schedule 1; or
- (b) In, over, under or within 7.5m of the top of the bank of ~~adjacent to~~ any drain or small watercourse shown in Schedules 1 and 2; or
- (c) Within any floodway shown in Schedule 3.

6. Activities Required to be Undertaken

6.1 Crossings

Every owner and every occupier of land on which any drain crossing is situated, and for which there is an agreement with the owner or occupier that the crossing will be used by Council for drain maintenance or flood protection and flood control work access purposes shall keep that crossing maintained to a standard, agreed between the parties, as will allow the safe passage over the crossing by Council staff and contractors engaged by the Council, and their plant, machinery and vehicles.

Where a crossing has been installed by the Council, the Council will be responsible for its maintenance and safety.

6.2 Fencing of drains

The Council may, by written notice, require any owner and any occupier of land adjoining any drain, within the time and in the manner stated in the notice, to erect fencing to prevent livestock entering the drain if, in the opinion of the Council fencing is necessary to protect the operational performance and integrity of the drain.

6.3 Access

All fence crossings that would otherwise deny access to and along the drain margins for Council staff or by contractors engaged by the Council shall have a 3.6 metre wide (minimum) gateway providing access for maintenance and inspection purposes.

6.4 Obstructions

Every owner and occupier of land on which any drain or watercourse is situated, or adjacent to any such drain or watercourse shall, if required by the Council, remove any tree, plant or other material or object that obstructs, or is considered by Council to be at high risk of falling and obstructing the free flow of water in that drain or watercourse.

6.5 Pumping stations

Canterbury Regional Council has full rights and powers to temporarily shut down pumping stations during high river and/ or drain flows if it considers that there is a risk of a seepage failure occurring in the adjoining stopbanks or stopbank foundations.

Explanation: The act of pumping during flood events increases the height difference between the floodwaters contained by stopbanks and drain water levels on the landward side of the stopbank. This increases seepage pressures through the stopbank foundations that could lead to failure of the stopbank structure. Canterbury Regional Council shall advise pump operators that pumping may resume as soon as practicable once the flood risk has abated.

7. Land Entry

7.1 Inspection

The Council shall have full powers, rights and authorities, upon giving the owner or occupier of any land reasonable notice, of not less than 48 hours, of its intention to enter onto land to inspect any drain, pump station, watercourse, defence against water, or any device, equipment or machinery used or associated with any defence against water, owned or controlled by the Council.

In the event of emergency the Council does not have to give 48 hours' notice but only what notice (if any) is practicable in the circumstances.

7.2 Surveys

The Council shall have full powers, rights and authorities, upon giving the owner or occupier of any land reasonable notice, of not less than 48 hours, of its intention to enter onto land to survey any drain, watercourse, defence against water, or related devices or installations that are owned or controlled by the Council.

In the event of emergency the Council does not have to give 48 hours' notice but only what notice (if any) is practicable in the circumstances.

7.3 Drain maintenance works

The Council shall have full powers, rights and authorities, upon giving the owner or occupier of any land reasonable notice, of not less than 48 hours, of its intention to enter upon that land for the purposes of carrying out drain and watercourse maintenance activities on drains and watercourses owned or controlled by the Council. Such activities include mechanical cleaning, weed cutting, or spot spraying, and the maintenance or repair of related installations including pump stations.

In the event of emergency the Council does not have to give 48 hours' notice but only what notice (if any) is practicable in the circumstances.

7.4 Maintenance of defences against water

The Council shall have full powers, rights and authorities, upon giving the owner or occupier of any land reasonable notice, of not less than 5 working days, of its intention to enter upon that land for the purposes of carrying out maintenance or repairs to defences against water owned or controlled by the Council.

In the event of emergency the Council does not have to give 5 working days' notice but only what notice (if any) is practicable in the circumstances.

7.5 Access

The Council may, by a notice conspicuously displayed adjacent to any drain or defence against water, prohibit or restrict access to that drain or defence against water if, in the opinion of the Council, the restriction or prohibition is necessary to protect the drain or defence against water from damage. Council will give the landowner or occupier reasonable notice, of not less than 48 hours, of its intention to enter that land and restrict access to any drain or defence against water, and shall provide reasons for the need to restrict such access.

In the event of emergency the Council does not have to give 48 hours' notice but only what notice (if any) is practicable in the circumstances.

7.6 Obstruction to officers and contractors

No person whether on private land or not, shall unreasonably obstruct or hinder any employee of the Council or any contractor engaged by the Council in the performance of anything which that employee or contractor of the Council is or may be required to do in the discharge of his/her duties.

No person shall unreasonably obstruct or hinder any such employee or contractor from bringing onto any land, or from operating any drain clearing plant or machinery, which is being used in the discharge of those duties.

7.7 Maintenance of Canterbury Regional Council drains by private individuals

Land owners and land occupiers who wish to avoid herbicide use for the maintenance of drains adjacent to or through their properties may undertake the drain clearance themselves, or employ contractors to do so, subject to the following conditions:

- (a) Prior written authority of the Council must be obtained.
- (b) Signs are to be erected by landowners or occupiers to clearly mark the areas where chemicals are not to be used. (This may be achieved using simple signs clearly marked 'Chemical Free Area'.)
- (c) The works are to be carried out to a standard specified by the Council. That standard may include a time period within which the works are required to be carried out.
- (d) If the works are not carried out to the prescribed standard, the Council may give notice of its intention to maintain the drain and, following the period of one week, may carry out the required maintenance using any method it deems efficient including the use of herbicides.

Explanation:

- 1. In addition to any other form of notice given under clauses 7.1 to 7.5, Council will endeavour to speak directly to the landowner or occupier before entering land to discuss the reasons for entry and any matters for concern. In determining reasonable terms of entry in the circumstances, the Council will have regard to the interests and convenience of the persons who may be affected and the requirements of any business utilising the land.*
- 2. Any owner or occupier of any land subject to this Bylaw, who suffers any damage from the exercise of any powers by Council under this Bylaw, will be entitled to compensation from the Council in accordance with section 190 of the Local Government Act 2002.*

8. Applying for an Authority

8.1 Authority

- (a) An application to the Council for authority under this Bylaw shall be made in writing using the attached Application Form and be accompanied by any fee as prescribed under clause 8.2(a).
- (b) When considering any application for an authority, the Council shall have regard to, but not be limited to, the following assessment criteria, in order to ensure the effective operation and integrity of the flood protection and flood control works (including the drainage network):
 - Drainage and flood flow capacity
 - Stability/scour/erosion risk
 - On-going functionality
 - Access for inspection and maintenance purposes
 - Term of authority
- (c) Any condition imposed under any authority will be commensurate with the scale and nature of the activity proposed and for giving effect to the purpose of the Bylaw.
- (d) In the event of a Council decision to refuse an application for authority, the Council shall include in writing the reasons for that decision.
- (e) Every person to whom an authority is granted shall produce that authority for inspection on request by the Council.
- (f) Every authority granted under this Bylaw to an owner or occupier of any land, shall be binding on every subsequent owner or occupier of that land, unless it specifically states otherwise.
- (g) The Council shall keep a register of all authorities granted and refused.

8.2 Fees

- (a) The Council may, by using the special consultative procedure in Section 83 of the Local Government Act 2002, prescribe any fee payable by any person who applies for an authority under this Bylaw.
- (b) The Council may in its absolute discretion refund, remit or waive the whole or part of such fee.

8.3 Deeming authority

- (a) Any existing resource consent or agreement granted by or made with the Council and issued prior to ~~the Bylaw becoming operative~~02 April 2013; and
- (b) Any fully discretionary consent granted by Council after~~the date this Bylaw became operative~~ 02 April 2013;

and authorising the carrying out of any activity listed in Section 5 of this Bylaw, shall be deemed to be an authority under this Bylaw to carry out such work for the term and on the conditions set out in the resource consent or agreement. This will include any right under that consent or agreement to replace or repair any structure or to undertake any routine maintenance.

9. Compliance and Enforcement

9.1 Revocation of authority

- (a) The Council may, in accordance with this clause, revoke any authority granted under this Bylaw if the holder of that authority contravenes or fails to comply with any condition of the authority.
- (b) The Council shall not revoke any such authority without giving to the holder a notice in writing which:
 - i. Sets out the respects in which the holder has contravened or has failed to comply with any condition of the authority; and
 - ii. If the breach or failure is capable of remedy, gives the holder a reasonable time within which to remedy it;

- and
- iii. Warns the holder that the Council may revoke the authority if the holder does not either:
 1. Remedy the breach or failure within the time specified or within such further time as the Council may allow on application; or
 2. Make, within a time to be specified in the notice, a written submission to the Council setting out reasons why the authority should not be revoked.
- (c) On receipt of a request by the holder for further time pursuant to clause 9.1(b)(iii)(1), or of a submission pursuant to clause 9.1(b)(iii)(2), the Council may at its sole discretion grant the further time sought or accept the submission made (as the case may be), or revoke the authority.

9.2 Offence

- (a) Every person commits an offence against this Bylaw who:
 - i. Commits a breach of any of the provisions of this Bylaw.
 - ii. Causes or permits to be done anything in contravention of this Bylaw.
 - iii. Omits to do anything required by this Bylaw.
 - iv. Fails to comply with any condition of a permit, or written notice served under this Bylaw.
- (b) Every person who commits an offence against this Bylaw is liable to the penalties prescribed by section 242 of the Local Government Act 2002.

9.3 Notice to remedy

The Council may, by written notice, require any mitigation or remediation considered necessary by Council, in relation to the contravention of any provision of this Bylaw, or the conditions of the relevant authority, in the time, and in the manner stated in the notice, at the cost of the ~~owner~~ person who committed the offence, as described by Section 9.2.

9.4 Removal of works

- (a) The Council, or any officer or agent of the Council, may remove or alter any work or anything constructed after the date at which this Bylaw becomes operative, that is in contravention of any provision of this Bylaw or any conditions of any authority, and may recover the costs incurred by the Council in connection with the removal or alteration.
- (b) The undertaking of this action shall not relieve any person from liability to any penalty incurred by reason of the breach.

9.5 Objections process

- (a) Any owner or occupier of land subject to this Bylaw, within 14 days of receiving any decision or authority in relation to this Bylaw, may object in writing to the Council in regard to that decision or authority, and has the right to be heard in support of that objection.
- (b) The Council considering an objection under clause 9.5 (a) above, may uphold or amend or rescind the decision or authority, and in making its determination must have regard to:
 - i. The evidence on which the decision or authority was based;
 - ii. The matters presented in support of the objection; and
 - iii. Any other relevant matters.
- (c) The Council must, as soon as practicable, give written notice to the owner or occupier of its determination, including the reasons for that determination.

SCHEDULES

Note:

1. *Schedule 1-3 maps are contained within a separate Map Volume*
2. *The resolution of lines on maps in the printed Map Volume may not be sufficient to determine the accurate placement of those lines in relation to any property. Refer to the GIS maps on the Council website for more detailed maps at the cadastral scale.*

Schedule 1

Maps showing areas of Flood protection vegetation, Stopbanks, Drains and small watercourses owned or controlled by the Canterbury Regional Council.

Schedule 2

Maps of Major Drainage Networks owned or controlled by the Canterbury Regional Council.

Note:

1. Drains are also shown on Schedule 1 maps. The Major Drainage Networks shown in Schedule 2 are generally at a higher resolution so that names can be applied to each component drain.
2. The access side(s) for normal drain maintenance activities is shown in Schedule 2.

Schedule 3

Maps showing Floodways owned or controlled by the Canterbury Regional Council.

APPENDICES

Appendix 1

Application Form for Authority under the Flood Protection and Drainage Bylaw 2013.

Appendix 2

Diagrams illustrating the relevant areas referred to in sections 5.1 – 5.3.

Appendix 1

APPLICATION FORM FOR AUTHORITY UNDER THE FLOOD PROTECTION AND DRAINAGE BYLAW 2013

1. Applicant(s) details

Applicant(s) name(s): _____

Organisation name _____ (if applicable):

If applying on behalf of an Organisation, position within Organisation _____Confirmation you have the authority to apply on behalf of this Organisation _____

Postal address: _____

_____ Post Code _____

Phone number: Business _____ ~~Private~~ Alternative _____~~Mobile~~ _____ ~~Fax~~ _____

Email address _____

2. Property to which this Bylaw Authority relates

Property address: _____

Legal description (The legal description can be found on the certificate of title, valuation notice, subdivision plan or rate demand for the site. Please include a copy of one of these with your application): _____Are you the legal owner of this land, or have the permission of the legal owner of this land? _____If you are not the legal owner, please provide written evidence that the legal owner approves the works proposed in this application.

3. Diagram and location of proposed works

Please provide a diagram in the box below, and details of where the works are proposed to occur: ~~(Hand drawn is may be acceptable for basic works. Sketches marked on aerial photos or plans and engineering drawings may be required for more substantial works).~~ Please provide photos of the site if you are able.

4. Section(s) of the Bylaw to which this authority relates

5. Rules and Regional Plans

Identify any rules in regional plans that apply to this activity, and any consents that may be required.

Note: It is the applicant's responsibility to ensure they have all the required permissions from Environment Canterbury and other regulatory agencies, such as District Councils, Department of Conservation, New Zealand Historic Places Trust. Please contact these agencies to discuss your proposal.

6. Time frame of works

Proposed start date:

ended end date:

7. Description of the proposed works

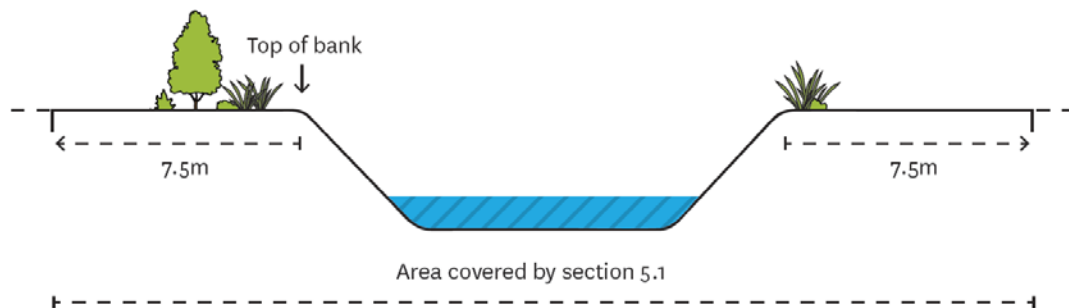
This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface. There is no handwriting or other markings on the paper.

Signed _____ Date _____

Appendix 2

Note: These diagrams are for illustrative purposes only.

5.1 Drains and small watercourses



5.3 Defences against water

