

Flood Recovery Consent and Compliance Information

1.1 Introduction

Bay of Plenty Regional Council (BOPRC) is aware that rural landowners have been affected by the recent flooding and likely require advice on the type of activities that can be undertaken without consent (permitted). Additionally, advice is required around existing consent conditions and variations to those conditions, particularly in relation to effluent disposal to land.

The following details permitted criteria, existing consent requirements and BOPRC's discretion in compliance of these consents, where authority is required and prohibited activities during the flood recovery phase.

1.2 Existing Permitted Criteria (no consent required)

1.2.1 Farm Dumps

Farm dumps are permitted if you can meet the following conditions:

- Only material from your farm is allowed in your dump
- No dumping of hazardous substances, oil, fuels, human sewage, stock effluent, offal or dead stock is allowed
- Chemical containers must be triple rinsed, bungs or lids removed and holes cut to prevent reuse
- Dumps must be at least 50 m from a bore, river, lake or wetland, a geothermal feature or the coastal marine area
- They must not be located in an area that floods, or where groundwater is less than 1 m below the base of the dump
- Stormwater must be diverted away from the dump

1.2.2 Offal Holes:

Any offal hole constructed and used on a farm must meet the following requirements:

- It must only be used for disposing of animal or vegetable material from normal farm operations and which is sourced from the same farm property
- It must not be used for disposing of hazardous substances or containers, oils or fuels, human sewage or stock effluent
- It must be at least 50 m from a bore, river or lake, any geothermal feature or the coastal marine area
- It must not be located on land that is subject to flooding
- The highest groundwater level must be at least 2 m below the base of the hole
- Leachate is not allowed to pond or flow away from the hole
- The hole must be covered to prevent stormwater entering.

Also, when planning an offal hole, consider:

- How close it is to neighbours
- District Plan compliance – contact your district or city council
- The size of the hole to promote breakdown of materials and minimise scavenging

1.2.3 Silage Pits:

Silage pits are permitted as long as:

- There is no discharge of leachate to a surface waterway

- There is no ponded leachate at the silage pit site or overland flow of leachate from the silage pit or stack site
- All practical steps are taken to divert stormwater away from the silage pit or stack

In addition, the silage pit or stack must not be within:

- 50 m of any groundwater bore, stream, river, lake, wetland, land drainage canal, geothermal surface feature, or the coastal marine area
- A gully or depression, or an area that is flooded during storm events
- An area where the highest groundwater level is less than 1 m below the base of the silage pit or stack

1.2.4 Stock in the Bed of a River or Stream

Stock in the bed of a river or stream is permitted as long as:

- Where the water quality classification is Water Supply, a BOPRC Environmental Programme or Property Plan is in place that addresses the adverse effects of stock in surface water bodies
- For any other river or stream the landowner implements, maintains and complies with an active Farm Quality Programme (operative Environmental Programme or Property Plan) that addresses the adverse effects of stock in the beds of surface water bodies

Or

The activity complies with the following conditions:

- All practicable steps shall be taken to avoid, remedy or mitigate the increase of nutrient, urine or faecal matters in water from the stock access to the surface water body
- All practicable steps shall be taken to avoid, remedy or mitigate the release of sediment during the stock access, and no clear change in the visual clarity of the water shall occur beyond a distance of 100 metres downstream of the site where stock have access to the surface water body
- The stock access shall not contaminate a bathing site listed in Schedule 10 (refer to RWLP schedules for specific sites) in the period between 1 November and 30 April, inclusive
- The stock access shall not cause or induce erosion to the bed or banks of the surface water body

Erosion includes:

- Instability of the banks or channel.
- Scour to the bed of the river or stream.

and results in the deposition or discharge of sediment in the river or stream.

- The stock access shall not damage or destroy a wetland.
- The activity shall not damage or destroy:
 - Significant aquatic indigenous vegetation
 - Aquatic habitat or spawning areas of indigenous species
 - Significant habitats of trout, as identified in Schedule 1 (refer to RWLP schedules for specific sites)

1.2.5 Earthworks in Riparian Areas

Permitted limits for earthworks in riparian areas are as follows:

| General Area | Land Slope | Distance from Water Body | Permitted Limits |
|--|------------|--------------------------------|---|
| Riparian Management Zone - lake, wetland or the bed of any river or stream, excluding streams and rivers with Water Supply water quality classification and Schedule 1 streams | 0 to 7° | Between 0-5 horizontal metres | Earthworks excluding stream crossings - Exposed area no greater than 400 m ² and volume no greater than 200 m ³ Earthworks for stream crossing purposes – exposed area no greater than 1,000 m ² per crossing. |
| | >7 to 15° | Between 0-10 horizontal metres | |
| | >15 to 25° | Between 0-20 horizontal metres | |
| | >25 to 35° | Between 0-25 horizontal metres | |
| Riparian Management Zone – streams and rivers with Water Supply water quality classification | 0 to 15° | Between 0-20 horizontal metres | Earthworks excluding stream crossings – Exposed area no greater than 400 m ² and volume no greater than 200 m ³ . Earthworks for stream crossing purposes – exposed area no greater than 1000 m ² per crossing. |
| | >15 to 25° | Between 0-25 horizontal metres | |
| | >25 to 35° | Between 0-40 horizontal metres | |
| Riparian Management Zone – Schedule 1 Streams (refer to RWLP schedules for specific streams) | 0 to 7° | Between 0-5 horizontal metres | Earthworks excluding stream crossings - Exposed area no greater than 400 m ² and volume no greater than 200 m ³ . Earthworks for stream crossing purposes – exposed area no greater than 600m ² per crossing. |
| | >7 to 15° | Between 0-10 horizontal metres | |
| | >15 to 25° | Between 0-20 horizontal metres | |
| | >25 to 35° | Between 0-25 horizontal metres | |

- There shall be no point source discharge of sediment contaminated stormwater to surface water from the activity.
- The diffuse discharge of sediment contaminated stormwater to surface water from the activity shall not cause the following effects, except where a 20% AEP flood event is exceeded:
 - The production of any conspicuous oil, grease films, scums or foams, or floatable or suspended solids.
 - Any conspicuous change in colour or visual clarity.
 - Any emission of objectionable odour.
 - The rendering of fresh water unsuitable for consumption by farm animals.

- Any more than minor adverse effects on aquatic life.
- The activity shall not cause or induce erosion to land or to the bed or banks of any surface water body, where the erosion is persistent or requires active erosion control measures to bring it under control. Erosion includes:
 - Instability of land or the banks of the surface water body.
 - Scour to the bed of the surface water body.
- Fill from the earthwork activity shall not be deposited in overland or secondary flow paths that convey stormwater during rainfall events.
- The activity shall not obstruct or divert the flow of water in such a manner that it results in damming, flooding or erosion.
- The activity shall not disturb vegetation in a wetland; or change the water flow or quantity, or water quality in a wetland.
- The activity shall not disturb an identified contaminated site.
- No machinery refuelling or fuel storage shall occur at a location where fuel can enter any water body.
- No contaminants (including, but not limited to, oil, hydraulic fluids, petrol, diesel, other fuels, paint, solvents or anti-fouling paints), excluding sediment, shall be discharged to water, or discharged to land in circumstances where the contaminant may enter water, from the activity.
- All practicable measures shall be taken to avoid vegetation, soil, slash or any other debris being deposited into a water body or placed in a position where it could readily enter or be carried into a water body.
- The activity shall be staged, managed and completed, and the activity site closed-off, in a manner that ensures compliance with the above conditions
- Any stormwater from outside the exposed area shall be kept separate from the earthworks area.
- Where the earthworks are for stream crossing purposes, the activity shall also comply with the following conditions:
 - The crossing shall be made at, or near to, right angles to the flow of the water in the river or stream, ensuring minimal roading in the Riparian Management Zone.
 - The area shall be stabilised as soon as practicable, but no later than 3 months from the end of the activity.
 - All practicable steps shall be taken to keep stormwater away from the stream crossing approach.

Please be aware that there are also requirements and exclusion zones under the *Bay of Plenty Regional Council Floodway and Drainage Bylaw 2008*. Further information is provided in Section 1.4 of this document.

1.3 Controlled Activities (under existing consent conditions)

1.3.1 Discharges of Dairy Shed or Piggery Effluent to Land

The landowner will have an existing consent for the discharge of dairy shed or piggery effluent to land where the contaminant may enter water.

BOPRC reserves its control over the following matters:

- Nitrogen application rate.
- Discharge rate and volume.
- Location of discharge in relation to the proximity to a surface water body or groundwater bores.
- Discharge site in relation to soil type, slope, and area.
- Measures to avoid, remedy or mitigate adverse effects on surface water and groundwater.

- The duration of the consent.
- Monitoring requirements.
- The administration charges under section 36 of the Act.

BOPRC is aware that locations where effluent is discharged to land and also the size of the discharge area may be temporarily affected due to damage of infrastructure and flooding of paddocks. BOPRC is also aware that the stocking rates may have temporarily increased (providing pasture to other flood affected properties as an example).

At the discretion of BOPRC, the flood recovery situation will be taken into consideration and as long as the activity is not causing:

- Overflow or seepage of effluent to drains or water courses
- Ponding or overland flow

It will not be considered as a compliance matter during the upcoming dairy inspections.

1.4 Bylaw Authority Requirements

1.4.1 Drains, Defences against Water and Floodways

The following requirements are related to excavations and structures in close proximity to drains, defences against water and floodways. Further requirements are provided in the *Bay of Plenty Regional Council Floodway and Drainage Bylaw 2008* report available on www.boprc.govt.nz.

Drains

Except with the prior written authority of BOPRC, no person shall:

- Construct any structure in any drain or on any bank of a drain or within 12 metres of a drain (measured from the lip of the drain).
- Allow any object or structure to be located within 1.5 metres (vertical) above the normal drain water level.

Defences against Water

Except with the prior written authority of BOPRC, no person shall:

- Construct any structure:
 - On, in, or through any defence against water,
 - Within 12 metres of the landward side of any defence against water, or
 - Between the bank of any watercourse and any defence against water.
- Carry out any excavation in, on or between the banks of any watercourse and any defence against water.
- Carry out any excavation, including for building foundations, within 20 metres of any defence against water.
- Dig a drain or undertake earthworks in or on a stopbank or within 20 metres of the landward toe of a stopbank.

1.4.2 Additional Bylaws Applying to the Rangitāiki Drainage District Only:

No person shall, without the prior written authority of BOPRC undertake any of the following activities:

- The digging or maintenance of any drain, or any excavation, including building foundations, within 150 metres from the landward toes of the Rangitāiki River stopbanks:
 - On both riverbanks, where stopbanks are located, from Te Teko to the river mouth.
- The digging or maintenance of any drain or any excavation within 60 metres of the landward toes of the Tarawera River stopbanks;



- On the true right of the river from the State Highway 30 bridge to the mouth; and
- On the true left of the river from 800 metres downstream of the Tumurau Lagoon structure to the mouth.

Rangitaiki Floodway:

- No person shall, without the prior written authority of BOPRC in respect of the Rangitāiki Floodway:
 - Carry out any excavation or cultivation within 20 metres of the spillway structure.

1.5 Prohibited Activities

1.5.1 Surface Water Intake Structures – Disturbance of the Bed of a Water Body

At present, there are exclusions in place for works occurring in the bed of a water body listed under Schedule 1 of the RWLP for the migration of indigenous fish species and trout habitat areas (1 May to 15 October). These areas include the Whakatāne River and Rangitāiki River plus tributaries within their catchment areas.

If works are required to be undertaken in the bed of a water body, BOPRC shall be consulted at the first instance.

1.6 Conclusions

It is advisable that if there are questions regarding whether an activity is permitted, within the existing consent conditions or authority is required from BOPRC, please contact us on 0800 884 880 and ask to speak to the consents duty officer.

A copy of the Regional Water and Land Plan is available on:

<http://www.boprc.govt.nz/knowledge-centre/plans/regional-water-and-land-plan/>

A copy of the *Bay of Plenty Regional Council Floodway and Drainage Bylaw 2008* report is available on:

<http://www.boprc.govt.nz/knowledge-centre/bylaws/floodway-and-drainage-bylaw/>