

Pre-hearing meeting for the Proposed Natural Resources Plan: Beds and Lakes and Rivers Topic held at Featherstone on 8 February 2018

Rule R121: Maintenance of drains

Present: A list of those attending this pre-hearing meeting is appended

1. Introduction

Pam Guest (GWRC Senior policy adviser) opened the meeting by welcoming everyone and explained that the purpose of the meeting was to discuss key concerns raised in submissions on the drain maintenance provisions of the Proposed Natural Resources Regional Plan (PNRP) with the aim of developing a set of agreed amendments.

The meeting was facilitated by Trevor Robinson (barrister).

2. Effects of drain maintenance activities

Dr Michael Greer (GWRC Senior environmental scientist) provided a presentation describing the values of 'drains' and highly modified watercourses and the effects that maintenance activities have on these values.

Comments or questions regarding Dr Greer's presentation included:

- Is it valid to equate the level of impact of drain maintenance activities in the Wellington Region with the effects in different parts of the country, given the different conditions?
- Have the different effects of drain maintenance in different types of drains (e.g. slow versus high flow) been properly considered in the rules?
- Need to consider the difference between short term effects (adverse) and long term effects (potentially positive).
- Acknowledge the economic and social values associated with drains to provide a more balanced picture.
- What are the effects in intermittently flowing watercourses and in hill country streams and should these be subject to the same controls as for permanently flowing lowland watercourses?

3. PNRP drain maintenance provisions

A background document, describing the key issues raised by submissions and setting out suggested amendments to address these, along with some background notes, was circulated by GWRC in advance of the pre-hearing meeting.

Pam Guest provided a presentation that set out the key issues and proposed amendments as a basis for discussion.

Key discussion points, matters in agreement and matters remaining outstanding are set out in Table 1 attached to these notes.

Pam Guest thanked everyone for their attendance and closed the meeting at around 5pm.

This report will be appended to the Officer's s42A Report for Beds of Lakes and Rivers.

Trevor Robinson

Facilitator

1 March 2018

Proposed Natural Resources Regional Plan: Rule R121 Maintenance of drains, definitions, methods

Table 1. Matters of agreement and outstanding matters

Draft amendments circulated for discussion at the pre-hearing meeting	Matters of agreement and matters outstanding
<p>Artificial farm drainage canal:</p> <p>An open (not piped) artificial watercourse, that is designed and constructed for the purpose of land drainage of surface or subsurface water and does not form part of a natural stream network. Channels designed and constructed to convey water only during rainfall events and which do not convey or retain water at other times (e.g swales) are excluded from this definition.</p> <p>Note: maintenance of channels excluded from the definition of artificial farm drainage canal because they only convey water during rainfall events and do not convey or retain water at other times (e.g. swales) is not controlled by rules in the Plan.</p>	<p>General support for deletion of this definition</p>
<p><u>Farm Drain:</u></p> <p>Any artificial watercourse, open or piped watercourse, designed and constructed for the purpose of land drainage of surface or subsurface water (1) from farmland. (2) Many watercourses considered to be farm drains are actually natural watercourses that have been highly modified, often over many decades, and include channels dug to drain natural wetlands. (3) Channels designed and constructed to convey water only during rainfall events and which do not convey or retain water at other times are excluded from this definition.</p>	<p>(1) Need to acknowledge some drains are located in rural areas but designed and constructed for drainage of urban areas upstream (ie part of stormwater network). Might be on farms or in road reserve (and designed to drain both). No agreement as to solution.</p>

<p style="color: red;">Only for the purpose of Rule R121 (drain clearance) a drain also includes a highly modified watercourse or river and is channelled to such an extent that it has the characteristics of a farm drainage canal.</p> <p>(4) (5)</p>	<p>(2) Opinions divided between either moving this new text to a “Note” (as this provides useful explanation) or delete (as query the evidence for this). Agreed not remain as is.</p> <p>(3) General agreement to keep this text (shown as deleted), but move to be a “Note” and edit for clarity</p> <p>(4) Check use of the term ‘drain’ across the proposed Plan to consider any wider implications of changing this definition</p> <p>(5) Question whether this definition and accompanying rule should only apply to permanently flowing drains not in hill country.</p>
<p>Highly modified river or stream:</p> <p>For the purposes of Rule R121 only, means a river or stream that has been modified and channelled <u>for the purpose of land drainage of surface or sub-surface water</u> (6) <u>and has the following characteristics: to the extent that it has the characteristics of (in form or function) an artificial farm drainage canal.</u> For the purposes of this definition, the characteristics of a farm drainage canal are considered to include that;</p> <ul style="list-style-type: none"> • it has been channelled into a single flow, <u>and</u> • the channel is <u>predominantly</u> straight, (7) with no ‘natural curves’, <u>and</u> • the channel is mechanically formed with straight or steeply angled banks, <u>and</u> 	<p>(6) Some concern around stating the purpose-how would this be established, especially if modification occurred years ago, and why should it matter?</p> <p>(7) Further thought needs to be given to whether the criterion ‘no natural curves’ should be retained or deleted. Is it required</p>

<ul style="list-style-type: none"> it is maintained to keep the water table at least 0.3m below the root zone of the surrounding pasture, and that it exhibits these characteristics for at least its entire length through the property in which <u>the activity is being carried out (8) and downstream to the next confluence. watercourse is being assessed.</u> <p><u>Note:</u> <u>For the avoidance of doubt, this definition does not include water races, 'devices' included within the definition of stormwater network, or artificial channels that only convey water during rainfall events.</u></p> <p><u>If the watercourse does not meet the definition of either a farm drain or a highly modified river or stream then the removal of sediment is addressed by Rule R129.</u></p>	<p>as a test given requirement to be 'predominantly straight'?</p> <p>(8) Reconsider - Is it reasonable to expect landowners to know the characteristics of the watercourse downstream to the next confluence when that might be many owners and many kilometres downstream? Possibly insert a distance test as an alternative to the distance to the next confluence.</p>
<p>Method M14: Maintenance of <u>farm drains and highly modified rivers or streams</u></p> <p>Wellington Regional Council, <u>in collaboration with industry, landowners, and other relevant organisations, and stakeholders,</u> will develop and implement an education-programme, including <u>best (9) practices guidelines,</u> procedures and tools, in collaboration with industry, other relevant organisations, and stakeholders to support the implementation of Rule R121: Maintenance of <u>farm drains and highly modified rivers or streams.</u></p> <p><u>The aim of this programme is to:</u></p> <ul style="list-style-type: none"> <u>increase understanding of the ecological values associated with drains and highly modified rivers or streams, and</u> 	<p>General support for proposed amendments, subject to points below:</p> <p>(9) Did not discuss use of word 'best'</p> <p>(10) Query add reference to drain function</p>

<ul style="list-style-type: none"> • <u>reduce the extent and frequency of drain maintenance activities, including by implementing riparian and land management practices that minimise inputs of sediment and nutrients to waterways, and</u> • <u>support the uptake of best (9)practice maintenance activities for farm drains and highly modified rivers or streams. (10)</u> 	
<p><u>Method Mx: Mapping of farm drains and highly modified rivers or streams</u></p> <p><u>Wellington Regional Council will develop a map layer that identifies farm drains and highly modified rivers or streams to assist with the implementation of Rule R121 and will insert this into the proposed Plan through a future plan change.</u></p>	<p>General support for new method Request to fast track this</p>

<p>Rule R121: Maintenance <u>of farm drains and highly modified rivers or streams</u> – permitted activity</p> <p>The removal of vegetation or bed material and associated sediment from any farm drain or any highly modified river or stream, including any associated:</p> <ul style="list-style-type: none"> (a) disturbance of the drain bed, and (b) deposition on the drain bed, and (c) diversion of water in the drain, and (d) discharge of sediment to water <p>is a permitted activity, provided the following conditions are met:</p>	<p>Support for amendments</p> <p>Maybe clarify that Rule R121 addresses maintenance using mechanical means.</p>
<ul style="list-style-type: none"> (e) the activity shall comply with the beds of lakes and rivers general conditions specified above in Section 5.5.4, except condition (g) (sediment condition),-with all reference to a river or lake being read to also include <u>farm drain (as well as a highly modified river or stream) artificial farm drain</u>, and 	<p>General support</p>
<ul style="list-style-type: none"> (f) any works to alter the depth or width of a drain the watercourse shall not excavate any deeper or wider than the original grade or cross section of the drain channel, unless the widening or deepening is for the purpose of constructing (11) a sediment retention trap <u>or a fish refuge bay</u>, and 	<p>General support for amendments</p> <p>(11) Provide for the maintenance of a sediment trap, as well as its construction</p>
<p>if mechanically clearing aquatic vegetation, the machinery must use a weed bucket with a curved flat base, and a slatted back that permits the easy drainage of water and fish back into the drain, and</p>	<p>General support for deletion (although recognition that these buckets are best practice for some situations)</p>

<p>(h) any fish (except identified pest species), <u>kākahi</u> and kōura removed from the drain <u>watercourse</u> during maintenance works shall be <u>placed into water within an hour of being removed and returned to the watercourse at a site upstream of the works</u> drain as soon as practicable and no later than one hour after removal from the drain, and</p>	<p>No disagreement with addition of kākahi</p> <p>Support for intent of clause, that a reasonable effort is made to return fish and kākahi to the watercourse, but wording needs to be reconsidered. DoC expressed concern that an hour in the hot sun is too much- time requirement needs work too- and the welfare of fish needs to be addressed until they are returned to the watercourse.</p>
<p>(i) any sediment, or bed or plant material removed from the drain <u>watercourse shall</u> be placed and spread on adjoining land <u>in a position that allows trapped fish and koura to re-enter the water and</u> in such a way that it cannot slump and be washed back into the <u>watercourse drains</u>, or other waterbodies, including wetlands, and</p>	<p>No disagreement with amendments</p>
<p>(j) two years after the date of public notification of the Proposed Natural Resources Plan (31.07.2015), where the activity involves the mechanical clearance of a drain, To provide fish refuge either:</p> <p>(i) where the watercourse is sufficiently wide, only one side of the drain shall be cleared at any one time, and the other side of the drain may only be cleared <u>at least</u> three months following completion of the initial works, or</p> <p>(ii) only the middle of the drain shall be cleared, and an uncleared margin of at least 30% of the width of the drain, but no less than 0.3m, shall be left uncleared on each side of the drain, and</p>	<p>General support for amendments.</p> <p>Redraft the structure of (j) to be clear that there are three alternative options for providing fish refuge</p>

<p>(ii) <u>for every 200 metre length of watercourse cleared either a 10 metre length of intact aquatic vegetation cover is retained (and may not be cleared for at least three months) or a constructed fish refuge that is at least 1m² is provided.</u></p>	<p>Need further science advice as to appropriate metrics (200m and 10m).</p> <p>Consider adding a new clause to recognise best practise is that vegetation is retained on the banks of the watercourse.</p>
<p>(k) where the activity involves the mechanical clearance of a drain, the activity shall commence at the most upstream point of the length of drain to be cleared and move downstream, sediment shall be trapped at the downstream end of the cleared reach by either installing a sediment retention device (12) or retaining a length of intact aquatic vegetation that is at least seven times the width of the watercourse until, at least, the end of each working day (13), and</p>	<p>(12) Insert reference to a sediment trap Also add sediment traps to “Rule R117 New structures – Permitted activity”</p> <p>(13) Amend to require retention of the vegetated strip until at least the end of each day where the reach has been cleared working in an upstream direction, otherwise until at least the end of the following day.</p>
<p>(l) any maintenance works in the bed of <u>the watercourse a drain</u> shall not remove any woody debris with a diameter greater than 0.2m from the <u>watercourse drain</u> unless it is causing, or has the potential to cause a flood or erosion threat, or a threat to infrastructure.</p>	<p>Clarify the need for this clause – does it only apply to woody debris embedded in the bed (in which case, say so) or is it to retain habitat?</p>
<p>(m) <u>all equipment, machinery, or operating plant shall have been inspected and cleaned before being introduced to the site to prevent the spread of ‘pests’ or unwanted organisms” as defined in the Biosecurity Act 1993</u></p>	<p>General agreement to redraft this text and move to become an advisory “Note”</p>

<p><u>(n) the Wellington Regional Council shall be advised of the property address and date of works being carried out, including the name and contact details of the person responsible for the works, at least 48 hours prior to work commencing by e-mailing Notifications@gw.govt.nz.</u></p>	<p>No consensus on retention of this clause. Discussion of the intent: Is it for compliance monitoring and/or development of a better understanding of the extent and frequency of drain maintenance activity? If the latter, consider different ways of gathering this information e.g. through work undertaken as part of Method M14. Suggestions that if retained, provision needs to be made for emergency work, or for work that doesn't occur on the notified day e.g. due to a weather delay. Consider option of contractors downloading information onto a website monthly, rather than e-mailing 48 hours prior.</p>
<p><i>Note</i></p> <p>The application of agricultural chemicals over surface water bodies or over lake or river beds is covered in Section 51.13.</p> <p><u>Machinery shall be cleaned in accordance with the Ministry for Primary Industries cleaning methods which can be found at http://www.biosecurity.govt.nz/pests/didymo/cleaning</u></p>	<p>Redraft to be worded as an advisory note – delete 'shall' - cleaning may be required under the Biosecurity Act. Check link, delete if obsolete</p>
<p><i>Request for a new clause</i></p>	<p>Schedule F1a times span the entire year so this condition would not be practical – best approach is</p>

No drain maintenance works during the migration times listed in Schedule F1a	to manage by reducing sediment release though the rule conditions
<i>Consequential amendments to Rule 122</i>	Not discussed in any detail. General agreement should reflect changes to R121

‘Drain’ Maintenance Pre-hearing meeting (8 Feb 2018): Record of Attendance

Name:	Representing:
Vern Brassel	Kaiwaiwai Dairy
Alex Webster	Dairy Farmer
Aidan Bichan	Kaiwaiwai Dairy
Mark Guscatt	Sheep and Beef arable farmer
Liz McGruddy	Federated Farmers
Michael Hewison	Engineer. Consents/design
Peter Warren	Earthmoving contractor
Neville Fisher	Kaiwaiwai Dairy
Horipo Rimene	Rangitāne o Wairarapa
Katherine Anton	DOC
Natasha Petrove	DOC
Phillip Percy	Rangitāne o Wairarapa
Trevor Robinson	Facilitator
Pam Guest	GWRC
Michael Greer	GWRC
Lucy Harper	GWRC
Anna Martin	GWRC
Ed Lee	GWRC
Kereana Sims	GWRC

Addendum.

The above meeting record was circulated as two iterations, seeking comment and confirmation, first as recorded by me as Facilitator, and then to pick up on comments received from Federated Farmers

and Department of Conservation as appropriate. Following circulation of the revised version as above, I received further feedback from two participants as follows:

1. Ms Anton for the Department of Conservation requested that the Department's disagreement with the comment in relation to Schedule F1a be noted, but otherwise expressed agreement with the document as a fair record of the meeting;
2. Mr Rimene for Rangitāne o Wairarapa made the following points as explaining why he was uncomfortable signing off on the revised meeting record:
 - a. Lack of clarity as to what 'reasonable' might mean in the context of Rule 121(h);
 - b. Opposes permitted activity status;
 - c. Seeks reinstatement of reference to weed buckets in R121 (f) because fish have a good chance of dropping back into a stream from a weed bucket.

Trevor Robinson

Facilitator

5 March 2018